

34:1B-241.1

LEGISLATIVE HISTORY CHECKLIST

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LAWS OF: 2011 **CHAPTER:** 201

NJSA: 34:1B-241.1 (Establishes Small business Loan Program in EDA allowing certain small businesses to be eligible for low interest rate loans of up to \$250,000 to expand their businesses)

BILL NO: S3052 (Substituted for A4336)

SPONSOR(S) Whelan and others

DATE INTRODUCED: September 19, 2011

COMMITTEE: **ASSEMBLY:** Commerce and Economic Development
Appropriations

SENATE: Economic Growth
Budget and Appropriations

AMENDED DURING PASSAGE: Yes

DATE OF PASSAGE: **ASSEMBLY:** January 9, 2012

SENATE: January 9, 2012

DATE OF APPROVAL: January 17, 2012

FOLLOWING ARE ATTACHED IF AVAILABLE:

FINAL TEXT OF BILL (First reprint enacted)

S3052

SPONSOR'S STATEMENT: (Begins on page 5 of introduced bill) Yes

COMMITTEE STATEMENT: **ASSEMBLY:** Yes Commerce
Appropriations

SENATE: Yes Economic
Budget

(Audio archived recordings of the committee meetings, corresponding to the date of the committee statement, **may possibly** be found at www.njleg.state.nj.us)

FLOOR AMENDMENT STATEMENT: No

LEGISLATIVE FISCAL ESTIMATE: Yes

A4336

SPONSOR'S STATEMENT: (Begins on page 5 of introduced bill) Yes

COMMITTEE STATEMENT: **ASSEMBLY:** Yes Commerce
Appropriations

SENATE: No

(continued)

FLOOR AMENDMENT STATEMENT: No

LEGISLATIVE FISCAL ESTIMATE: Yes

VETO MESSAGE: Yes

GOVERNOR'S PRESS RELEASE ON SIGNING: No

FOLLOWING WERE PRINTED:

To check for circulating copies, contact New Jersey State Government Publications at the State Library (609) 278-2640 ext.103 or <mailto:refdesk@njstatelib.org>

REPORTS: Yes

HEARINGS: No

NEWSPAPER ARTICLES: No

974.90 R424 2010m

Report to the transition team [of the] subcommittee on economic development & job growth.
[Trenton, NJ : New Jersey Office of the Governor, 2010]
<http://hdl.handle.net/10929/24381>

LAW/KR

P.L.2011, CHAPTER 201, *approved January 17, 2012*
Senate, No. 3052 (*First Reprint*)

1 AN ACT establishing a small business loan program within the New
2 Jersey Economic Development Authority and supplementing Title
3 34 of the Revised Statutes.

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

7
8 1. As used in this act:

9 “Authority” means the New Jersey Economic Development
10 Authority established by section 4 of P.L.1974, c.80 (C.34:1B-4).

11 “Eligible small business” means a business entity that, at the
12 time of application for participation in the small business loan
13 program established pursuant to section 2 of P.L. , c. (C.)
14 (pending before the Legislature as this bill), ¹[(1)]¹ is
15 independently owned and operated ¹[(2)]¹; (2) is organized for profit
16 with a place of business located in this State; (3)]¹,¹ operates
17 primarily within this State ¹[(4)]¹; (4) employs less than 100 full-time
18 employees; (5) is not dominant in its field; (6) has not raised
19 \$10,000,000 or more in total equity financing; and (7) has not
20 received \$10,000,000 or more in financing from any source], and
21 which satisfies other criteria that may be established by the
22 authority¹.

23
24 2. a. The authority shall ¹[(establish)] maintain¹ and administer
25 a small business loan program for the purpose of providing small
26 business loans to eligible small businesses.

27 b. Small business loans may be made to an eligible small
28 business ¹[(, provided that the total amount of all loans under the
29 program to any such business shall not exceed \$250,000)]¹. The
30 loan funds may be applied to any aspect of the business that
31 supports its capital purchases, employee training, and salaries for
32 new positions as determined by the authority.

33 c. In order to receive a small business loan, a business, at the
34 time of application, shall provide proof that it is an eligible small
35 business and shall enter into a small business loan agreement with
36 the authority ¹[(, which agreement shall provide that the business
37 commits to increasing its full-time employment level by the greater

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 amendments adopted in accordance with Governor's
recommendations January 9, 2012.

1 of one full-time employee or no less than 10 percent of its full-time
2 employee employment level at the time of application within four
3 calendar years after the date on which loan funds are disbursed to
4 the business¹.

5 d. The authority shall review and may approve applications for
6 the loan program.

7 e. A business seeking to participate in the small business loan
8 program shall submit an application in such form as the authority
9 shall require. Such application shall include such information as
10 the authority shall determine is necessary in consideration of the
11 provisions of P.L.2011, c.123 (52:14B-21.1 et seq.).

12 f. ¹[(1)]¹ Small business loans under this section shall be
13 made pursuant to a small business loan agreement made pursuant to
14 subsection c. of this section and shall bear interest at ¹[no more
15 than two percent] rates and terms deemed appropriate by the
16 authority¹, and contain other terms and conditions considered
17 appropriate by the authority that are consistent with the purposes of
18 P.L. , c. (C.) (pending before the Legislature as this bill)
19 and with rules and regulations promulgated by the authority to
20 implement P.L. , c. .

21 ¹[(2)] The authority may provide that a small business loan shall
22 bear interest at a rate of less than two percent, at a rate to be
23 established by the authority, if the business commits, under a small
24 business loan agreement established pursuant to subsection c. of
25 this section, to increasing its full-time employment level by more
26 than 10 percent, or by more than one full-time employee if the
27 business employs less than 10 employees at the time of application,
28 within the period of time prescribed under subsection c. of this
29 section, or by no less than 10 percent, or one full-time employee if
30 the business employs less than 10 employees at the time of
31 application, in a period of time that is less than the period of time
32 prescribed under subsection c. of this section, or a combination
33 thereof. The rate of interest established by the authority pursuant to
34 this paragraph with respect to any small business loan shall
35 correspond appropriately, as determined by the authority, to the
36 percentage of employment increase or the period of time to increase
37 employment, or a combination of both, as appropriate, to which the
38 business commits.

39 g. (1) Unless subject to federal law, rule or regulation, each
40 eligible business that receives a small business loan under
41 P.L. , c. (C.) (pending before the Legislature as this bill) shall
42 undergo an audit, at its own expense, at least once every two years.
43 The authority shall designate an auditor to conduct the audit.

44 (2) If an audit is performed under a requirement of federal law,
45 rule or regulation, the authority shall waive the audit required in
46 this subsection with respect to all issues addressed by the federally
47 required audit report. However, the authority may require an audit

1 of matters that are not, in the authority's judgment, addressed by the
2 federally required report including, but not limited to, verification
3 of compliance with requirements specific to the program, such as
4 job-generation standards.

5 h. A participating eligible small business that is in default for
6 nonperformance under rules and regulations established by the
7 authority may be required to refund the outstanding balance of
8 small business loan funds disbursed prior to the default declaration.
9 At a minimum, rules and regulations established by the authority
10 pursuant to P.L. , c. (C.) (pending before the Legislature as
11 this bill) shall provide that, notwithstanding the good faith efforts of
12 a business to meet its obligations under a small business loan
13 agreement made pursuant to this section that does not hire and
14 retain for a reasonable time period, as determined by the authority,
15 at least one full-time employee with the time period prescribed
16 under a small business loan agreement shall be considered in
17 default. A small business loan shall be secured by a first lien on the
18 receivables of the business entity receiving the loan.】

19 g. The authority may, in its discretion, require an eligible small
20 business that receives a small business loan under the program
21 administered pursuant to P.L. , c. (C.) (pending before the
22 Legislature as this bill) to submit an audited financial statement to
23 the authority in order to ensure the business's continued vitality.

24 h. The authority may, either through the adoption of rules and
25 regulations, or through the terms of the small business loan
26 agreement made pursuant to subsection c. of this section, establish
27 terms governing the incidence of default by an eligible small
28 business that receives a small business loan under the program
29 administered pursuant to P.L. , c. (C.) (pending before the
30 Legislature as this bill).

31 i. In determining whether to provide a loan to an eligible small
32 business, the authority shall consider, along with other criteria that
33 the authority in its discretion deems appropriate, whether the
34 business commits to increasing its full-time employment level in the
35 State.¹

36
37 ¹3.a. To implement the loan program, the authority shall
38 establish and maintain a special revolving fund to be known as the
39 "New Jersey Small Business Loan Fund," which shall be credited
40 with:

41 (1) such moneys from the economic growth account of the
42 "Economic Recovery Fund" established pursuant to section 3 of
43 P.L.1992, c.16 (C.34:1B-7.12), as the authority determines are
44 necessary to effectively implement the program based upon the
45 response to the program;

46 (2) any moneys that shall be received by the authority from the
47 repayment of the moneys in the loan fund used to provide small

1 business loans pursuant to P.L. , c. (C.) (pending before the
2 Legislature as this bill) and interest thereon;

3 (3) any moneys as may be available to the authority from
4 business assistance programs administered by the authority or by
5 other State agencies or authorities;

6 (4) appropriations made by the Legislature to effectuate the
7 purposes of P.L. , c. (C.) (pending before the Legislature as this
8 bill);

9 (5) fees collected from applicants pursuant to subsection c. of
10 this section; and

11 (6) other moneys made available including, but not limited to,
12 funds provided by agreement with private investors, small business
13 investment corporations, banks, and other lending institutions to
14 effectuate the purposes of P.L. , c. (C.) (pending before the
15 Legislature as this bill).

16 b. Moneys in the loan fund which are determined by the
17 authority not to be needed for current responsibilities of the loan
18 fund, may be invested by the authority in any direct obligations as
19 to which the principal and interest thereof are guaranteed by the
20 United States of America or any other obligation deemed
21 appropriate by the authority. Income from the investment of moneys
22 in the loan fund shall be credited to the loan fund.

23 c. The authority may charge fees in connection with
24 applications for participation in the small business loan program as
25 it deems reasonable.】¹

26

27 ¹【4. The authority may appoint a director to manage the activities
28 associated with the loan fund established pursuant to section 3 of
29 P.L. , c. (C.) (pending before the Legislature as this bill). The
30 director shall receive compensation as determined by the
31 authority.】¹

32

33 ¹【5.】 3.¹ The authority may adopt such rules and regulations
34 pursuant to the "Administrative Procedure Act," P.L.1968, c.410
35 (C.52:14B-1 et seq.) as may be necessary to effectuate the purposes
36 of P.L. , c. (C.) (pending before the Legislature as this bill).

37

38 ¹【6.】 4.¹ This act shall take effect immediately.

39

40

41

42

43 Establishes Small Business Loan Program in EDA allowing
44 certain small businesses to be eligible for loans from EDA.

SENATE, No. 3052

STATE OF NEW JERSEY 214th LEGISLATURE

INTRODUCED SEPTEMBER 19, 2011

Sponsored by:

Senator JIM WHELAN

District 2 (Atlantic)

Senator PAUL A. SARLO

District 36 (Bergen, Essex and Passaic)

Assemblyman DANIEL R. BENSON

District 14 (Mercer and Middlesex)

Assemblyman ALBERT COUTINHO

District 29 (Essex and Union)

Assemblyman TROY SINGLETON

District 7 (Burlington and Camden)

Assemblyman WAYNE P. DEANGELO

District 14 (Mercer and Middlesex)

Co-Sponsored by:

Senators Stack, Cunningham, Van Drew, Beach, Addiego, Allen,

A.R.Bucco, Buono, Girgenti, Gordon, Greenstein, Madden, Ruiz, Turner,

Assemblyman Coughlin, Assemblywoman Wagner, Assemblymen

Conaway and Johnson

SYNOPSIS

Establishes Small Business Loan Program in EDA allowing certain small businesses to be eligible for low interest rate loans of up to \$250,000 to expand their businesses.

CURRENT VERSION OF TEXT

As introduced.

(Sponsorship Updated As Of: 12/6/2011)

1 AN ACT establishing a small business loan program within the New
2 Jersey Economic Development Authority and supplementing Title
3 34 of the Revised Statutes.

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

7
8 1. As used in this act:

9 “Authority” means the New Jersey Economic Development
10 Authority established by section 4 of P.L.1974, c.80 (C.34:1B-4).

11 “Eligible small business” means a business entity that, at the
12 time of application for participation in the small business loan
13 program established pursuant to section 2 of P.L. , c. (C.)
14 (pending before the Legislature as this bill), (1) is independently
15 owned and operated; (2) is organized for profit with a place of
16 business located in this State; (3) operates primarily within this
17 State; (4) employs less than 100 full-time employees; (5) is not
18 dominant in its field; (6) has not raised \$10,000,000 or more in total
19 equity financing; and (7) has not received \$10,000,000 or more in
20 financing from any source.

21
22 2. a. The authority shall establish and administer a small
23 business loan program for the purpose of providing small business
24 loans to eligible small businesses.

25 b. Small business loans may be made to an eligible small
26 business, provided that the total amount of all loans under the
27 program to any such business shall not exceed \$250,000. The loan
28 funds may be applied to any aspect of the business that supports its
29 capital purchases, employee training, and salaries for new positions
30 as determined by the authority.

31 c. In order to receive a small business loan, a business, at the
32 time of application, shall provide proof that it is an eligible small
33 business and shall enter into a small business loan agreement with
34 the authority, which agreement shall provide that the business
35 commits to increasing its full-time employment level by the greater
36 of one full-time employee or no less than 10 percent of its full-time
37 employee employment level at the time of application within four
38 calendar years after the date on which loan funds are disbursed to
39 the business.

40 d. The authority shall review and may approve applications for
41 the loan program.

42 e. A business seeking to participate in the small business loan
43 program shall submit an application in such form as the authority
44 shall require. Such application shall include such information as
45 the authority shall determine is necessary in consideration of the
46 provisions of P.L.2011, c.123 (52:14B-21.1 et seq.).

47 f. (1) Small business loans under this section shall be made
48 pursuant to a small business loan agreement made pursuant to

1 subsection c. of this section and shall bear interest at no more than
2 two percent, and contain other terms and conditions considered
3 appropriate by the authority that are consistent with the purposes of
4 P.L. , c. (C.) (pending before the Legislature as this bill) and
5 with rules and regulations promulgated by the authority to
6 implement P.L. , c. .

7 (2) The authority may provide that a small business loan shall
8 bear interest at a rate of less than two percent, at a rate to be
9 established by the authority, if the business commits, under a small
10 business loan agreement established pursuant to subsection c. of
11 this section, to increasing its full-time employment level by more
12 than 10 percent, or by more than one full-time employee if the
13 business employs less than 10 employees at the time of application,
14 within the period of time prescribed under subsection c. of this
15 section, or by no less than 10 percent, or one full-time employee if
16 the business employs less than 10 employees at the time of
17 application, in a period of time that is less than the period of time
18 prescribed under subsection c. of this section, or a combination
19 thereof. The rate of interest established by the authority pursuant to
20 this paragraph with respect to any small business loan shall
21 correspond appropriately, as determined by the authority, to the
22 percentage of employment increase or the period of time to increase
23 employment, or a combination of both, as appropriate, to which the
24 business commits.

25 g. (1) Unless subject to federal law, rule or regulation, each
26 eligible business that receives a small business loan under
27 P.L. , c. (C.) (pending before the Legislature as this bill) shall
28 undergo an audit, at its own expense, at least once every two years.
29 The authority shall designate an auditor to conduct the audit.

30 (2) If an audit is performed under a requirement of federal law,
31 rule or regulation, the authority shall waive the audit required in
32 this subsection with respect to all issues addressed by the federally
33 required audit report. However, the authority may require an audit
34 of matters that are not, in the authority's judgment, addressed by the
35 federally required report including, but not limited to, verification
36 of compliance with requirements specific to the program, such as
37 job-generation standards.

38 h. A participating eligible small business that is in default for
39 nonperformance under rules and regulations established by the
40 authority may be required to refund the outstanding balance of
41 small business loan funds disbursed prior to the default declaration.
42 At a minimum, rules and regulations established by the authority
43 pursuant to P.L. , c. (C.) (pending before the Legislature as this
44 bill) shall provide that, notwithstanding the good faith efforts of a
45 business to meet its obligations under a small business loan
46 agreement made pursuant to this section that does not hire and
47 retain for a reasonable time period, as determined by the authority,
48 at least one full-time employee with the time period prescribed

1 under a small business loan agreement shall be considered in
2 default. A small business loan shall be secured by a first lien on the
3 receivables of the business entity receiving the loan.

4

5 3. a. To implement the loan program, the authority shall
6 establish and maintain a special revolving fund to be known as the
7 "New Jersey Small Business Loan Fund," which shall be credited
8 with:

9 (1) such moneys from the economic growth account of the
10 "Economic Recovery Fund" established pursuant to section 3 of
11 P.L.1992, c.16 (C.34:1B-7.12), as the authority determines are
12 necessary to effectively implement the program based upon the
13 response to the program;

14 (2) any moneys that shall be received by the authority from the
15 repayment of the moneys in the loan fund used to provide small
16 business loans pursuant to P.L. , c. (C.) (pending before the
17 Legislature as this bill) and interest thereon;

18 (3) any moneys as may be available to the authority from
19 business assistance programs administered by the authority or by
20 other State agencies or authorities;

21 (4) appropriations made by the Legislature to effectuate the
22 purposes of P.L. , c. (C.) (pending before the Legislature as this
23 bill);

24 (5) fees collected from applicants pursuant to subsection c. of
25 this section; and

26 (6) other moneys made available including, but not limited to,
27 funds provided by agreement with private investors, small business
28 investment corporations, banks, and other lending institutions to
29 effectuate the purposes of P.L. , c. (C.) (pending before the
30 Legislature as this bill).

31 b. Moneys in the loan fund which are determined by the
32 authority not to be needed for current responsibilities of the loan
33 fund, may be invested by the authority in any direct obligations as
34 to which the principal and interest thereof are guaranteed by the
35 United States of America or any other obligation deemed
36 appropriate by the authority. Income from the investment of moneys
37 in the loan fund shall be credited to the loan fund.

38 c. The authority may charge fees in connection with
39 applications for participation in the small business loan program as
40 it deems reasonable.

41

42 4. The authority may appoint a director to manage the activities
43 associated with the loan fund established pursuant to section 3 of
44 P.L. , c. (C.) (pending before the Legislature as this bill). The
45 director shall receive compensation as determined by the authority.

46

47 5. The authority may adopt such rules and regulations pursuant
48 to the "Administrative Procedure Act," P.L.1968, c.410 (C.52:14B-

1 1 et seq.) as may be necessary to effectuate the purposes of
2 P.L. , c. (C.) (pending before the Legislature as this bill).

3
4 6. This act shall take effect immediately.

5
6
7 STATEMENT

8
9 This bill directs the New Jersey Economic Development
10 Authority ("authority") to establish a small business loan program
11 to provide low interest loans in amounts not exceeding \$250,000 to
12 eligible small businesses, which may use the loan funds to supports
13 capital their purchases, employee training, and salaries for new
14 positions. "Eligible small business" is defined to mean a business
15 entity that, at the time of application for participation in the small
16 business loan program (1) is independently owned and operated; (2)
17 is organized for profit with a place of business located in this State;
18 (3) operates primarily within this State; (4) less than 100 full-time
19 employees; (5) is not dominant in its field; (6) has not raised
20 \$10,000,000 or more in total equity financing; and (7) has not
21 received \$10,000,000 or more in financing from any source.

22 A participating business would enter into a small business loan
23 agreement with the authority which agreement shall provide that the
24 business commits to increasing full-time employment by no less
25 than 10 percent of full-time employment, or one full-time employee
26 whichever is greater, level at the time of application within four
27 calendar years after the date loan funds are disbursed. The loans
28 would bear interest at no more than two percent but may bear
29 interest at a rate of less than two percent, as established by the
30 authority if the business commits to increasing its full-time
31 employment level by more than 10 percent, or more than one full-
32 time employee for businesses employing less than 10 full-time
33 employees at the time of application, or by no less than 10 percent,
34 or one full-time employee, as appropriate, in less than four calendar
35 years after the date on which the loan funds are disbursed to the
36 business, or a combination thereof. The rate of interest would
37 correspond appropriately to the percentage of full-time employment
38 increase or the decrease in time to increase employment, or a
39 combination of both, to which the business commits. A
40 participating business that is in default for nonperformance may be
41 required to refund the outstanding balance of small business loans
42 disbursed prior to the default declaration. A small business loan is
43 secured by a first lien on the receivables of the corporation
44 receiving the loan.

45 To implement the loan program, the authority is directed to
46 establish and maintain a special revolving fund to be known as the
47 "New Jersey Small Business Loan Fund," which shall be credited
48 with: (1) such moneys from the economic growth account of the

S3052 WHELAN, SARLO

6

1 "Economic Recovery Fund" established pursuant to section 3 of
2 P.L.1992, c.16 (C.34:1B-7.12), which the authority determines are
3 necessary to effectively implement the program, within the limits of
4 funding available from the Economic Recovery Fund, based upon
5 the response to the program; (2) any moneys that shall be received
6 by the authority from the repayment of the moneys in the loan fund
7 used to provide small business loans and interest thereon; (3) any
8 moneys as may be available to the authority from business
9 assistance programs administered by the authority or by other State
10 agencies or authorities; (4) appropriations made by the Legislature;
11 (5) fees collected from applicants and (6) other moneys made
12 available including, but not limited to, funds provided by agreement
13 with private investors, small business investment corporations,
14 banks, and other lending institutions.

SENATE ECONOMIC GROWTH COMMITTEE

STATEMENT TO

SENATE, No. 3052

STATE OF NEW JERSEY

DATED: SEPTEMBER 19, 2011

The Senate Economic Growth Committee reports favorably Senate Bill, No. 3052.

This bill directs the New Jersey Economic Development Authority (“authority”) to establish a small business loan program to provide low interest loans in amounts not exceeding \$250,000 to eligible small businesses, which may use the loan funds to support capital purchases, employee training, and salaries for new positions. “Eligible small business” is defined to mean a business entity that, at the time of application for participation in the small business loan program (1) is independently owned and operated; (2) is organized for profit with a place of business located in this State; (3) operates primarily within this State; (4) less than 100 full-time employees; (5) is not dominant in its field; (6) has not raised \$10,000,000 or more in total equity financing; and (7) has not received \$10,000,000 or more in financing from any source.

A participating business would enter into a small business loan agreement with the authority which agreement shall provide that the business commits to increasing full-time employment by no less than 10 percent of full-time employment, or one full-time employee whichever is greater, level at the time of application within four calendar years after the date loan funds are disbursed. The loans would bear interest at no more than two percent but may bear interest at a rate of less than two percent, as established by the authority if the business commits to increasing its full-time employment level by more than 10 percent, or more than one full-time employee for businesses employing less than 10 full-time employees at the time of application, or by no less than 10 percent, or one full-time employee, as appropriate, in less than four calendar years after the date on which the loan funds are disbursed to the business, or a combination thereof. The rate of interest would correspond appropriately to the percentage of full-time employment increase or the decrease in time to increase employment, or a combination of both, to which the business commits. A participating business that is in default for nonperformance may be required to refund the outstanding balance of small business loans disbursed prior to the default declaration. A small business loan is secured by a first lien on the receivables of the corporation receiving the loan.

To implement the loan program, the authority is directed to establish and maintain a special revolving fund to be known as the "New Jersey Small Business Loan Fund," which shall be credited with: (1) such moneys from the economic growth account of the "Economic Recovery Fund" established pursuant to section 3 of P.L.1992, c.16 (C.34:1B-7.12), which the authority determines are necessary to effectively implement the program, within the limits of funding available from the Economic Recovery Fund, based upon the response to the program; (2) any moneys that shall be received by the authority from the repayment of the moneys in the loan fund used to provide small business loans and interest thereon; (3) any moneys as may be available to the authority from business assistance programs administered by the authority or by other State agencies or authorities; (4) appropriations made by the Legislature; (5) fees collected from applicants; and (6) other moneys made available including, but not limited to, funds provided by agreement with private investors, small business investment corporations, banks, and other lending institutions.

SENATE BUDGET AND APPROPRIATIONS COMMITTEE

STATEMENT TO

SENATE, No. 3052

STATE OF NEW JERSEY

DATED: SEPTEMBER 22, 2011

The Senate Budget and Appropriations Committee reports favorably Senate Bill No. 3052.

This bill directs the New Jersey Economic Development Authority (“authority”) to establish a small business loan program to provide low interest loans in amounts not exceeding \$250,000 to eligible small businesses, which may use the loan funds to support its capital purchases, employee training, and salaries for new positions. “Eligible small business” is defined to mean a business entity that, at the time of application for participation in the small business loan program (1) is independently owned and operated; (2) is organized for profit with a place of business located in this State; (3) operates primarily within this State; (4) less than 100 full-time employees; (5) is not dominant in its field; (6) has not raised \$10,000,000 or more in total equity financing; and (7) has not received \$10,000,000 or more in financing from any source.

A participating business will enter into a small business loan agreement with the authority which agreement shall provide that the business commits to increasing its full-time employment level within four years by no less than 10 percent of full-time employment, or one full-time employee, whichever is greater, above its full-time employment level at the time of its loan application. The loans will bear interest at no more than two percent but may bear interest at a rate of less than two percent, as established by the authority, if the business commits to increasing its full-time employment level (1) by more than 10 percent, or more than one full-time employee for businesses employing less than 10 full-time employees at the time of application, or (2) by no less than 10 percent, or one full-time employee, as appropriate, in less than four calendar years after the date on which the loan funds are disbursed to the business, or (3) a combination thereof. The rate of interest will correspond appropriately to the percentage of full-time employment increase or the decrease in time to increase employment, or a combination of both, to which the business commits. A participating business that is in default for nonperformance may be required to refund the outstanding balance of small business loans disbursed prior to the default declaration. A small business loan is secured by a first lien on the receivables of the corporation receiving the loan.

To implement the loan program, the authority is directed to establish and maintain a special revolving fund to be known as the "New Jersey Small Business Loan Fund," which shall be credited with: (1) such moneys from the economic growth account of the "Economic Recovery Fund" established pursuant to section 3 of P.L.1992, c.16 (C.34:1B-7.12), which the authority determines are necessary to effectively implement the program, within the limits of funding available from the Economic Recovery Fund, based upon the response to the program; (2) any moneys that shall be received by the authority from the repayment of the moneys in the loan fund used to provide small business loans and interest thereon; (3) any moneys as may be available to the authority from business assistance programs administered by the authority or by other State agencies or authorities; (4) appropriations made by the Legislature; (5) fees collected from applicants; and (6) other moneys made available including, but not limited to, funds provided by agreement with private investors, small business investment corporations, banks, and other lending institutions.

FISCAL IMPACT:

The fiscal impact on the resources of the authority and is indeterminate due the absence of reliable information on which to base the number of companies that might qualify for, seek and obtain loans under the provisions of the bill. The first source of funding for any loans approved under the bill is the economic growth account of the "Economic Recovery Fund" established pursuant to section 3 of P.L.1992, c.16 (C.34:1B-7.12). According to information provided by the authority, this account at present has a maximum available balance of approximately \$66 million, which fluctuates frequently due to ongoing financing activity, e.g., approval of loans and loan guarantees, repayment of loans and cancellation of loan guarantees. Recently, due to current economic conditions, the account has had a positive cash flow, i.e., loan repayments in excess of new loans, compared to prior fiscal periods when the account's balance was declining due to financing activities. Under reasonably foreseeable economic conditions, the authority does not expect financing activities as currently authorized, together with new lending activity under this bill, to diminish the account's resources to the point where a General Fund appropriation would be required to sustain the loan program established by this bill.

LEGISLATIVE FISCAL ESTIMATE
SENATE, No. 3052
STATE OF NEW JERSEY
214th LEGISLATURE

DATED: OCTOBER 5, 2011

SUMMARY

Synopsis: Establishes Small Business Loan Program in EDA allowing certain small businesses to be eligible for low interest rate loans of up to \$250,000 to expand their businesses.

Type of Impact: Economic Recovery Fund Expenditure

Agencies Affected: New Jersey Economic Development Authority (EDA)

Office of Legislative Services Estimate

| Fiscal Impact | <u>Year 1</u> | <u>Year 2</u> | <u>Year 3</u> |
|----------------------|------------------------------------|----------------------|----------------------|
| State Cost | Indeterminate – See comments below | | |

- The fiscal impact of the proposed legislation is dependant upon a number of factors that cannot be known until the legislation has been fully implemented. Among those factors are the lending standards that the EDA chooses to implement and the quality and number of applicants from the small business community.
- The primary source of funding for this bill is the Economic Recovery Fund, which currently maintains a balance of approximately \$66 million. This makes it unlikely that any additional appropriation from the General Fund will be necessary in the three year period covered by the fiscal estimate.

BILL DESCRIPTION

Senate Bill No. 3052 of 2011 would require the EDA to establish a small business loan program. The program offers low interest loans of up to \$250,000 to eligible small businesses for purposes that increase total employment. A business must have fewer than 100 full time employees, be for profit, be located primarily within the State, and have raised less than \$10 million in financing to qualify as a small business under the program to receive a loan under the program, the business must commit to increasing its full-time employment by 10 percent or at least one full time employee, with the employees to be added within four calendar years. Generally, the interest rate on the loans would be 2 percent; if the loan results in a greater

increase in employment or the target increase is met more quickly, the authority could allow the rate to fall below 2 percent. Funding to support the loan fund is to come from funds available in the "Economic Recovery Fund", as well as reinvestment of loan repayments through the program, any fees collected from applicants, any money made available through business assistance programs, any money made available by private investors or lending institutions, and from any appropriations made by the legislature.

FISCAL ANALYSIS

EXECUTIVE BRANCH

None received.

OFFICE OF LEGISLATIVE SERVICES

The Office of Legislative Services (OLS) finds that it is not possible to determine the fiscal impact of the legislation at this time. In order to develop an accurate estimate, it would be necessary to know the lending criteria that the EDA would implement for this program and to then know the number of companies that would obtain funding under the bill. There are a very large number of small businesses in the State that would qualify to apply for a loan under this program. Out of that very large pool of small businesses, a much smaller number will actually end up being credit worthy and able to borrow funds. Given the very low interest rates offered under this program at less than 2 percent and the relatively low barriers to eligibility, OLS estimates that the demand for loans under this program will be very high. Until the EDA establishes guidelines to determine credit worthiness, it is not possible to estimate how much of that demand would translate into actual loan disbursements.

The EDA currently has approximately \$66 million available in the Economic Recovery Fund, which is to be the primary source of funds for this program. It is not expected that the EDA would exceed the amount available in the fund and pursue an appropriation from the Legislature, so there would likely be no direct cost to the General Fund. There would, however, be a cost related to funds made available through the Economic Recovery Fund. Generally, money could be invested in Treasuries and other risk-free vehicles that would yield in excess of 2 percent while the loans will generate a maximum of 2 percent return, less any defaults. In the current credit environment, the 10-year yield on a Treasury note is approximately 2 percent, so the current cost to the fund would be relatively low; however as the economy improves that rate will rise while the interest rates on loans issued through the program will remain low. While lack of knowledge about future rates makes it impossible to determine the opportunity cost of lost income due to the subsidized interest rate, it is possible to generally assess the potential for lost revenue. For every 1 percent that the interest received on loans is below that obtained through a risk-free investment, the fund gives up \$10,000 per year per \$1 million lent. In the event that \$30 million of the \$66 million in the Economic Recovery Fund is lent at roughly 3 percent below market rates, the fund would forego \$900,000 per year. It is likely that over the three year period covered by this fiscal estimate, there will be a cost greater than \$0, but less than \$1 million each year.

S3052

3

Section: Authorities, Utilities, Transportation and Communications

*Analyst: Patrick Brennan
Assistant Fiscal Analyst*

*Approved: David J. Rosen
Legislative Budget and Finance Officer*

This fiscal estimate has been prepared pursuant to P.L.1980, c.67 (C.52:13B-6 et seq.).

ASSEMBLY COMMERCE AND ECONOMIC DEVELOPMENT
COMMITTEE

STATEMENT TO

SENATE, No. 3052

STATE OF NEW JERSEY

DATED: NOVEMBER 21, 2011

The Assembly Commerce and Economic Development Committee reports favorably Senate Bill No. 3052.

This bill directs the New Jersey Economic Development Authority (“authority”) to establish a small business loan program to provide low interest loans in amounts not exceeding \$250,000 to eligible small businesses, which may use the loan funds to support capital purchases, employee training, and salaries for new positions. “Eligible small business” is defined to mean a business entity that, at the time of application for participation in the small business loan program: (1) is independently owned and operated; (2) is organized for profit with a place of business located in this State; (3) operates primarily within this State; (4) has less than 100 full-time employees; (5) is not dominant in its field; (6) has not raised \$10,000,000 or more in total equity financing; and (7) has not received \$10,000,000 or more in financing from any source.

A participating business would enter into a small business loan agreement with the authority committing the business to increase its number of employees within four years of the time of application by 10 percent or one full-time employee, whichever is greater. The loans will bear interest at no more than two percent. The authority may establish a lower interest rate if the business commits to increasing its full-time employment level (1) by more than 10 percent, or more than one full-time employee, for businesses employing less than 10 full-time employees at the time of application, or (2) by no less than 10 percent, or one full-time employee, as appropriate, in less than four calendar years after the date on which the loan funds are disbursed to the business, or (3) a combination thereof. The rate of interest will correspond appropriately to the percentage of full-time employment increase or the decrease in time to increase employment, or a combination of both, to which the business commits. A participating business that is in default for nonperformance may be required to refund the outstanding balance of small business loans disbursed prior to the default declaration. A small business loan will be secured by a first lien on the receivables of the corporation receiving the loan.

To implement the loan program, the authority is directed to establish and maintain a special revolving fund to be known as the "New Jersey Small Business Loan Fund." The fund will be credited with: (1) such moneys from the economic growth account of the "Economic Recovery Fund" established pursuant to section 3 of P.L.1992, c.16 (C.34:1B-7.12), which the authority determines are necessary to effectively implement the program, within the limits of funding available from the Economic Recovery Fund, based upon the response to the program; (2) any moneys that shall be received by the authority from the repayment of the moneys in the loan fund used to provide small business loans and interest thereon; (3) any moneys as may be available to the authority from business assistance programs administered by the authority or by other State agencies or authorities; (4) appropriations made by the Legislature; (5) fees collected from applicants; and (6) other moneys made available including, but not limited to, funds provided by agreement with private investors, small business investment corporations, banks, and other lending institutions.

ASSEMBLY APPROPRIATIONS COMMITTEE

STATEMENT TO

SENATE, No. 3052

STATE OF NEW JERSEY

DATED: DECEMBER 1, 2011

The Assembly Appropriations Committee reports favorably Senate Bill No. 3052.

This bill directs the New Jersey Economic Development Authority (“authority”) to establish a small business loan program to provide low interest loans in amounts not exceeding \$250,000 to eligible small businesses, which may use the loan funds to support its capital purchases, employee training, and salaries for new positions. An “eligible small business” is a business entity that, at the time of application for participation in the small business loan program (1) is independently owned and operated; (2) is organized for profit with a place of business located in this State; (3) operates primarily within this State; (4) has less than 100 full-time employees; (5) is not dominant in its field; (6) has not raised \$10,000,000 or more in total equity financing; and (7) has not received \$10,000,000 or more in financing from any source.

Under the bill, a participating business enters into a small business loan agreement with the authority. The agreement provides that the business commits to increasing its full-time employment level within four years by no less than 10 percent of full-time employment, or one full-time employee, whichever is greater, above its full-time employment level at the time of its loan application. The loans bear interest at no more than two percent but may bear interest at a rate of less than two percent, as established by the authority, if the business commits to increasing its full-time employment level (1) by more than 10 percent, or more than one full-time employee for businesses employing less than 10 full-time employees at the time of application, or (2) by no less than 10 percent, or one full-time employee, as appropriate, in less than four calendar years after the date on which the loan funds are disbursed to the business, or (3) a combination thereof. The rate of interest corresponds appropriately to the percentage of full-time employment increase or the decrease in time to increase employment, or a combination of both, to which the business commits. A participating business in default for nonperformance may be required to refund the outstanding balance of small business loans disbursed prior to the default declaration. A small business loan is secured by a first lien on the receivables of the business entity receiving the loan.

To implement the loan program, the bill directs the authority to establish and maintain a special revolving fund to be known as the "New Jersey Small Business Loan Fund," which shall be credited with: (1) such moneys from the economic growth account of the "Economic Recovery Fund" established pursuant to section 3 of P.L.1992, c.16 (C.34:1B-7.12), which the authority determines are necessary to effectively implement the program, within the limits of funding available from the Economic Recovery Fund, based upon the response to the program; (2) any moneys received by the authority from the repayment of the moneys in the loan fund used to provide small business loans and interest thereon; (3) any moneys as may be available to the authority from business assistance programs administered by the authority or by other State agencies or authorities; (4) appropriations made by the Legislature; (5) fees collected from applicants; and (6) other moneys made available including, but not limited to, funds provided by agreement with private investors, small business investment corporations, banks, and other lending institutions.

FISCAL IMPACT:

The fiscal impact on the resources of the authority is indeterminate due to the absence of reliable information concerning the number of companies that might qualify for, seek, and obtain loans under the bill. The bill's first source of funding for loans is the economic growth account of the "Economic Recovery Fund" established pursuant to section 3 of P.L.1992, c.16 (C.34:1B-7.12). The account's maximum available balance is approximately \$68.6 million. This balance fluctuates frequently due to ongoing financing activity, e.g., approval of loans and loan guarantees, repayment of loans and cancellation of loan guarantees. Recently, due to current economic conditions, the account has had a positive cash flow, i.e., loan repayments in excess of new loans, compared to prior fiscal periods when the account's balance was declining due to financing activities. Under reasonably foreseeable economic conditions, the authority does not expect financing activities as currently authorized, together with new lending activity under this bill, to diminish the account's resources to the point where a General Fund appropriation would be required to sustain the loan program established by the bill.

SENATE BILL NO. 3052

To the Senate:

The Legislature has seen fit to unilaterally pass "jobs" bills that are duplicative of existing efforts by my Administration. Accordingly, pursuant to Article V, Section I, Paragraph 14 of the New Jersey Constitution, I am returning Senate Bill No. 3052 with my recommendations for reconsideration.

This bill would require the Economic Development Authority to establish a Small Business Loan Program to provide loans to eligible small businesses. However, this proposed program would duplicate the already existing efforts of the Authority. Through various programs, including the Small Business Fund, the Main Street Business Assistance Program, the Statewide Loan Pool Program, and the New Jersey Business Growth Fund, the Authority provides financing options to assist small businesses. Over the last three years, these programs have provided approximately \$60 million in public financing, which was leveraged for over \$250 million in combined public/private financing, to 231 projects within the State. The vast majority of those loans were to New Jersey small businesses.

However, despite the fact that this legislation is unnecessary and duplicative of the Authority's efforts, I am nevertheless pleased with the Authority's current programs and believe that the State would benefit by those efforts being memorialized via a permanent statutory enactment. Such an enactment will assist in my on-going efforts to ensure that New Jersey remains a friendly environment for small business for years to come.

I also note that in addition to the duplicative nature of this legislation, I am highly concerned that it provides for statutorily mandated interest rates of two percent or less for loans from its proposed Small Business Loan Program. Statutorily mandated interest rates that do not account for or accommodate fluctuating market conditions are not sustainable.

Similarly, I am concerned with the other strict criteria - including a maximum number of employees, maximum financing amounts, maximum loan amounts, and employee hiring requirements - that this bill mandates. I believe that the reason the Authority has continued to thrive in its mission of providing incentives and financing options to businesses is due to its flexibility to respond to changing market conditions. The Authority can accommodate the evolving needs of the business community in a manner far swifter than legislative enactments.

Therefore, I am also returning this legislation with recommendations that eligibility criteria and interest rates be left to the Authority to administratively determine, in order to respond to the ever-changing marketplace.

Accordingly, I herewith return Senate Bill No. 3052 and recommend that it be amended as follows:

- | | |
|--|--|
| <u>Page 2, Section 1, Line 14:</u> | Delete "(1)" |
| <u>Page 2, Section 1, Lines 15-16:</u> | Delete "; (2) is organized for profit with a place of business located in this State; (3)" and insert "," |
| <u>Page 2, Section 1, Line 17:</u> | Delete "; (4) employs less than 100 full-time employees; (5) is not" and insert ", and which satisfies other criteria that may be established by the Authority in its discretion." |
| <u>Page 2, Section 1, Lines 18-20:</u> | Delete in their entirety |
| <u>Page 2, Section 2, Line 22:</u> | Delete "establish" and insert "maintain" |

- Page 2, Section 2, Lines 26-27: Delete ", provided that the total amount of all loans under the program to any such business shall not exceed \$250,000"
- Page 2, Section 2, Line 34: Delete ", which agreement shall provide that the business" and insert "."
- Page 2, Section 2, Lines 35-39: Delete in their entirety
- Page 2, Section 2, Line 47: Delete "(1)"
- Page 3, Section 2, Lines 1-2: Delete "no more than two percent" and insert "rates and terms deemed appropriate by the Authority"
- Page 3, Section 2, Lines 7-37: Delete in their entirety and insert "g. The Authority may, in its discretion, require an eligible small business that receives a small business loan under the program administered pursuant to P.L. , c. (C.) (pending before the Legislature as this bill) to submit an audited financial statement to the Authority in order to ensure the business's continued viability."
- Page 3, Section 2, Lines 38-48: Delete in their entirety and insert "h. The Authority may, either through the adoption of rules and regulations, or through the terms of the small business loan agreement made pursuant to subsection c. of this section, establish terms governing the incidence of default by an eligible small business that receives a small business loan under the program administered pursuant to P.L. , c. (C.) (pending before the Legislature as this bill)."
- Page 4, Section 2, Lines 1-3: Delete in their entirety and insert "i. In determining whether to provide a loan to an eligible small business, the Authority shall consider, along with other criteria that the Authority in its discretion deems appropriate, whether the business commits to increasing its full-time

employment level in the State."

Page 4, Sections 3-4, Lines 5-45:

Delete in their entirety

Page 4, Section 5, Line 47:

Delete "5" and insert "3"

Page 5, Section 6, Line 4:

Delete "6" and insert "4"

Respectfully,

/s/ Chris Christie

Governor

[seal]

Attest:

/s/ Kevin M O'Dowd

Deputy Chief Counsel to the Governor

ASSEMBLY, No. 4336

STATE OF NEW JERSEY 214th LEGISLATURE

INTRODUCED NOVEMBER 21, 2011

Sponsored by:

Assemblyman DANIEL R. BENSON

District 14 (Mercer and Middlesex)

Assemblyman ALBERT COUTINHO

District 29 (Essex and Union)

Assemblyman TROY SINGLETON

District 7 (Burlington and Camden)

Assemblyman WAYNE P. DEANGELO

District 14 (Mercer and Middlesex)

Co-Sponsored by:

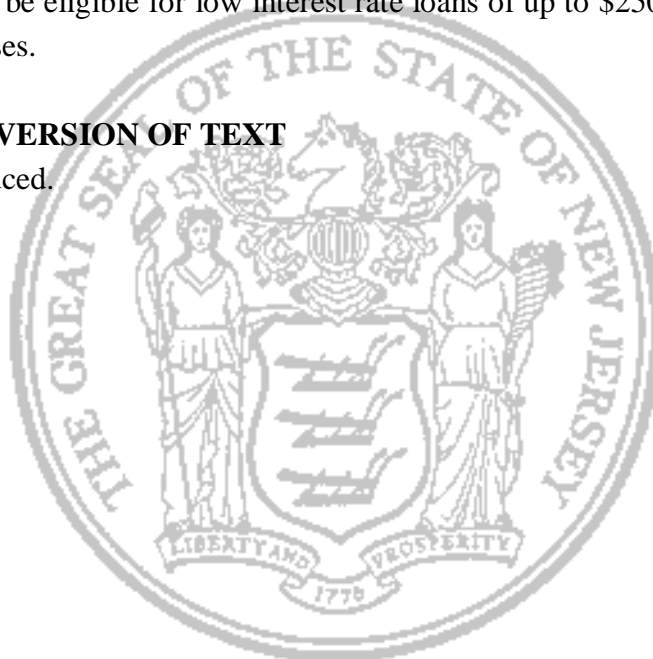
**Assemblyman Coughlin, Assemblywoman Wagner, Assemblymen
Conaway and Johnson**

SYNOPSIS

Establishes Small Business Loan Program in EDA allowing certain small businesses to be eligible for low interest rate loans of up to \$250,000 to expand their businesses.

CURRENT VERSION OF TEXT

As introduced.



(Sponsorship Updated As Of: 12/6/2011)

1 AN ACT establishing a small business loan program within the New
2 Jersey Economic Development Authority and supplementing Title
3 34 of the Revised Statutes.

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

7
8 1. As used in this act:

9 “Authority” means the New Jersey Economic Development
10 Authority established by section 4 of P.L.1974, c.80 (C.34:1B-4).

11 “Eligible small business” means a business entity that, at the
12 time of application for participation in the small business loan
13 program established pursuant to section 2 of P.L. , c. (C.)
14 (pending before the Legislature as this bill), (1) is independently
15 owned and operated; (2) is organized for profit with a place of
16 business located in this State; (3) operates primarily within this
17 State; (4) employs less than 100 full-time employees; (5) is not
18 dominant in its field; (6) has not raised \$10,000,000 or more in total
19 equity financing; and (7) has not received \$10,000,000 or more in
20 financing from any source.

21
22 2. a. The authority shall establish and administer a small
23 business loan program for the purpose of providing small business
24 loans to eligible small businesses.

25 b. Small business loans may be made to an eligible small
26 business, provided that the total amount of all loans under the
27 program to any such business shall not exceed \$250,000. The loan
28 funds may be applied to any aspect of the business that supports its
29 capital purchases, employee training, and salaries for new positions
30 as determined by the authority.

31 c. In order to receive a small business loan, a business, at the
32 time of application, shall provide proof that it is an eligible small
33 business and shall enter into a small business loan agreement with
34 the authority, which agreement shall provide that the business
35 commits to increasing its full-time employment level by the greater
36 of one full-time employee or no less than 10 percent of its full-time
37 employee employment level at the time of application within four
38 calendar years after the date on which loan funds are disbursed to
39 the business.

40 d. The authority shall review and may approve applications for
41 the loan program.

42 e. A business seeking to participate in the small business loan
43 program shall submit an application in such form as the authority
44 shall require. Such application shall include such information as
45 the authority shall determine is necessary in consideration of the
46 provisions of P.L.2011, c.123 (52:14B-21.1 et seq.).

47 f. (1) Small business loans under this section shall be made
48 pursuant to a small business loan agreement made pursuant to

1 subsection c. of this section and shall bear interest at no more than
2 two percent, and contain other terms and conditions considered
3 appropriate by the authority that are consistent with the purposes of
4 P.L. , c. (C.) (pending before the Legislature as this bill) and
5 with rules and regulations promulgated by the authority to
6 implement P.L. , c. .

7 (2) The authority may provide that a small business loan shall
8 bear interest at a rate of less than two percent, at a rate to be
9 established by the authority, if the business commits, under a small
10 business loan agreement established pursuant to subsection c. of
11 this section, to increasing its full-time employment level by more
12 than 10 percent, or by more than one full-time employee if the
13 business employs less than 10 employees at the time of application,
14 within the period of time prescribed under subsection c. of this
15 section, or by no less than 10 percent, or one full-time employee if
16 the business employs less than 10 employees at the time of
17 application, in a period of time that is less than the period of time
18 prescribed under subsection c. of this section, or a combination
19 thereof. The rate of interest established by the authority pursuant to
20 this paragraph with respect to any small business loan shall
21 correspond appropriately, as determined by the authority, to the
22 percentage of employment increase or the period of time to increase
23 employment, or a combination of both, as appropriate, to which the
24 business commits.

25 g. (1) Unless subject to federal law, rule or regulation, each
26 eligible business that receives a small business loan under P.L. ,
27 c. (C.) (pending before the Legislature as this bill) shall
28 undergo an audit, at its own expense, at least once every two years.
29 The authority shall designate an auditor to conduct the audit.

30 (2) If an audit is performed under a requirement of federal law,
31 rule or regulation, the authority shall waive the audit required in
32 this subsection with respect to all issues addressed by the federally
33 required audit report. However, the authority may require an audit
34 of matters that are not, in the authority's judgment, addressed by the
35 federally required report including, but not limited to, verification
36 of compliance with requirements specific to the program, such as
37 job-generation standards.

38 h. A participating eligible small business that is in default for
39 nonperformance under rules and regulations established by the
40 authority may be required to refund the outstanding balance of
41 small business loan funds disbursed prior to the default declaration.
42 At a minimum, rules and regulations established by the authority
43 pursuant to P.L. , c. (C.) (pending before the Legislature as
44 this bill) shall provide that, notwithstanding the good faith efforts of
45 a business to meet its obligations under a small business loan
46 agreement made pursuant to this section that does not hire and
47 retain for a reasonable time period, as determined by the authority,
48 at least one full-time employee with the time period prescribed

1 under a small business loan agreement shall be considered in
2 default. A small business loan shall be secured by a first lien on the
3 receivables of the business entity receiving the loan.

4

5 3. a. To implement the loan program, the authority shall
6 establish and maintain a special revolving fund to be known as the
7 "New Jersey Small Business Loan Fund," which shall be credited
8 with:

9 (1) such moneys from the economic growth account of the
10 "Economic Recovery Fund" established pursuant to section 3 of
11 P.L.1992, c.16 (C.34:1B-7.12), as the authority determines are
12 necessary to effectively implement the program based upon the
13 response to the program;

14 (2) any moneys that shall be received by the authority from the
15 repayment of the moneys in the loan fund used to provide small
16 business loans pursuant to P.L. , c. (C.) (pending before the
17 Legislature as this bill) and interest thereon;

18 (3) any moneys as may be available to the authority from
19 business assistance programs administered by the authority or by
20 other State agencies or authorities;

21 (4) appropriations made by the Legislature to effectuate the
22 purposes of P.L. , c. (C.) (pending before the Legislature as
23 this bill);

24 (5) fees collected from applicants pursuant to subsection c. of
25 this section; and

26 (6) other moneys made available including, but not limited to,
27 funds provided by agreement with private investors, small business
28 investment corporations, banks, and other lending institutions to
29 effectuate the purposes of P.L. , c. (C.) (pending before the
30 Legislature as this bill).

31 b. Moneys in the loan fund which are determined by the
32 authority not to be needed for current responsibilities of the loan
33 fund, may be invested by the authority in any direct obligations as
34 to which the principal and interest thereof are guaranteed by the
35 United States of America or any other obligation deemed
36 appropriate by the authority. Income from the investment of moneys
37 in the loan fund shall be credited to the loan fund.

38 c. The authority may charge fees in connection with
39 applications for participation in the small business loan program as
40 it deems reasonable.

41

42 4. The authority may appoint a director to manage the activities
43 associated with the loan fund established pursuant to section 3 of
44 P.L. , c. (C.) (pending before the Legislature as this bill).
45 The director shall receive compensation as determined by the
46 authority.

1 5. The authority may adopt such rules and regulations pursuant
2 to the "Administrative Procedure Act," P.L.1968, c.410 (C.52:14B-
3 1 et seq.) as may be necessary to effectuate the purposes of P.L. ,
4 c. (C.) (pending before the Legislature as this bill).

5
6 6. This act shall take effect immediately.
7

8
9 STATEMENT
10

11 This bill directs the New Jersey Economic Development
12 Authority ("authority") to establish a small business loan program
13 to provide low interest loans in amounts not exceeding \$250,000 to
14 eligible small businesses, which may use the loan funds to support
15 capital their purchases, employee training, and salaries for new
16 positions. "Eligible small business" is defined to mean a business
17 entity that, at the time of application for participation in the small
18 business loan program (1) is independently owned and operated; (2)
19 is organized for profit with a place of business located in this State;
20 (3) operates primarily within this State; (4) employs less than 100
21 full-time employees; (5) is not dominant in its field; (6) has not
22 raised \$10,000,000 or more in total equity financing; and (7) has
23 not received \$10,000,000 or more in financing from any source.

24 A participating business would enter into a small business loan
25 agreement with the authority which agreement shall provide that the
26 business commits to increasing full-time employment by no less
27 than 10 percent of full-time employment level, or one full-time
28 employee whichever is greater, at the time of application within
29 four calendar years after the date loan funds are disbursed. The
30 loans would bear interest at no more than two percent but may bear
31 interest at a rate of less than two percent, as established by the
32 authority if the business commits to increasing its full-time
33 employment level by more than 10 percent, or more than one full-
34 time employee for businesses employing less than 10 full-time
35 employees at the time of application, or by no less than 10 percent,
36 or one full-time employee, as appropriate, in less than four calendar
37 years after the date on which the loan funds are disbursed to the
38 business, or a combination thereof. The rate of interest would
39 correspond appropriately to the percentage of full-time employment
40 increase or the decrease in time to increase employment, or a
41 combination of both, to which the business commits. A
42 participating business that is in default for nonperformance may be
43 required to refund the outstanding balance of small business loans
44 disbursed prior to the default declaration. A small business loan is
45 secured by a first lien on the receivables of the corporation
46 receiving the loan.

47 To implement the loan program, the authority is directed to
48 establish and maintain a special revolving fund to be known as the

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1 "New Jersey Small Business Loan Fund," which shall be credited
2 with: (1) such moneys from the economic growth account of the
3 "Economic Recovery Fund" established pursuant to section 3 of
4 P.L.1992, c.16 (C.34:1B-7.12), which the authority determines are
5 necessary to effectively implement the program, within the limits of
6 funding available from the Economic Recovery Fund, based upon
7 the response to the program; (2) any moneys that shall be received
8 by the authority from the repayment of the moneys in the loan fund
9 used to provide small business loans and interest thereon; (3) any
10 moneys as may be available to the authority from business
11 assistance programs administered by the authority or by other State
12 agencies or authorities; (4) appropriations made by the Legislature;
13 (5) fees collected from applicants and (6) other moneys made
14 available including, but not limited to, funds provided by agreement
15 with private investors, small business investment corporations,
16 banks, and other lending institutions.

ASSEMBLY COMMERCE AND ECONOMIC DEVELOPMENT
COMMITTEE

STATEMENT TO

ASSEMBLY, No. 4336

STATE OF NEW JERSEY

DATED: NOVEMBER 21, 2011

The Assembly Commerce and Economic Development Committee reports favorably Assembly Bill No. 4336.

This bill directs the New Jersey Economic Development Authority (“authority”) to establish a small business loan program to provide low interest loans in amounts not exceeding \$250,000 to eligible small businesses, which may use the loan funds to support capital purchases, employee training, and salaries for new positions. “Eligible small business” is defined to mean a business entity that, at the time of application for participation in the small business loan program: (1) is independently owned and operated; (2) is organized for profit with a place of business located in this State; (3) operates primarily within this State; (4) has less than 100 full-time employees; (5) is not dominant in its field; (6) has not raised \$10,000,000 or more in total equity financing; and (7) has not received \$10,000,000 or more in financing from any source.

A participating business would enter into a small business loan agreement with the authority committing the business to increase its number of employees within four years of the time of application by 10 percent or one full-time employee, whichever is greater. The loans will bear interest at no more than two percent. The authority may establish a lower interest rate if the business commits to increasing its full-time employment level (1) by more than 10 percent, or more than one full-time employee, for businesses employing less than 10 full-time employees at the time of application, or (2) by no less than 10 percent, or one full-time employee, as appropriate, in less than four calendar years after the date on which the loan funds are disbursed to the business, or (3) a combination thereof. The rate of interest will correspond appropriately to the percentage of full-time employment increase or the decrease in time to increase employment, or a combination of both, to which the business commits. A participating business that is in default for nonperformance may be required to refund the outstanding balance of small business loans disbursed prior to the default declaration. A small business loan will be secured by a first lien on the receivables of the corporation receiving the loan.

To implement the loan program, the authority is directed to establish and maintain a special revolving fund to be known as the "New Jersey Small Business Loan Fund." The fund will be credited with: (1) such moneys from the economic growth account of the "Economic Recovery Fund" established pursuant to section 3 of P.L.1992, c.16 (C.34:1B-7.12), which the authority determines are necessary to effectively implement the program, within the limits of funding available from the Economic Recovery Fund, based upon the response to the program; (2) any moneys that shall be received by the authority from the repayment of the moneys in the loan fund used to provide small business loans and interest thereon; (3) any moneys as may be available to the authority from business assistance programs administered by the authority or by other State agencies or authorities; (4) appropriations made by the Legislature; (5) fees collected from applicants; and (6) other moneys made available including, but not limited to, funds provided by agreement with private investors, small business investment corporations, banks, and other lending institutions.

ASSEMBLY APPROPRIATIONS COMMITTEE

STATEMENT TO

ASSEMBLY, No. 4336

STATE OF NEW JERSEY

DATED: DECEMBER 1, 2011

The Assembly Appropriations Committee reports favorably Assembly Bill No. 4336.

This bill directs the New Jersey Economic Development Authority (“authority”) to establish a small business loan program to provide low interest loans in amounts not exceeding \$250,000 to eligible small businesses, which may use the loan funds to support its capital purchases, employee training, and salaries for new positions. An “eligible small business” is a business entity that, at the time of application for participation in the small business loan program (1) is independently owned and operated; (2) is organized for profit with a place of business located in this State; (3) operates primarily within this State; (4) has less than 100 full-time employees; (5) is not dominant in its field; (6) has not raised \$10,000,000 or more in total equity financing; and (7) has not received \$10,000,000 or more in financing from any source.

Under the bill, a participating business enters into a small business loan agreement with the authority. The agreement provides that the business commits to increasing its full-time employment level within four years by no less than 10 percent of full-time employment, or one full-time employee, whichever is greater, above its full-time employment level at the time of its loan application. The loans bear interest at no more than two percent but may bear interest at a rate of less than two percent, as established by the authority, if the business commits to increasing its full-time employment level (1) by more than 10 percent, or more than one full-time employee for businesses employing less than 10 full-time employees at the time of application, or (2) by no less than 10 percent, or one full-time employee, as appropriate, in less than four calendar years after the date on which the loan funds are disbursed to the business, or (3) a combination thereof. The rate of interest corresponds appropriately to the percentage of full-time employment increase or the decrease in time to increase employment, or a combination of both, to which the business commits. A participating business in default for nonperformance may be required to refund the outstanding balance of small business loans disbursed prior to the default declaration. A small business loan is secured by a first lien on the receivables of the business entity receiving the loan.

To implement the loan program, the bill directs the authority to establish and maintain a special revolving fund to be known as the "New Jersey Small Business Loan Fund," which shall be credited with: (1) such moneys from the economic growth account of the "Economic Recovery Fund" established pursuant to section 3 of P.L.1992, c.16 (C.34:1B-7.12), which the authority determines are necessary to effectively implement the program, within the limits of funding available from the Economic Recovery Fund, based upon the response to the program; (2) any moneys received by the authority from the repayment of the moneys in the loan fund used to provide small business loans and interest thereon; (3) any moneys as may be available to the authority from business assistance programs administered by the authority or by other State agencies or authorities; (4) appropriations made by the Legislature; (5) fees collected from applicants; and (6) other moneys made available including, but not limited to, funds provided by agreement with private investors, small business investment corporations, banks, and other lending institutions.

FISCAL IMPACT:

The fiscal impact on the resources of the authority is indeterminate due to the absence of reliable information concerning the number of companies that might qualify for, seek, and obtain loans under the bill. The bill's first source of funding for loans is the economic growth account of the "Economic Recovery Fund" established pursuant to section 3 of P.L.1992, c.16 (C.34:1B-7.12). The account's maximum available balance is approximately \$68.6 million. This balance fluctuates frequently due to ongoing financing activity, e.g., approval of loans and loan guarantees, repayment of loans and cancellation of loan guarantees. Recently, due to current economic conditions, the account has had a positive cash flow, i.e., loan repayments in excess of new loans, compared to prior fiscal periods when the account's balance was declining due to financing activities. Under reasonably foreseeable economic conditions, the authority does not expect financing activities as currently authorized, together with new lending activity under this bill, to diminish the account's resources to the point where a General Fund appropriation would be required to sustain the loan program established by the bill.

LEGISLATIVE FISCAL ESTIMATE
ASSEMBLY, No. 4336
STATE OF NEW JERSEY
214th LEGISLATURE

DATED: DECEMBER 6, 2011

SUMMARY

Synopsis: Establishes Small Business Loan Program in EDA allowing certain small businesses to be eligible for low interest rate loans of up to \$250,000 to expand their businesses.

Type of Impact: Probable State costs

Agencies Affected: New Jersey Economic Development Authority (EDA)

Office of Legislative Services Estimate

| Fiscal Impact | <u>Year 1</u> | <u>Year 2</u> | <u>Year 3</u> |
|----------------------|------------------------------------|----------------------|----------------------|
| State Cost | Indeterminate – See comments below | | |

- The fiscal impact of the proposed legislation is dependant upon a number of factors that cannot be known until the legislation has been fully implemented. Among those factors are the lending standards that the New Jersey Economic Development Authority (EDA) chooses to implement and the quality and number of applicants from the small business community.
- The primary source of funding for this bill is the Economic Recovery Fund, which currently maintains a balance of approximately \$68 million. This makes it unlikely that any additional appropriation from the General Fund will be necessary in the three year period covered by the fiscal estimate.

BILL DESCRIPTION

Assembly Bill No. 4336 of 2011 would require the EDA to establish a small business loan program. The program offers low interest loans of up to \$250,000 to eligible small businesses for purposes that increase total employment. A business must have fewer than 100 full time employees, be for profit, be located primarily within the State, and have raised less than \$10 million in financing to qualify as a small business under the program. To receive a loan under the program, the business must commit to increasing its full-time employment by 10 percent or at least one full time employee, with the employees to be added within four calendar years. Generally, the interest rate on the loans would be 2 percent; if the loan results in a greater

increase in employment or the target increase is met more quickly, the authority could allow the rate to fall below 2 percent. Funding to support the loan fund is to come from funds available in the "Economic Recovery Fund", as well as reinvestment of loan repayments through the program, any fees collected from applicants, any money made available through business assistance programs, any money made available by private investors or lending institutions, and from any appropriations made by the Legislature.

FISCAL ANALYSIS

EXECUTIVE BRANCH

None received.

OFFICE OF LEGISLATIVE SERVICES

The Office of Legislative Services finds that it is not possible to determine the fiscal impact of the legislation at this time. In order to develop an accurate estimate, it would be necessary to know the lending standards that the EDA would implement for this program and to then know the number of companies that would obtain funding under the bill. There are a very large number of small businesses in the State that would qualify to apply for a loan under this program. Out of that very large pool of small businesses, a much smaller number will actually end up being credit worthy and able to borrow funds. Given the very low interest rates offered under this program at less than 2 percent and the relatively low barriers to eligibility, the Office of Legislative Services estimates that the demand for loans under this program will be very high. Until the EDA establishes guidelines to determine credit worthiness, it is not possible to estimate how much of that demand would translate into actual loan disbursements.

The EDA currently has approximately \$68 million available in the Economic Recovery Fund, which is to be the primary source of funds for this program. It is not expected that the EDA would exceed the amount available in the fund and pursue an appropriation from the Legislature, so there would likely be no direct cost to the General Fund. There would, however, be a State cost related to funds made available through the Economic Recovery Fund. Generally, money could be invested in Treasuries and other risk-free vehicles that would yield in excess of 2 percent while the loans will generate a maximum of 2 percent return, less any defaults. In the current credit environment, the 10-year yield on a Treasury note is approximately 2 percent, so the current cost to the State would be relatively low; however as the economy improves that rate will rise while the interest rates on loans issued through the program will remain low. While lack of knowledge about future rates makes it impossible to determine the opportunity cost of lost income due to the subsidized interest rate, it is possible to generally assess the potential for lost revenue. For every 1 percent difference between the interest received on loans and that obtainable through a risk-free investment, the State gives up \$10,000 per year per \$1 million lent. In the event that \$30 million of the \$68 million in the Economic Recovery Fund is lent at roughly 3 percent below market rates, the fund would forego \$900,000 per year. It is likely that over the three year period covered by this fiscal estimate, there will be a cost greater than \$0, but less than \$1 million each year.

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Section: Authorities, Utilities, Transportation and Communications

*Analyst: Patrick Brennan
Assistant Fiscal Analyst*

*Approved: David J. Rosen
Legislative Budget and Finance Officer*

This fiscal estimate has been prepared pursuant to P.L.1980, c.67 (C.52:13B-6 et seq.).