

**Sec.1 Repealer; 5:8-79.1; 5:8-102 et al
LEGISLATIVE HISTORY CHECKLIST**

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LAWS OF: 2022 **CHAPTER:** 80

NJSA: Sec.1 Repealer; 5:8-79.1; 5:8-102 et al
(Adjusts municipal ballot question for amusement games for future elections and repeals section of law creating office of Amusement Games Control Commissioner.)

BILL NO: A4193 (Substituted for S2759 (1R))

SPONSOR(S) Louis D. Greenwald and others

DATE INTRODUCED: 6/2/2022

COMMITTEE: **ASSEMBLY:** State and Local Government

SENATE: ---

AMENDED DURING PASSAGE: Yes

DATE OF PASSAGE: **ASSEMBLY:** 6/16/2022

SENATE: 6/16/2022

DATE OF APPROVAL: 7/29/2022

FOLLOWING ARE ATTACHED IF AVAILABLE:

FINAL TEXT OF BILL (First Reprint enacted) Yes

A4193

INTRODUCED BILL: (Includes sponsor(s) statement) Yes

COMMITTEE STATEMENT: **ASSEMBLY:** Yes

SENATE: No

(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: No

S2759 (1R)

INTRODUCED BILL: (Includes sponsor(s) statement) Yes

COMMITTEE STATEMENT: **ASSEMBLY:** No

SENATE: Yes

(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: No

VETO MESSAGE: No

GOVERNOR'S PRESS RELEASE ON SIGNING: Yes

FOLLOWING WERE PRINTED:

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REPORTS: No

HEARINGS: No

NEWSPAPER ARTICLES: No

end

P.L. 2022, CHAPTER 80, *approved July 29, 2022*
Assembly, No. 4193 (*First Reprint*)

1 AN ACT adjusting the municipal ballot question for amusement
2 games ¹**【and】**,¹ amending ¹P.L.1959, c.108,¹ P.L.1959, c.109¹,
3 P.L.1959, c.113, and repealing section 1 of P.L.1959, c.108 (C.5:8-
4 78)¹.

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

8
9 ¹1. Section 1 of P.L.1959, c.108 (C.5:8-78) is repealed.¹

10

11 ¹2. The title of P.L.1959, c.109 is amended to read as follows:

12 AN ACT authorizing the conducting, operating and playing of
13 certain amusement games, whether of chance or skill, or both,
14 where the prizes or awards to be given shall be of merchandise
15 only, of a value to be determined by the **【Amusement Games**
16 **Control Commissioner】** Legalized Games of Chance Control
17 Commission and the charge for the privilege of playing shall be
18 determined by the **【commissioner】** commission; providing for
19 the licensing, regulation and control by the **【commissioner】**
20 commission, of the conducting and operating of such games;
21 providing restrictions as to the places where such games may be
22 conducted and operated; providing that certain playing for
23 money or other valuable things is not authorized; providing for
24 the operation and inoperation of the act in any municipality when
25 so determined by referendum vote therein; and providing for the
26 submission of this act to the legal voters of the State for their
27 approval or rejection before the same shall become operative
28 within this State.¹

29 (cf: P.L.1981, c.291, Title)

30

31 ¹3. Section 1 of P.L.1959, c.113 (C.5:8-79.1) is amended to read
32 as follows:

33 1. The rules and regulations to be made and promulgated by the
34 **【Amusement Games Control Commissioner】** Legalized Games of
35 Chance Control Commission, in addition to provisions authorized
36 by any other law, shall also provide for applications to, and
37 certifications by, the **【commissioner】** commission with respect to
38 the specific kind of game or games intended to be held, operated
39 and conducted, and the rules for the playing of the game or games
40 and that they are of the character permitted by the Amusement

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:

¹Assembly ASL committee amendments adopted June 9, 2022.

1 Games Licensing Law. Whenever the **【commissioner】**
2 commission shall deem it to be necessary, the said rules,
3 regulations and certifications may impose a limit or limits on the
4 number of places or the number of specific kinds of games
5 which may be held, operated or conducted by any 1 licensee,
6 directly or indirectly, or in which such licensee, or any other
7 person having an interest therein, may have an interest, and also for
8 such other controls as the **【commissioner】** commission shall deem
9 to be suitable and proper, particularly such as shall be ascertained
10 from the experience of operations under said law and this act and
11 for the purposes thereof. The said certifications shall also be
12 designed to prevent monopoly, undue or unfair competition among
13 licensees or with operations conducted pursuant to the Bingo
14 Licensing Law (P.L.1954, c. 6) or the Raffles Licensing Law
15 (P.L.1954, c. 5), and to prevent false, misleading or uninformative
16 representations or concealment and to restrict excessive advertising
17 or other acts, conduct or behavior which may tend to a misuse of
18 the activities permitted by the Amusement Games Licensing Law
19 or the participation in the benefits of the carrying on of activities
20 thereunder, directly or indirectly, by or for the benefit of any
21 person or persons not eligible to receive licenses thereunder.

22 The said rules and regulations may also provide for and establish
23 procedures, forms and other documents in connection with the
24 application for, and the issuance of, licenses, determinations
25 thereon, hearings, appeals, grants, refusals, suspensions or
26 revocations of licenses, reports, questionnaires, and any other
27 matters connected with the exercise of any power vested in said
28 **【commissioner】** commission by law.¹

29 (cf: P.L.1959, c.113, s.1)

30

31 ¹4. Section 3 of P.L.1959, c.108 (C.5:8-102) is amended to read
32 as follows:

33 3. Each applicant for such a license shall file with the clerk of
34 the municipality a written application therefor in the form
35 prescribed by the **【Amusement Games Control Commissioner】**
36 Legalized Games of Chance Control Commission, duly executed
37 and verified, in which shall be stated the name and address of the
38 applicant, together with sufficient facts relating to its incorporation
39 and organization if the applicant be a corporation or organization;
40 the specific kind of amusement games intended to be held, operated
41 and conducted by the applicant, and the place or places where, the
42 period, term, date or dates and the time or times when, such
43 amusement games are intended to be conducted by the applicant,
44 under the license applied for; and that no prize or prizes will be
45 offered and given under said license except of merchandise only
46 and same shall be of a value not in excess of the sum or value
47 authorized to be offered and given by this act and such other

1 information as shall be prescribed by the **【Amusement Games**
2 **Control Commissioner】** commission.

3 Every such municipal license so issued shall be inoperative
4 unless the licensee named therein shall also, within 90 days from
5 the issuance thereof and prior to the conduct or operation of
6 amusement games thereunder, procure a State license authorizing
7 the licensee holding the municipal license to operate and conduct
8 certain games according to the terms of such municipal license.
9 The said State license shall be issued by the State **【Amusement**
10 **Games Control Commissioner】** Legalized Games of Chance
11 Control Commission, if **【he】** the commission finds that all of the
12 conditions, terms and requirements of this act and of said rules and
13 regulations have been fully met and complied with. As a condition
14 of granting any such State license the applicant therefor shall pay to
15 the said **【commissioner】** commission an annual fee of \$250.00. An
16 applicant who is the owner of an arcade shall pay an additional
17 annual fee of \$10.00 per machine for each machine over 50
18 machines. If any such municipal license authorizes the licensee to
19 conduct and operate games at more than one place or of more than
20 one specific kind the applicant for the State license shall pay the
21 said annual fee of \$250.00 for each such place and for each such
22 specific kind.

23 For the purposes of this section, "arcade" means a place where a
24 single player upon payment of a fee is permitted to play a machine
25 or device to obtain a prize, ticket or token redeemable for a prize, or
26 attain a score upon the basis of which a prize, ticket or token is
27 awarded.¹

28 (cf: P.L.1983, c.255, s.1)

29

30 ^{15.} Section 8 of P.L.1959, c.109 (C.5:8-107) is amended to read
31 as follows:

32 8. The **【Amusement Games Control Commissioner】** Legalized
33 Games of Chance Control Commission shall determine the amount
34 for any 1 game which shall be charged or accepted by any licensee
35 from any 1 player or participant as an entry fee or payment for the
36 privilege of participating therein. No prize or prizes shall be
37 offered or given in any single game except of merchandise and the
38 amount of the value of the merchandise prize or prizes so to be
39 offered and given in any such game shall be determined by the
40 **【commissioner】** commission and all winners shall be determined
41 and all prizes shall be awarded in any game forthwith upon the
42 completion of the game and before making or accepting any charge
43 for participation in any subsequent game.

44 The **【commissioner】** commission shall make **【his】** the
45 determination pursuant to this section after a public hearing has
46 been held thereon and subject to the provisions of P.L.1981, c. 27

1 (C. 52:14B-4.1 et seq.).¹
2 (cf: P.L.1981, c.291, s.2)

3
4 ¹6. Section 10 of P.L.1959, c.109 (C.5:8-109) is amended to
5 read as follows:

6 10. Any applicant for, or holder of, any license issued or to be
7 issued under this act aggrieved by any action of the municipal
8 governing body of the municipality to which such application has
9 been made or by which such license has been issued, may appeal to
10 the **【Amusement Games Control Commissioner】** Legalized Games
11 of Chance Control Commission from the determination of said
12 governing body by filing with the governing body a written notice
13 of appeal within 30 days after the determination or action appealed
14 from, and upon the hearing of such appeal the evidence, if any,
15 taken before the governing body and any additional evidence may
16 be produced and shall be considered in arriving at a determination
17 of the matters in issue, and the action of the **【Control**
18 **Commissioner】** commission upon said appeal shall be binding upon
19 said governing body and all parties to said appeal.¹

20 (cf: P.L.1959, c.109, s.10)

21

22 ¹**【1.】** 7.¹ Section 17 of P.L.1959, c.109 (C.5:8-116) is
23 amended to read as follows:

24 17. Upon a petition signed by qualified voters of any
25 municipality equal in number to at least **【15%】** 15 percent of the
26 total number of votes cast therein at the latest preceding general
27 election for members of the General Assembly and filed with the
28 clerk of the municipality at least 60 days before such election, the
29 governing body of the municipality shall provide for the submission
30 to the legal voters of the municipality at such general election, the
31 question of whether this act shall become operative or cease to be
32 operative in such municipality, as the case may be. If, upon such
33 submission of the question, the majority of all the valid votes cast
34 on the question shall be in favor of having this act inoperative in the
35 municipality, then this act shall, 60 days thereafter, become
36 inoperative in the municipality. The question shall be deemed to be
37 a public question and shall be submitted to the voters as in the case
38 of other public questions. The question shall be stated as follows:

39 Shall the act entitled "An act authorizing the
40 conducting, operating and playing of certain amusement
41 Yes. games, whether of chance or skill, or both, where the
42 prizes or awards to be given shall be of merchandise
43 only, of a **【retail】** value **【not in excess of \$15.00,】** to be
44 determined by the ¹**【Amusement Games Control**
45 **Commissioner】** Legalized Games of Chance Control
46 Commission¹ and
47 the charge for the privilege of playing shall **【not**

1 exceed \$0.25] be determined by the ¹[**commissioner**]
2 commission¹;
3 providing for the licensing, regulation
4 and control by [a] the ¹[**commissioner**] commission¹,
5 of
6 the conducting
7 and
8 operating of such games; providing restrictions as to
9 No. the places where such games may be conducted and
10 operated; providing that certain playing for money
11 or other valuable things is not authorized; providing
12 for the operation and inoperation of the act in any
13 municipality when so determined by referendum vote
14 therein; and providing for the submission of this act
15 to the legal voters of the State for their approval
16 or rejection before the same shall become operative
17 within this State," become

18 (insert operative or inoperative) in this municipality?
19 In the blank space set forth in the above box, the word
20 "operative" or "inoperative" shall be inserted in the question when
21 it is submitted to the voters of the municipality according to
22 whether this act became operative by reason of the vote on the
23 question submitted to all the voters of the State as to whether this
24 act should become operative. If a majority of the voters in the
25 municipality who voted on the said general public question was in
26 the affirmative and, thereby, under the provisions of this act,
27 municipal licenses are authorized, then the word "inoperative"
28 should be included in the above blank space, but if this act does not
29 become operative in the municipality because a majority of the
30 votes cast therein on the general public question was in the
31 negative, then the word "operative" should be inserted in the
32 above-mentioned blank space. If this act shall have become
33 operative in any municipality by reason of a referendum vote
34 therein, as herein provided, and a further referendum is authorized
35 to determine the question of whether this act shall become
36 inoperative notwithstanding such previous approval by the voters,
37 then the word "inoperative" should be inserted in the above blank
38 space.

39 (cf: P.L.1975, c.389, s.5)

41 ¹[**2.]** g.¹ Section 19 of P.L.1959, c.109 (C.5:8-118) is
42 amended to read as follows:

43 19. There shall be printed on each official ballot to be used at
44 such election the following:

45 If you favor making the act entitled below operative within the
46 State, and operative within this municipality, make a cross X, plus +
47 or check / in the square opposite the word "Yes."

1 If you are opposed to making the act entitled below so operative,
2 make a cross X, plus + or check / in the square opposite the word
3 "No."

4 Shall the act entitled "An act authorizing the
5 conducting, operating and playing of certain amusement
6 Yes. games, whether of chance or skill, or both, where the
7 prizes or awards to be given shall be of merchandise
8 only, of a **【retail】** value **【not in excess of \$15.00】** to be
9 determined by the ¹**【Amusement Games Control**
10 **Commissioner】** Legalized Games of Chance Control
11 Commission¹, and
12 the charge for the privilege of playing shall **【not**
13 **exceed \$0.25】** be determined by the ¹**【commissioner】**
14 commission¹;
15 providing for the licensing, regulation
16 and control by **【a】** the ¹**【commissioner】** commission¹,
17 of
18 the conducting
19 and
20 operating of such games; providing restrictions as
21 to the places where such games may be conducted and
22 operated; providing that certain playing for money or
23 No. other valuable things is not authorized; providing
24 for the operation and inoperation of the act in any
25 municipality when so determined by referendum vote
26 therein; and providing for the submission of this act
27 to the legal voters of the State for their approval
28 or rejection before the same shall become operative
29 within this State," become operative within this State?
30

31 The date of the approval or passage of this act, as the case may
32 be, shall be inserted in the appropriate place after the title.

33 In any election district in which voting machines are used the
34 question shall be placed upon the official ballot to be used upon the
35 voting machines with the foregoing instructions to the voters but
36 with instructions to vote "Yes" or "No" by the use of such
37 machines and without marking as aforesaid.

38 (cf: P.L.1959, c.109, s.19)

39
40 ¹**【3.】** 9.¹ This act shall take effect immediately.

41
42
43
44
45 Adjusts municipal ballot question for amusement games for
46 future elections and repeals section of law creating office of
47 Amusement Games Control Commissioner.

ASSEMBLY, No. 4193

STATE OF NEW JERSEY 220th LEGISLATURE

INTRODUCED JUNE 2, 2022

Sponsored by:

Assemblyman LOUIS D. GREENWALD

District 6 (Burlington and Camden)

SYNOPSIS

Adjusts municipal ballot question for amusement games for future elections.

CURRENT VERSION OF TEXT

As introduced.



A4193 GREENWALD

1 AN ACT adjusting the municipal ballot question for amusement
2 games and amending P.L.1959, c.109.

3

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

6

7 1. Section 17 of P.L.1959, c.109 (C.5:8-116) is amended to
8 read as follows:

9 17. Upon a petition signed by qualified voters of any
10 municipality equal in number to at least **[15%]** 15 percent of the
11 total number of votes cast therein at the latest preceding general
12 election for members of the General Assembly and filed with the
13 clerk of the municipality at least 60 days before such election, the
14 governing body of the municipality shall provide for the submission
15 to the legal voters of the municipality at such general election, the
16 question of whether this act shall become operative or cease to be
17 operative in such municipality, as the case may be. If, upon such
18 submission of the question, the majority of all the valid votes cast
19 on the question shall be in favor of having this act inoperative in the
20 municipality, then this act shall, 60 days thereafter, become
21 inoperative in the municipality. The question shall be deemed to be
22 a public question and shall be submitted to the voters as in the case
23 of other public questions. The question shall be stated as follows:

24 Shall the act entitled "An act authorizing the
25 conducting, operating and playing of certain amusement
26 Yes. games, whether of chance or skill, or both, where the
27 prizes or awards to be given shall be of merchandise
28 only, of a **[retail]** value **[not in excess of \$15.00,]** to be
29 determined by the Amusement Games Control
30 Commissioner and
31 the charge for the privilege of playing shall **[not**
32 **exceed \$0.25]** be determined by the commissioner;
33 providing for the licensing, regulation
34 and control by **[a]** the commissioner, of the conducting
35 and

36 operating of such games; providing restrictions as to
37 No. the places where such games may be conducted and
38 operated; providing that certain playing for money
39 or other valuable things is not authorized; providing
40 for the operation and inoperation of the act in any
41 municipality when so determined by referendum vote
42 therein; and providing for the submission of this act
43 to the legal voters of the State for their approval
44 or rejection before the same shall become operative
45 within this State," become
46 (insert operative or inoperative) in this municipality?

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.

A4193 GREENWALD

1 In the blank space set forth in the above box, the word
2 "operative" or "inoperative" shall be inserted in the question when
3 it is submitted to the voters of the municipality according to
4 whether this act became operative by reason of the vote on the
5 question submitted to all the voters of the State as to whether this
6 act should become operative. If a majority of the voters in the
7 municipality who voted on the said general public question was in
8 the affirmative and, thereby, under the provisions of this act,
9 municipal licenses are authorized, then the word "inoperative"
10 should be included in the above blank space, but if this act does not
11 become operative in the municipality because a majority of the
12 votes cast therein on the general public question was in the
13 negative, then the word "operative" should be inserted in the
14 above-mentioned blank space. If this act shall have become
15 operative in any municipality by reason of a referendum vote
16 therein, as herein provided, and a further referendum is authorized
17 to determine the question of whether this act shall become
18 inoperative notwithstanding such previous approval by the voters,
19 then the word "inoperative" should be inserted in the above blank
20 space.

21 (cf: P.L.1975, c.389, s.5)

22

23 2. Section 19 of P.L.1959, c.109 (C.5:8-118) is amended to
24 read as follows:

25 19. There shall be printed on each official ballot to be used at
26 such election the following:

27 If you favor making the act entitled below operative within the
28 State, and operative within this municipality, make a cross X, plus +
29 or check / in the square opposite the word "Yes."

30 If you are opposed to making the act entitled below so operative,
31 make a cross X, plus + or check / in the square opposite the word
32 "No."

33 Shall the act entitled "An act authorizing the
34 conducting, operating and playing of certain amusement
35 Yes. games, whether of chance or skill, or both, where the
36 prizes or awards to be given shall be of merchandise
37 only, of a **【retail】** value **【not in excess of \$15.00】** to be
38 determined by the Amusement Games Control
39 Commissioner, and
40 the charge for the privilege of playing shall **【not**
41 **exceed \$0.25】** be determined by the commissioner;
42 providing for the licensing, regulation
43 and control by **【a】** the commissioner, of the conducting
44 and
45 operating of such games; providing restrictions as
46 to the places where such games may be conducted and
47 operated; providing that certain playing for money or
48 No. other valuable things is not authorized; providing

A4193 GREENWALD

1 for the operation and inoperation of the act in any
2 municipality when so determined by referendum vote
3 therein; and providing for the submission of this act
4 to the legal voters of the State for their approval
5 or rejection before the same shall become operative
6 within this State," become operative within this State?
7

8 The date of the approval or passage of this act, as the case may
9 be, shall be inserted in the appropriate place after the title.

10 In any election district in which voting machines are used the
11 question shall be placed upon the official ballot to be used upon the
12 voting machines with the foregoing instructions to the voters but
13 with instructions to vote "Yes" or "No" by the use of such
14 machines and without marking as aforesaid.

15 (cf: P.L.1959, c.109, s.19)

16

17 3. This act shall take effect immediately.

18

19

20

STATEMENT

21

22 This bill adjusts the municipal ballot question for allowing
23 games of amusement within a municipality to match the current title
24 of the law as amended in P.L.1981, c.291.

25 The bill would only apply to future ballot questions and would
26 not change the law of any municipality that had already adopted the
27 "Amusement Games Licensing Law."

ASSEMBLY STATE AND LOCAL GOVERNMENT
COMMITTEE

STATEMENT TO
ASSEMBLY, No. 4193

with committee amendments

STATE OF NEW JERSEY

DATED: JUNE 9, 2022

The Assembly State and Local Government Committee reports favorably Assembly Bill No. 4193, with committee amendments.

As amended, this bill adjusts the municipal ballot question for allowing games of amusement within a municipality to match the current title of the law as amended in P.L.1981, c.291.

The bill would only apply to future ballot questions and would not change the law of any municipality that had already adopted the “Amusement Games Licensing Law.”

COMMITTEE AMENDMENTS:

The committee adopted amendments to remove references to the defunct office of the Amusement Games Control Commissioner with the current Legalized Games of Chance Control Commission. The amendments also repeal the section of law creating the office of the Amusement Games Control Commissioner.

SENATE, No. 2759

STATE OF NEW JERSEY
220th LEGISLATURE

INTRODUCED JUNE 2, 2022

Sponsored by:
Senator TROY SINGLETON
District 7 (Burlington)

SYNOPSIS

Adjusts municipal ballot question for amusement games for future elections.

CURRENT VERSION OF TEXT

As introduced.



S2759 SINGLETON

1 AN ACT adjusting the municipal ballot question for amusement
2 games and amending P.L.1959, c.109.

3

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

6

7 1. Section 17 of P.L.1959, c.109 (C.5:8-116) is amended to read
8 as follows:

9 17. Upon a petition signed by qualified voters of any
10 municipality equal in number to at least **[15%]** 15 percent of the
11 total number of votes cast therein at the latest preceding general
12 election for members of the General Assembly and filed with the
13 clerk of the municipality at least 60 days before such election, the
14 governing body of the municipality shall provide for the submission
15 to the legal voters of the municipality at such general election, the
16 question of whether this act shall become operative or cease to be
17 operative in such municipality, as the case may be. If, upon such
18 submission of the question, the majority of all the valid votes cast
19 on the question shall be in favor of having this act inoperative in the
20 municipality, then this act shall, 60 days thereafter, become
21 inoperative in the municipality. The question shall be deemed to be
22 a public question and shall be submitted to the voters as in the case
23 of other public questions. The question shall be stated as follows:

24 Shall the act entitled "An act authorizing the
25 conducting, operating and playing of certain amusement
26 Yes. games, whether of chance or skill, or both, where the
27 prizes or awards to be given shall be of merchandise
28 only, of a **[retail]** value **[not in excess of \$15.00,]** to be
29 determined by the Amusement Games Control
30 Commissioner and
31 the charge for the privilege of playing shall **[not**
32 **exceed \$0.25]** be determined by the commissioner;
33 providing for the licensing, regulation
34 and control by **[a]** the commissioner, of the conducting
35 and
36 operating of such games; providing restrictions as to
37 No. the places where such games may be conducted and
38 operated; providing that certain playing for money
39 or other valuable things is not authorized; providing
40 for the operation and inoperation of the act in any
41 municipality when so determined by referendum vote
42 therein; and providing for the submission of this act
43 to the legal voters of the State for their approval
44 or rejection before the same shall become operative
45 within this State," become

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.

S2759 SINGLETON

1 (insert operative or inoperative) in this municipality?
2

3 In the blank space set forth in the above box, the word
4 "operative" or "inoperative" shall be inserted in the question when
5 it is submitted to the voters of the municipality according to
6 whether this act became operative by reason of the vote on the
7 question submitted to all the voters of the State as to whether this
8 act should become operative. If a majority of the voters in the
9 municipality who voted on the said general public question was in
10 the affirmative and, thereby, under the provisions of this act,
11 municipal licenses are authorized, then the word "inoperative"
12 should be included in the above blank space, but if this act does not
13 become operative in the municipality because a majority of the
14 votes cast therein on the general public question was in the
15 negative, then the word "operative" should be inserted in the
16 above-mentioned blank space. If this act shall have become
17 operative in any municipality by reason of a referendum vote
18 therein, as herein provided, and a further referendum is authorized
19 to determine the question of whether this act shall become
20 inoperative notwithstanding such previous approval by the voters,
21 then the word "inoperative" should be inserted in the above blank
22 space.

23 (cf: P.L.1975, c.389, s.5)
24

25 2. Section 19 of P.L.1959, c.109 (C.5:8-118) is amended to read
26 as follows:

27 19. There shall be printed on each official ballot to be used at
28 such election the following:

29 If you favor making the act entitled below operative within the
30 State, and operative within this municipality, make a cross X, plus +
31 or check / in the square opposite the word "Yes."

32 If you are opposed to making the act entitled below so operative,
33 make a cross X, plus + or check / in the square opposite the word
34 "No."

35 Shall the act entitled "An act authorizing the
36 conducting, operating and playing of certain amusement
37 Yes. games, whether of chance or skill, or both, where the
38 prizes or awards to be given shall be of merchandise
39 only, of a **【retail】** value **【not in excess of \$15.00】** to be
40 determined by the Amusement Games Control
41 Commissioner, and
42 the charge for the privilege of playing shall **【not**
43 **exceed \$0.25】** be determined by the commissioner;
44 providing for the licensing, regulation
45 and control by **【a】** the commissioner, of the conducting
46 and
47 operating of such games; providing restrictions as
48 to the places where such games may be conducted and

S2759 SINGLETON

4

1 operated; providing that certain playing for money or
2 No. other valuable things is not authorized; providing
3 for the operation and inoperation of the act in any
4 municipality when so determined by referendum vote
5 therein; and providing for the submission of this act
6 to the legal voters of the State for their approval
7 or rejection before the same shall become operative
8 within this State," become operative within this State?
9

10 The date of the approval or passage of this act, as the case may
11 be, shall be inserted in the appropriate place after the title.

12 In any election district in which voting machines are used the
13 question shall be placed upon the official ballot to be used upon the
14 voting machines with the foregoing instructions to the voters but
15 with instructions to vote "Yes" or "No" by the use of such
16 machines and without marking as aforesaid.

17 (cf: P.L.1959, c.109, s.19)

18

19 3. This act shall take effect immediately.

20

21

22

STATEMENT

23

24 This bill adjusts the municipal ballot question for allowing
25 games of amusement within a municipality to match the current title
26 of the law as amended in P.L.1981, c.291.

27 The bill would only apply to future ballot questions and would
28 not change the law of any municipality that had already adopted the
29 "Amusement Games Licensing Law."

SENATE STATE GOVERNMENT, WAGERING, TOURISM &
HISTORIC PRESERVATION COMMITTEE

STATEMENT TO

SENATE, No. 2759

with committee amendments

STATE OF NEW JERSEY

DATED: JUNE 13, 2022

The Senate State Government, Wagering, Tourism and Historic Preservation Committee reports favorably and with committee amendments Senate Bill No. 2759.

As amended by the committee, this bill adjusts the municipal ballot question for allowing amusement games within a municipality to match the current title of the law as amended in P.L.1981, c.291.

The bill would only apply to future ballot questions and would not change the law of any municipality that had already adopted the “Amusement Games Licensing Law.”

COMMITTEE AMENDMENTS:

The amendments remove references to the defunct office of the Amusement Games Control Commissioner, replacing them with the current Legalized Games of Chance Control Commission. The amendments also repeal the section of law creating the office of the Amusement Games Control Commissioner.

52:27D-489c; 52:27D-489f; 52:27D-489i1**LEGISLATIVE HISTORY CHECKLIST**

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LAWS OF: 2022 **CHAPTER:** 75

NJSA: 52:27D-489c; 52:27D-489f; 52:27D-489i1
(Amends requirements for certain mixed use parking projects undertaken by municipal redevelopers under Economic Redevelopment and Growth Grant program; increases total available tax credits by \$25 million.)

BILL NO: S2677 (Substituted for A4068 (1R))

SPONSOR(S) Nellie Pou and others

DATE INTRODUCED: 5/19/2022

COMMITTEE: **ASSEMBLY:** ---
SENATE: Economic Growth
Budget and Appropriations

AMENDED DURING PASSAGE: Yes

DATE OF PASSAGE: ASSEMBLY: 6/29/2022
SENATE: 6/29/2022

DATE OF APPROVAL: 7/29/2022

FOLLOWING ARE ATTACHED IF AVAILABLE:

FINAL TEXT OF BILL (Second Reprint enacted)	Yes	
--	-----	--

S2677

INTRODUCED BILL: (Includes sponsor(s) statement)	Yes	
COMMITTEE STATEMENT: ASSEMBLY:	No	
SENATE:	Yes	Budget & App. 6/6/2022 Budget & App. 6/27/2022

(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	6/15/2022 7/1/2022

A4068 (1R)

INTRODUCED BILL: (Includes sponsor(s) statement)	Yes	
COMMITTEE STATEMENT: ASSEMBLY:	Yes	Special Comm. On Infrastr. & Nat. Resources Appropriations Budget
SENATE:	No	

(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 6/20/2022
7/1/2022

VETO MESSAGE: No

GOVERNOR'S PRESS RELEASE ON SIGNING: Yes

FOLLOWING WERE PRINTED:

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REPORTS: No

HEARINGS: No

NEWSPAPER ARTICLES: No

end

P.L. 2022, CHAPTER 75, *approved July 29, 2022*
Senate, No. 2677 (*Second Reprint*)

1 AN ACT concerning ²**[mixed use parking projects]** the Economic
2 Redevelopment and Growth Grant program² and amending and
3 supplementing P.L.2009, c.90.
4

5 **BE IT ENACTED** *by the Senate and General Assembly of the State*
6 *of New Jersey:*
7

8 1. Section 3 of P.L.2009, c.90 (C.52:27D-489c) is amended to
9 read as follows:

10 3. As used in sections 3 through 18 of P.L.2009, c.90
11 (C.52:27D-489c et al.):

12 "Applicant" means a developer proposing to enter into a
13 redevelopment incentive grant agreement.

14 "Ancillary infrastructure project" means structures or
15 improvements that are located within the incentive area but outside
16 the project area of a redevelopment project, including, but not
17 limited to, docks, bulkheads, parking garages, public electric
18 vehicle charging stations, freight rail spurs, roadway overpasses,
19 and train station platforms, provided a developer or municipal
20 redeveloper has demonstrated that the redevelopment project would
21 not be economically viable or promote the use of public
22 transportation without such improvements, as approved by the State
23 Treasurer.

24 "Authority" means the New Jersey Economic Development
25 Authority established under section 4 of P.L.1974, c.80 (C.34:1B-
26 4).

27 "Aviation district" means all areas within the boundaries of the
28 "Atlantic City International Airport," established pursuant to section
29 24 of P.L.1991, c.252 (C.27:25A-24), and the Federal Aviation
30 Administration William J. Hughes Technical Center and the area
31 within a one-mile radius of the outermost boundary of the "Atlantic
32 City International Airport" and the Federal Aviation Administration
33 William J. Hughes Technical Center.

34 "Deep poverty pocket" means a population census tract having a
35 poverty level of 20 percent or more, and which is located within the
36 incentive area and has been determined by the authority to be an
37 area appropriate for development and in need of economic
38 development incentive assistance.

39 "Developer" means any person who enters or proposes to enter
40 into a redevelopment incentive grant agreement pursuant to the
41 provisions of section 9 of P.L.2009, c.90 (C.52:27D-489i), or its

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 SBA committee amendments adopted June 6, 2022.

²Senate SBA committee amendments adopted June 27, 2022.

1 successors or assignees, including but not limited to a lender that
2 completes a redevelopment project, operates a redevelopment
3 project, or completes and operates a redevelopment project. A
4 developer also may be a municipal redeveloper as defined herein or
5 Rutgers, the State University of New Jersey.

6 "Director" means the Director of the Division of Taxation in the
7 Department of the Treasury.

8 "Disaster recovery project" means a redevelopment project
9 located on property that has been wholly or substantially damaged
10 or destroyed as a result of a federally-declared disaster, and which
11 is located within the incentive area and has been determined by the
12 authority to be in an area appropriate for development and in need
13 of economic development incentive assistance.

14 "Distressed municipality" means a municipality that is qualified
15 to receive assistance under P.L.1978, c.14 (C.52:27D-178 et seq.), a
16 municipality under the supervision of the Local Finance Board
17 pursuant to the provisions of the "Local Government Supervision
18 Act (1947)," P.L.1947, c.151 (C.52:27BB-1 et seq.), a municipality
19 identified by the Director of the Division of Local Government
20 Services in the Department of Community Affairs to be facing
21 serious fiscal distress, a SDA municipality, or a municipality in
22 which a major rail station is located.

23 "Electric vehicle charging station" means an electric component
24 assembly or cluster of component assemblies designed specifically
25 to charge batteries within electric vehicles by permitting the transfer
26 of electric energy to a battery or other storage device in an electric
27 vehicle.

28 "Eligibility period" means the period of time specified in a
29 redevelopment incentive grant agreement for the payment of
30 reimbursements to a developer, which period shall not exceed 20
31 years, with the term to be determined solely at the discretion of the
32 applicant.

33 "Eligible revenue" means the property tax increment and any
34 other incremental revenues set forth in section 11 of P.L.2009, c.90
35 (C.52:27D-489k), except in the case of a Garden State Growth
36 Zone, in which the property tax increment and any other
37 incremental revenues are calculated as those incremental revenues
38 that would have existed notwithstanding the provisions of the "New
39 Jersey Economic Opportunity Act of 2013," P.L.2013, c.161
40 (C.52:27D-489p et al.).

41 "Garden State Growth Zone" or "growth zone" means the four
42 New Jersey cities with the lowest median family income based on
43 the 2009 American Community Survey from the US Census, (Table
44 708. Household, Family, and Per Capita Income and Individuals,
45 and Families Below Poverty Level by City: 2009); a municipality
46 which contains a Tourism District as established pursuant to section
47 5 of P.L.2011, c.18 (C.5:12-219) and regulated by the Casino
48 Reinvestment Development Authority; or an aviation district.

1 "Highlands development credit receiving area or redevelopment
2 area" means an area located within an incentive area and designated
3 by the Highlands Council for the receipt of Highlands Development
4 Credits under the Highlands Transfer Development Rights Program
5 authorized under section 13 of P.L.2004, c.120 (C.13:20-13).

6 "Incentive grant" means reimbursement of all or a portion of the
7 project financing gap of a redevelopment project through the State
8 or a local Economic Redevelopment and Growth Grant program
9 pursuant to section 4 or section 5 of P.L.2009, c.90 (C.52:27D-489d
10 or C.52:27D-489e).

11 "Infrastructure improvements in the public right-of-way" mean
12 public structures or improvements, including public electric vehicle
13 charging stations, located in the public right-of-way that are located
14 within a project area or that constitute an ancillary infrastructure
15 project, either of which are dedicated to or owned by a
16 governmental body or agency upon completion, or any required
17 payment in lieu of the structures, improvements or projects, or any
18 costs of remediation associated with the structures, improvements
19 or projects, and that are determined by the authority, in consultation
20 with applicable State agencies, to be consistent with and in
21 furtherance of State public infrastructure objectives and initiatives.

22 "Low-income housing" means housing affordable according to
23 federal Department of Housing and Urban Development or other
24 recognized standards for home ownership and rental costs and
25 occupied or reserved for occupancy by households with a gross
26 household income equal to 50 percent or less of the median gross
27 household income for households of the same size within the
28 housing region in which the housing is located.

29 "Major rail station" means a railroad station located within a
30 qualified incentive area which provides access to the public to a
31 minimum of six rail passenger service lines operated by the New
32 Jersey Transit Corporation.

33 "Mixed use parking project" means a redevelopment project, the
34 parking component of which shall constitute 51 percent or more of
35 any of the following:

- 36 a. the total square footage of the entire mixed use parking
37 project;
- 38 b. the estimated revenues of the entire mixed use parking
39 project; or
- 40 c. the total construction cost of the entire mixed use parking
41 project.

42 "Moderate-income housing" means housing affordable,
43 according to United States Department of Housing and Urban
44 Development or other recognized standards for home ownership
45 and rental costs, and occupied or reserved for occupancy by
46 households with a gross household income equal to more than 50
47 percent but less than 80 percent of the median gross household

1 income for households of the same size within the housing region in
2 which the housing is located.

3 "Municipal redeveloper" means an applicant for a redevelopment
4 incentive grant agreement, which applicant is:

5 a. a municipal government, a municipal parking authority, or a
6 redevelopment agency acting on behalf of a municipal government
7 as defined in section 3 of P.L.1992, c.79 (C.40A:12A-3); or

8 b. a developer of a mixed use parking project, provided that the
9 parking component of the mixed use parking project is operated and
10 maintained by a municipal parking authority for the term of any
11 financial assistance granted pursuant to P.L.2015, c.69.

12 "Municipal Revitalization Index" means the 2007 index by the
13 Office ¹[for] of¹ Planning Advocacy within the Department of
14 State measuring or ranking municipal distress.

15 "Non-parking component" means that portion of a mixed use
16 parking project not used for parking, together with the portion of
17 the costs of the mixed use parking project, including but not limited
18 to the footings, foundations, site work, infrastructure, and soft costs
19 that are allocable to the non-parking use.

20 "Parking component" means that portion of a mixed use parking
21 project used for parking, together with the portion of the costs of
22 the mixed use parking project, including but not limited to the
23 footings, foundations, site work, infrastructure, and soft costs that
24 are allocable to the parking use. The parking component, which
25 may include enclosed pedestrian walkways or a skybridge, may be
26 in the same structure as all the non-parking components or may be
27 in a structure with some non-parking components with the
28 remaining non-parking components in an adjacent or nearby
29 structure that is no more than one third of a mile from the parking
30 components.

31 "Project area" means land or lands located within the incentive
32 area under common ownership or control including through a
33 redevelopment agreement with a municipality, or as otherwise
34 established by a municipality or a redevelopment agreement
35 executed by a State entity to implement a redevelopment project.

36 "Project cost" means the costs incurred in connection with the
37 redevelopment project by the developer until the issuance of a
38 permanent certificate of occupancy, or until such other time
39 specified by the authority, for a specific investment or
40 improvement, including the costs relating to receiving Highlands
41 Development Credits under the Highlands Transfer Development
42 Rights Program authorized pursuant to section 13 of P.L.2004,
43 c.120 (C.13:20-13), lands, buildings, improvements, real or
44 personal property, or any interest therein, including leases
45 discounted to present value, including lands under water, riparian
46 rights, space rights and air rights acquired, owned, developed or
47 redeveloped, constructed, reconstructed, rehabilitated or improved,
48 any environmental remediation costs, plus costs not directly related

1 to construction, of an amount not to exceed 20 percent of the total
2 costs, capitalized interest paid to third parties, and the cost of
3 infrastructure improvements, including ancillary infrastructure
4 projects, and, for projects located in a Garden State Growth Zone
5 only, the cost of infrastructure improvements including any
6 ancillary infrastructure project and the amount by which total
7 project cost exceeds the cost of an alternative location for the
8 redevelopment project, but excluding any particular costs for which
9 the project has received federal, State, or local funding. ¹~~For~~ In
10 the case of a¹ mixed use parking ¹~~projects only~~ project that is
11 undertaken by a municipal redeveloper and that did not commence
12 construction before the declaration of the COVID-19 public health
13 emergency on March 9, 2020¹, project costs ²~~shall~~ ²may² include
14 ², in the discretion of the chief executive officer of the authority
15 consistent with applicable law, the cost or value of land, demolition,
16 and equity contributions, as well as² any particular costs for which
17 the project has received ²~~federal,~~² State ²~~,~~² or local funding.

18 "Project financing gap" means:

19 a. the part of the total project cost, including return on
20 investment, that remains to be financed after all other sources of
21 capital have been accounted for, including, but not limited to,
22 developer-contributed capital, which shall not be less than 20
23 percent of the total project cost, which may include the value of any
24 existing land and improvements in the project area owned or
25 controlled by the developer, and the cost of infrastructure
26 improvements in the public right-of-way, subject to review by the
27 State Treasurer, and investor or financial entity capital or loans for
28 which the developer, after making all good faith efforts to raise
29 additional capital, certifies that additional capital cannot be raised
30 from other sources on a non-recourse basis; and

31 b. the amount by which total project cost exceeds the cost of an
32 alternative location for the out-of-State redevelopment project.

33 "Project revenue" means all rents, fees, sales, and payments
34 generated by a project, less taxes or other government payments.

35 "Property tax increment" means the amount obtained by:

36 a. multiplying the general tax rate levied each year by the
37 taxable value of all the property assessed within a project area in
38 the same year, excluding any special assessments; and

39 b. multiplying that product by a fraction having a numerator
40 equal to the taxable value of all the property assessed within the
41 project area, minus the property tax increment base, and having a
42 denominator equal to the taxable value of all property assessed
43 within the project area.

44 For the purpose of this definition, "property tax increment base"
45 means the aggregate taxable value of all property assessed which is
46 located within the redevelopment project area as of October 1st of

1 the year preceding the year in which the redevelopment incentive
2 grant agreement is authorized.

3 "Public electric vehicle charging station" means an electric
4 vehicle charging station located at a publicly available parking
5 space.

6 "Public hydrogen fueling station" means publicly available
7 equipment to store and dispense hydrogen fuel to vehicles
8 according to industry codes and standards.

9 "Publicly available parking space" means a parking space that is
10 available to, and accessible by, the public and may include on-street
11 parking spaces and parking spaces in surface lots or parking
12 garages, but shall not include: a parking space that is part of, or
13 associated with, a private residence; or a parking space that is
14 reserved for the exclusive use of an individual driver or vehicle or
15 for a group of drivers or vehicles, such as employees, tenants,
16 visitors, residents of a common interest development, or residents
17 of an adjacent building.

18 "Qualified incubator facility" means a commercial building
19 located within an incentive area: which contains 100,000 or more
20 square feet of office, laboratory, or industrial space; which is
21 located near, and presents opportunities for collaboration with, a
22 research institution, teaching hospital, college, or university; and
23 within which, at least 75 percent of the gross leasable area is
24 restricted for use by one or more technology startup companies
25 during the commitment period.

26 "Qualified residential project" means a redevelopment project
27 that is predominantly residential and includes multi-family
28 residential units for purchase or lease, or dormitory units for
29 purchase or lease, having a total project cost of at least
30 \$17,500,000, if the project is located in any municipality with a
31 population greater than 200,000 according to the latest federal
32 decennial census, or having a total project cost of at least
33 \$10,000,000 if the project is located in any municipality with a
34 population less than 200,000 according to the latest federal
35 decennial census, or is a disaster recovery project, or having a total
36 project cost of \$5,000,000 if the project is in a Garden State Growth
37 Zone.

38 "Qualifying economic redevelopment and growth grant incentive
39 area" or "incentive area" means:

- 40 a. an aviation district;
41 b. a port district;
42 c. a distressed municipality; or
43 d. an area (1) designated pursuant to the "State Planning Act,"
44 P.L.1985, c.398 (C.52:18A-196 et seq.), as:
45 (a) Planning Area 1 (Metropolitan);
46 (b) Planning Area 2 (Suburban); or
47 (c) Planning Area 3 (Fringe Planning Area);

- 1 (2) located within a smart growth area and planning area
2 designated in a master plan adopted by the New Jersey
3 Meadowlands Commission pursuant to subsection (i) of section 6 of
4 P.L.1968, c.404 (C.13:17-6) or subject to a redevelopment plan
5 adopted by the New Jersey Meadowlands Commission pursuant to
6 section 20 of P.L.1968, c.404 (C.13:17-21);
- 7 (3) located within any land owned by the New Jersey Sports and
8 Exposition Authority, established pursuant to P.L.1971, c.137
9 (C.5:10-1 et seq.), within the boundaries of the Hackensack
10 Meadowlands District as delineated in section 4 of P.L.1968, c.404
11 (C.13:17-4);
- 12 (4) located within a regional growth area, rural development
13 area zoned for industrial use as of the effective date of P.L.2016,
14 c.75, town, village, or a military and federal installation area
15 designated in the comprehensive management plan prepared and
16 adopted by the Pinelands Commission pursuant to the "Pinelands
17 Protection Act," P.L.1979, c.111 (C.13:18A-1 et seq.);
- 18 (5) located within the planning area of the Highlands Region as
19 defined in section 3 of P.L.2004, c.120 (C.13:20-3) or in a
20 highlands development credit receiving area or redevelopment area;
- 21 (6) located within a Garden State Growth Zone;
- 22 (7) located within land approved for closure under any federal
23 Base Closure and Realignment Commission action; or
- 24 (8) located only within the following portions of the areas
25 designated pursuant to the "State Planning Act," P.L.1985, c.398
26 (C.52:18A-196 et al.), as Planning Area 4A (Rural Planning Area),
27 Planning Area 4B (Rural/Environmentally Sensitive) or Planning
28 Area 5 (Environmentally Sensitive) if Planning Area 4A (Rural
29 Planning Area), Planning Area 4B (Rural/Environmentally
30 Sensitive) or Planning Area 5 (Environmentally Sensitive) is
31 located within:
 - 32 (a) a designated center under the State Development and
33 Redevelopment Plan;
 - 34 (b) a designated growth center in an endorsed plan until the
35 State Planning Commission revises and readopts New Jersey's State
36 Strategic Plan and adopts regulations to revise this definition as it
37 pertains to Statewide planning areas;
 - 38 (c) any area determined to be in need of redevelopment pursuant
39 to sections 5 and 6 of P.L.1992, c.79 (C.40A:12A-5 and
40 C.40A:12A-6) or in need of rehabilitation pursuant to section 14 of
41 P.L.1992, c.79 (C.40A:12A-14);
 - 42 (d) any area on which a structure exists or previously existed
43 including any desired expansion of the footprint of the existing or
44 previously existing structure provided the expansion otherwise
45 complies with all applicable federal, State, county, and local
46 permits and approvals;

1 (e) the planning area of the Highlands Region as defined in
2 section 3 of P.L.2004, c.120 (C.13:20-3) or a highlands
3 development credit receiving area or redevelopment area; or

4 (f) any area on which an existing tourism destination project is
5 located.

6 "Qualifying economic redevelopment and growth grant incentive
7 area" or "incentive area" shall not include any property located
8 within the preservation area of the Highlands Region as defined in
9 the "Highlands Water Protection and Planning Act," P.L.2004,
10 c.120 (C.13:20-1 et al.).

11 "Redevelopment incentive grant agreement" means an agreement
12 between:

13 a. the State and the New Jersey Economic Development
14 Authority and a developer; or

15 b. a municipality and a developer, or a municipal ordinance
16 authorizing a project to be undertaken by a municipal redeveloper,
17 under which, in exchange for the proceeds of an incentive grant, the
18 developer agrees to perform any work or undertaking necessary for
19 a redevelopment project, including the clearance, development or
20 redevelopment, construction, or rehabilitation of any structure or
21 improvement of commercial, industrial, residential, or public
22 structures or improvements within a qualifying economic
23 redevelopment and growth grant incentive area or a transit village.

24 "Redevelopment project" means a specific construction project
25 or improvement, including lands, buildings, improvements, real and
26 personal property or any interest therein, including lands under
27 water, riparian rights, space rights and air rights, acquired, owned,
28 leased, developed or redeveloped, constructed, reconstructed,
29 rehabilitated or improved, undertaken by a developer, owner or
30 tenant, or both, within a project area and any ancillary infrastructure
31 project including infrastructure improvements in the public right-of-
32 way, as set forth in an application to be made to the authority. The
33 use of the term "redevelopment project" in sections 3 through 18 of
34 P.L.2009, c.90 (C.52:27D-489c et al.) shall not be limited to only
35 redevelopment projects located in areas determined to be in need of
36 redevelopment pursuant to sections 5 and 6 of P.L.1992, c.79
37 (C.40A:12A-5 and C.40A:12A-6) but shall also include, but not be
38 limited to, any work or undertaking in accordance with the
39 "Redevelopment Area Bond Financing Law," sections 1 through 10
40 of P.L.2001, c.310 (C.40A:12A-64 et seq.) or other applicable law,
41 pursuant to a redevelopment plan adopted by a State entity, or as
42 described in the resolution adopted by a public entity created by
43 State law with the power to adopt a redevelopment plan or
44 otherwise determine the location, type and character of a
45 redevelopment project or part of a redevelopment project on land
46 owned or controlled by it or within its jurisdiction, including but
47 not limited to, the New Jersey Meadowlands Commission
48 established pursuant to P.L.1968, c.404 (C.13:17-1 et seq.), the

1 New Jersey Sports and Exposition Authority established pursuant to
2 P.L.1971 c.137 (C.5:10-1 et seq.) and the Fort Monmouth
3 Economic Revitalization Authority created pursuant to P.L.2010,
4 c.51 (C.52:27I-18 et seq.). A redevelopment project may include
5 the development of zero-emission vehicle fueling and charging
6 infrastructure.

7 "Redevelopment utility" means a self-liquidating fund created by
8 a municipality pursuant to section 12 of P.L.2009, c.90 (C.52:27D-
9 489l) to account for revenues collected and incentive grants paid
10 pursuant to section 11 of P.L.2009, c.90 (C.52:27D-489k), or other
11 revenues dedicated to a redevelopment project.

12 "Revenue increment base" means the amounts of all eligible
13 revenues from sources within the redevelopment project area in the
14 calendar year proceeding the year in which the redevelopment
15 incentive grant agreement is executed, as certified by the State
16 Treasurer for State revenues, and the chief financial officer of the
17 municipality for municipal revenues.

18 "SDA district" means an SDA district as defined in section 3 of
19 P.L.2000, c.72 (C.18A:7G-3).

20 "SDA municipality" means a municipality in which an SDA
21 district is situated.

22 "Technology startup company" means a for profit business that
23 has been in operation fewer than five years and is developing or
24 possesses a proprietary technology or business method of a high-
25 technology or life science-related product, process, or service which
26 the business intends to move to commercialization.

27 "Tourism destination project" means a redevelopment project
28 that will be among the most visited privately owned or operated
29 tourism or recreation sites in the State, and which is located within
30 the incentive area and has been determined by the authority to be in
31 an area appropriate for development and in need of economic
32 development incentive assistance.

33 "Transit project" means a redevelopment project located within a
34 1/2-mile radius, or one-mile radius for projects located in a Garden
35 State Growth Zone, surrounding the mid-point of a New Jersey
36 Transit Corporation, Port Authority Transit Corporation, or Port
37 Authority Trans-Hudson Corporation rail, bus, or ferry station
38 platform area, including all light rail stations.

39 "Transit village" means a community with a bus, train, light rail,
40 or ferry station that has developed a plan to achieve its economic
41 development and revitalization goals and has been designated by
42 the New Jersey Department of Transportation as a transit village.

43 "University infrastructure" means any of the following located
44 on the campus of Rutgers, the State University of New Jersey:

45 a. buildings and structures, such as academic buildings,
46 recreation centers, indoor athletic facilities, public works garages,
47 and water and sewer treatment and pumping facilities;

1 b. open space with improvements, such as athletic fields and
2 other outdoor athletic facilities, planned commons, and parks; and

3 c. transportation facilities, such as bus shelters and parking
4 facilities.

5 "Urban transit hub" means an urban transit hub, as defined in
6 section ¹ ~~10~~ ² of P.L.2007, c.346 (C.34:1B-208), that is located
7 within an eligible municipality, as defined in section ¹ ~~10~~ ² of
8 P.L.2007, c.346 (C.34:1B-208), or all light rail stations and
9 property located within a one-mile radius of the mid-point of the
10 platform area of such a rail, bus, or ferry station if the property is in
11 a qualified municipality under the "Municipal Rehabilitation and
12 Economic Recovery Act," P.L.2002, c.43 (C.52:27BBB-1 et al.).

13 "Vacant commercial building" means any commercial building
14 or complex of commercial buildings having over 400,000 square
15 feet of office, laboratory, or industrial space that is more than 70
16 percent unoccupied at the time of application to the authority or is
17 negatively impacted by the approval of a "qualified business
18 facility," as defined pursuant to section 2 of P.L.2007, c.346
19 (C.34:1B-208), or any vacant commercial building in a Garden
20 State Growth Zone having over 35,000 square feet of office,
21 laboratory, or industrial space, or over 200,000 square feet of
22 office, laboratory, or industrial space in Atlantic, Burlington,
23 Camden, Cape May, Cumberland, Gloucester, Ocean, or Salem
24 counties available for occupancy for a period of over one year.

25 "Vacant health facility project" means a redevelopment project
26 where a health facility, as defined by section 2 of P.L.1971, c.136
27 (C.26:2H-2), currently exists and is considered vacant. A health
28 facility shall be considered vacant if at least 70 percent of that
29 facility has not been open to the public or utilized to serve any
30 patients at the time of application to the authority.

31 "Zero-emission vehicle" means a vehicle certified as a zero
32 emission vehicle pursuant to the California Air Resources Board
33 zero emission vehicle standards for the applicable model year,
34 including but not limited to, battery electric-powered vehicles and
35 hydrogen fuel cell vehicles.

36 "Zero-emission vehicle fueling and charging infrastructure"
37 means infrastructure to charge or fuel zero-emission vehicles,
38 including but not limited to, public electric vehicle charging
39 stations and public hydrogen fueling stations.

40 (cf: P.L.2021, c.168, s.6)

41
42 ²2. Section 6 of P.L.2009, c.90 (C.52:27D-489f) is amended to
43 read as follows:

44 6. a. Up to the limits established in subsection b. of this section
45 and in accordance with a redevelopment incentive grant agreement,
46 beginning upon the receipt of occupancy permits for any portion of
47 the redevelopment project, or upon any other event evidencing
48 project completion as set forth in the incentive grant agreement, the

1 State Treasurer shall pay to the developer incremental State
2 revenues directly realized from businesses operating at the site of
3 the redevelopment project from the following taxes: the Corporation
4 Business Tax Act (1945), P.L.1945, c.162 (C.54:10A-1 et seq.), the
5 tax imposed on marine insurance companies pursuant to R.S.54:16-
6 1 et seq., the tax imposed on insurers generally, pursuant to
7 P.L.1945, c.132 (C.54:18A-1 et seq.), the public utility franchise
8 tax, public utilities gross receipts tax and public utility excise tax
9 imposed on sewerage and water corporations pursuant to P.L.1940,
10 c.5 (C.54:30A-49 et seq.), those tariffs and charges imposed by
11 electric, natural gas, telecommunications, water and sewage
12 utilities, and cable television companies under the jurisdiction of
13 the New Jersey Board of Public Utilities, or comparable entity,
14 except for those tariffs, fees, or taxes related to societal benefits
15 charges assessed pursuant to section 12 of P.L.1999, c.23 (C.48:3-
16 60), any charges paid for compliance with the "Global Warming
17 Response Act," P.L.2007, c.112 (C.26:2C-37 et seq.), transitional
18 energy facility assessment unit taxes paid pursuant to section 67 of
19 P.L.1997, c.162 (C.48:2-21.34), and the sales and use taxes on
20 public utility and cable television services and commodities, the tax
21 derived from net profits from business, a distributive share of
22 partnership income, or a pro rata share of S corporation income
23 under the "New Jersey Gross Income Tax Act," N.J.S.54A:1-1 et
24 seq., the tax derived from a business at the site of a redevelopment
25 project that is required to collect the tax pursuant to the "Sales and
26 Use Tax Act," P.L.1966, c.30 (C.54:32B-1 et seq.), the tax imposed
27 pursuant to P.L.1966, c.30 (C.54:32B-1 et seq.) from the purchase
28 of furniture, fixtures and equipment, or materials for the
29 remediation, the construction of new structures at the site of a
30 redevelopment project, the hotel and motel occupancy fee imposed
31 pursuant to section 1 of P.L.2003, c.114 (C.54:32D-1), or the
32 portion of the fee imposed pursuant to section 3 of P.L.1968, c.49
33 (C.46:15-7) derived from the sale of real property at the site of the
34 redevelopment project and paid to the State Treasurer for use by the
35 State, that is not credited to the "Shore Protection Fund" or the
36 "Neighborhood Preservation Nonlapsing Revolving Fund" ("New
37 Jersey Affordable Housing Trust Fund") pursuant to section 4 of
38 P.L.1968, c.49 (C.46:15-8). Any developer shall be allowed to
39 assign their ability to apply for the tax credit under this subsection
40 to a non-profit organization with a mission dedicated to attracting
41 investment and completing development and redevelopment
42 projects in a Garden State Growth Zone. The non-profit
43 organization may make an application on behalf of a developer
44 which meets the requirements for the tax credit, or a group of non-
45 qualifying developers, such that these will be considered a unified
46 project for the purposes of the incentives provided under this
47 section.

1 b. (1) (a) Up to an average of 75 percent of the projected annual
2 incremental revenues or 85 percent of the projected annual
3 incremental revenues in a Garden State Growth Zone may be
4 pledged towards the State portion of an incentive grant.

5 (b) State incentive grants not to exceed an aggregate total value
6 of \$75,000,000 shall be made available by the authority for
7 applications submitted after the effective date of P.L.2020, c.156,
8 but prior to December 31, 2021, for projects that are predominantly
9 commercial and contain 100,000 or more square feet of office and
10 retail space, or industrial space for purchase or lease, and may
11 include a parking component. The developer of a project seeking
12 an award of credits for a project restricted under this subparagraph
13 shall submit an incentive grant application prior to December 31,
14 2021, and if approved after the effective date of P.L.2020, c.156,
15 shall submit a temporary certificate of occupancy for the project no
16 later than December 31, 2024. In addition to the requirements for
17 an incentive award set forth in P.L.2009, c.90 (C.52:27D-489a et
18 al.), a developer shall be eligible to receive an award of credits for a
19 project restricted under this subparagraph only if the developer
20 demonstrates to the authority at that time of application that: (i) the
21 project shall comply with minimum environmental and
22 sustainability standards; (ii) the project shall comply with the
23 authority's affirmative action requirements, adopted pursuant to
24 section 4 of P.L.1979, c.303 (C.34:1B-5.4); (iii) each worker
25 employed by the developer, or subcontractor of a developer
26 working at the project, shall be paid not less than \$15 per hour or
27 120 percent of the minimum wage fixed under subsection a. of
28 section 5 of P.L.1966, c.113 (C.34:11-56a4), whichever is higher;
29 and (iv) during the eligibility period, each worker employed to
30 perform construction work or building services work at the project
31 shall be paid not less than the prevailing wage rate for the worker's
32 craft or trade, as determined by the Commissioner of Labor and
33 Workforce Development pursuant to P.L.1963, c.150 (C.34:11-
34 56.25 et seq.) and P.L.2005, c.379 (C.34:11-56.58 et seq.).

35 (2) In the case of a qualified residential project or a project
36 involving university infrastructure, if the authority determines that
37 the estimated amount of incremental revenues pledged towards the
38 State portion of an incentive grant is inadequate to fully fund the
39 amount of the State portion of the incentive grant, then in lieu of an
40 incentive grant based on the incremental revenues, the developer
41 shall be awarded tax credits equal to the full amount of the
42 incentive grant.

43 (3) In the case of a mixed use parking project, if the authority
44 determines that the estimated amount of incremental revenues
45 pledged towards the State portion of an incentive grant is
46 inadequate to fully fund the amount of the State portion of the
47 incentive grant, then, in lieu of an incentive grant based on the

1 incremental revenues, the developer shall be awarded tax credits
2 equal to the full amount of the incentive grant.

3 The value of all credits approved by the authority pursuant to
4 paragraphs (2) and (3) of this subsection shall not exceed
5 **【\$968,000,000】** \$993,000,000, of which:

6 (a) \$250,000,000 shall be restricted to qualified residential
7 projects within Atlantic, Burlington, Camden, Cape May,
8 Cumberland, Gloucester, Ocean, and Salem counties, of which
9 \$175,000,000 of the credits shall be restricted to the following
10 categories of projects: (i) qualified residential projects located in a
11 Garden State Growth Zone located within the aforementioned
12 counties; and (ii) mixed use parking projects located in a Garden
13 State Growth Zone or urban transit hub located within the
14 aforementioned counties; (iii) and \$75,000,000 of the credits shall
15 be restricted to qualified residential projects in municipalities with a
16 2007 Municipal Revitalization Index of 400 or higher as of the date
17 of enactment of the "New Jersey Economic Opportunity Act of
18 2013," P.L.2013, c.161 (C.52:27D-489p et al.) and located within
19 the aforementioned counties;

20 (b) **【\$415,000,000】** \$440,000,000 shall be restricted to the
21 following categories of projects: (i) qualified residential projects
22 located in urban transit hubs that are commuter rail in nature that
23 otherwise do not qualify under subparagraph (a) of this paragraph;
24 (ii) qualified residential projects located in Garden State Growth
25 Zones that do not qualify under subparagraph (a) of this paragraph;
26 (iii) mixed use parking projects located in urban transit hubs or
27 Garden State Growth Zones that do not qualify under subparagraph
28 (a) of this paragraph, provided however, an urban transit hub shall
29 be allocated no more than \$25,000,000 for mixed use parking
30 projects; (iv) qualified residential projects which are disaster
31 recovery projects that otherwise do not qualify under subparagraph
32 (a) of this paragraph; (v) qualified residential projects in SDA
33 municipalities located in Hudson County that were awarded State
34 Aid in State Fiscal Year 2013 through the Transitional Aid to
35 Localities program and otherwise do not qualify under
36 subparagraph (a) of this paragraph; (vi) \$25,000,000 of credits shall
37 be restricted to mixed use parking projects in Garden State Growth
38 Zones which have a population in excess of 125,000 and do not
39 qualify under subparagraph (a) of this paragraph; (vii) \$40,000,000
40 of credits shall be restricted to qualified residential projects that
41 include a theater venue for the performing arts and do not qualify
42 under subparagraph (a) of this paragraph, which projects are located
43 in a municipality with a population of less than 100,000 according
44 to the latest federal decennial census, and within which
45 municipality is located an urban transit hub and a campus of a
46 public research university, as defined in section 1 of P.L.2009,
47 c.308 (C.18A:3B-46); and (viii) **【\$125,000,000】** \$150,000,000 of
48 credits shall be restricted to qualified residential projects and mixed

1 use parking projects in Garden State Growth Zones having a
2 population in excess of 125,000 and do not qualify under
3 subparagraph (a) of this paragraph;

4 (c) \$87,000,000 shall be restricted to the following categories of
5 projects: (i) qualified residential projects located in distressed
6 municipalities, deep poverty pockets, highlands development credit
7 receiving areas or redevelopment areas, otherwise not qualifying
8 pursuant to subparagraph (a) or (b) of this paragraph; and (ii) mixed
9 use parking projects that do not qualify under subparagraph (a) or
10 (b) of this paragraph, and which are used by an independent
11 institution of higher education, a school of medicine, a nonprofit
12 hospital system, or any combination thereof; provided, however,
13 that \$20,000,000 of the \$87,000,000 shall be allocated to mixed use
14 parking projects that do not qualify under subparagraph (a) or (b) of
15 this paragraph;

16 (d) (i) \$16,000,000 shall be restricted to qualified residential
17 projects that are located within a qualifying economic
18 redevelopment and growth grant incentive area otherwise not
19 qualifying under subparagraph (a), (b), or (c) of this paragraph; and

20 (ii) an additional \$50,000,000 shall be restricted to qualified
21 residential projects which, as of the effective date of P.L.2016, c.51,
22 are located in a city of the first class with a population in excess of
23 270,000, are subject to a Renewal Contract for a Section 8 Mark-
24 Up-To-Market Project from the United States Department of
25 Housing and Urban Development, and for which an application for
26 the award of tax credits under this subsection was submitted prior to
27 January 1, 2016;

28 (e) \$25,000,000 shall be restricted to projects involving
29 university infrastructure; and

30 (f) (Deleted by amendment, P.L.2021, c.160)

31 (g) \$125,000,000 shall be restricted to applications submitted
32 after the effective date of P.L.2020, c.156 (C.34:1B-269 et al.) for
33 residential projects in any county of the State.

34 (h) For subparagraphs (a) through (d) of this paragraph, not
35 more than \$40,000,000 of credits shall be awarded to any qualified
36 residential project in a deep poverty pocket or distressed
37 municipality and not more than \$20,000,000 of credits shall be
38 awarded to any other qualified residential project. The developer of
39 a qualified residential project seeking an award of credits towards
40 the funding of its incentive grant shall submit an incentive grant
41 application prior to July 1, 2016 and if approved after September
42 18, 2013, the effective date of P.L.2013, c.161 (C.52:27D-489p et
43 al.) shall submit a temporary certificate of occupancy for the project
44 no later than December 31, 2023. The developer of a mixed use
45 parking project seeking an award of credits towards the funding of
46 its incentive grant pursuant to subparagraph (c) of this paragraph
47 and if approved after the effective date of P.L.2015, c.217, shall
48 submit a temporary certificate of occupancy for the project no later

1 than December 31, 2023. The developer of a qualified residential
2 project or a mixed use parking project seeking an award of credits
3 toward the funding of its incentive grant for a project restricted
4 under categories (vi) and (viii) of subparagraph (b) of this
5 paragraph shall submit an incentive grant application prior to July
6 1, 2019 or, in the case of a project restricted under category (viii) of
7 subparagraph (b) of this paragraph, December 31, 2021, and if
8 approved after the effective date of P.L.2017, c.59, shall submit a
9 temporary certificate of occupancy for the project no later than
10 **【December 31, 2023】** June 30, 2026 provided that the municipality
11 in which the project is located shall have submitted to the chief
12 executive officer of the authority a letter of support identifying up
13 to six projects prior to July 1, 2018. The letter of support is to
14 contain a project scope for each of the projects and may be
15 supplemented or amended from time to time until July 1, 2019 or,
16 in the case of a project restricted under **【category】** categories (vi)
17 and (viii) of subparagraph (b) of this paragraph, December 31,
18 **【2021】** 2022. Applications for tax credits pursuant to this
19 subsection relating to an ancillary infrastructure project or
20 infrastructure improvement in the public right-of-way, or both, shall
21 be accompanied with a letter of support relating to the project or
22 improvement by the governing body or agency in which the project
23 is located. Credits awarded to a developer pursuant to this
24 subsection shall be subject to the same financial and related analysis
25 by the authority, the same term of the grant, and the same
26 mechanism for administering the credits, and shall be utilized or
27 transferred by the developer as if the credits had been awarded to
28 the developer pursuant to section 35 of P.L.2009, c.90 (C.34:1B-
29 209.3) for qualified residential projects thereunder. No portion of
30 the revenues pledged pursuant to the "New Jersey Economic
31 Opportunity Act of 2013," P.L.2013, c.161 (C.52:27D-489p et al.)
32 shall be subject to withholding or retainage for adjustment, in the
33 event the developer or taxpayer waives its rights to claim a refund
34 thereof.

35 (i) The developer of a project seeking an award of credits for a
36 project restricted under subparagraph (g) of this paragraph shall
37 submit an incentive grant application prior to December 31, 2021,
38 and if approved after the effective date of P.L.2020, c.156
39 (C.34:1B-269 et al.), shall submit a temporary certificate of
40 occupancy for the project no later than December 31, 2024. In
41 addition to the requirements for an award of credits set forth in
42 P.L.2009, c.90 (C.52:27D-489a et al.), a developer shall be eligible
43 to receive an award of credits for a project restricted under
44 subparagraph (g) of this paragraph only if the developer
45 demonstrates to the authority at that time of application that: (i) the
46 project shall comply with minimum environmental and
47 sustainability standards; (ii) the project shall comply with the
48 authority's affirmative action requirements, adopted pursuant to

1 section 4 of P.L.1979, c.303 (C.34:1B-5.4); (iii) each worker
2 employed by the developer or subcontractor of a developer working
3 at the project shall be paid not less than \$15 per hour or 120 percent
4 of the minimum wage fixed under subsection a. of section 5 of
5 P.L.1966, c.113 (C.34:11-56a4), whichever is higher; and (iv)
6 during the eligibility period, each worker employed to perform
7 construction work or building services work at the project shall be
8 paid not less than the prevailing wage rate for the worker's craft or
9 trade, as determined by the Commissioner of Labor and Workforce
10 Development pursuant to P.L.1963, c.150 (C.34:11-56.25 et seq.)
11 and P.L.2005, c.379 (C.34:11-56.58 et seq.).

12 Prior to the board considering an application submitted by a
13 developer for a project restricted under subparagraph (g) of this
14 paragraph, the authority shall confirm with the Department of Labor
15 and Workforce Development, the Department of Environmental
16 Protection, and the Department of the Treasury whether the
17 developer is in substantial good standing with the respective
18 department, or has entered into an agreement with the respective
19 department that includes a practical corrective action plan for the
20 developer. The developer, or an authorized agent of the developer,
21 shall certify to the authority that all factual assertions made in the
22 developer's application are true under the penalty of perjury. If at
23 any time the authority determines that the developer made a
24 material misrepresentation on the developer's application, the
25 developer shall forfeit the award of credits and the authority shall
26 recapture any tax credits awarded to the developer.

27 (4) A developer may apply to the Director of the Division of
28 Taxation in the Department of the Treasury and the chief executive
29 officer of the authority for a tax credit transfer certificate, if the
30 developer is awarded a tax credit pursuant to paragraph (2) or
31 paragraph (3) of this subsection, covering one or more years, in lieu
32 of the developer being allowed any amount of the credit against the
33 tax liability of the developer. The tax credit transfer certificate,
34 upon receipt thereof by the developer from the director and the
35 chief executive officer of the authority, may be sold or assigned, in
36 full or in part, to any other person who may have a tax liability
37 pursuant to section 5 of P.L.1945, c.162 (C.54:10A-5), sections 2
38 and 3 of P.L.1945, c.132 (C.54:18A-2 and C.54:18A-3), section 1
39 of P.L.1950, c.231 (C.17:32-15), or N.J.S.17B:23-5. The certificate
40 provided to the developer shall include a statement waiving the
41 developer's right to claim that amount of the credit against the taxes
42 that the developer has elected to sell or assign. The sale or
43 assignment of any amount of a tax credit transfer certificate allowed
44 under this paragraph shall not be exchanged for consideration
45 received by the developer of less than 75 percent of the transferred
46 credit amount before considering any further discounting to present
47 value that may be permitted. Any amount of a tax credit transfer
48 certificate used by a purchaser or assignee against a tax liability

1 shall be subject to the same limitations and conditions that apply to
 2 the use of the credit by the developer who originally applied for and
 3 was allowed the credit.

4 c. All administrative costs associated with the incentive grant
 5 shall be assessed to the applicant and be retained by the State
 6 Treasurer from the annual incentive grant payments.

7 d. The incremental revenue for the revenues listed in
 8 subsection a. of this section shall be calculated as the difference
 9 between the amount collected in any fiscal year from any eligible
 10 revenue source included in the State redevelopment incentive grant
 11 agreement, less the revenue increment base for that eligible
 12 revenue.

13 e. The municipality is authorized to collect any information
 14 necessary to facilitate grants under this program and remit that
 15 information in order to assist in the calculation of incremental
 16 revenue.²

17 (cf: P.L.2021, c.160, s.55)

18

19 ²~~[2.]~~ 3.² (New section) Notwithstanding any provision of the
 20 “New Jersey Economic Stimulus Act of 2009,” P.L.2009, c.90
 21 (C.52:27D-489a et al.) to the contrary, the following provisions
 22 shall apply to ²~~[any]~~ a² mixed use parking project ²~~[to be]~~ that is
 23 restricted under categories (vi) or (viii) of subparagraph (b) of
 24 paragraph (3) of subsection b. of section 6 of P.L.2009, c.90
 25 (C.52:27D-489f) and² undertaken by a municipal redeveloper after
 26 the effective date of P.L. , c. (C.) (pending before the
 27 Legislature as this bill), for which a redevelopment incentive grant
 28 is awarded:

29 a. A municipal redeveloper shall submit a temporary certificate
 30 of occupancy for ²~~[any]~~ such² proposed mixed use parking project
 31 no later than June 30, 2026.

32 b. (1) Except as provided in paragraph (2) of this subsection, a
 33 redevelopment incentive grant award shall be equal to 100 percent
 34 of the total project costs allocated to the parking component of the
 35 project and 40 percent of the total project costs allocated to the non-
 36 parking component of a proposed mixed use parking project.

37 (2) A redevelopment incentive grant award shall be equal to 100
 38 percent of the total project costs allocated to the parking component
 39 of the project and 80 percent of the total project costs allocated to
 40 the non-parking component of the mixed use parking project if the
 41 mixed use parking project is:

42 (a) constructed upon all or a portion of a project site that was
 43 previously the subject of an award of tax credits pursuant to the
 44 “Urban Transit Hub Tax Credit Act,” P.L.2007, c. 346 (C.34:1B-
 45 207 et seq.) or the “New Jersey Economic Stimulus Act of 2009,”
 46 P.L.2009, c. 90 (C.52:27D-489a et al.), but the tax credits were not
 47 issued; ¹~~[or]~~¹

1 (b) ¹an entertainment venue with seating capacity in excess of
2 5,000; or

3 (c)¹ constructed to be utilized by a visitor center or youth center
4 within or adjacent to a national historic park.

5 c. ²**[A municipal redeveloper shall not be required to**
6 **demonstrate a project financing gap to the authority and shall not be**
7 **required to provide an equity contribution with respect to the**
8 **parking component of the mixed use parking project.**

9 d.² The terms of any approval, granted by the authority, for a
10 proposed mixed use parking project undertaken by a municipal
11 redeveloper, which has not yet commenced construction activities
12 ¹other than demolition or site work¹, ²**[shall automatically] may**²
13 be modified to reflect the terms established pursuant to
14 P.L. , c. (C.) (pending before the Legislature as this bill),
15 ²**[without necessitating any further action by the authority] upon**
16 application to the authority for review and approval; provided,
17 however, the developer shall not be required to pay any fee that
18 may be established under law or regulation related to the
19 application for modification². All dates of required action by ²a²
20 municipal redeveloper contained in an approval, granted by the
21 authority, shall be automatically extended by the thirty-month
22 period corresponding to the temporary certificate of occupancy
23 submission date established by subsection a. of this section.

24 ¹**[For the purposes of this subsection, demolition and site work**
25 **shall not constitute the commencement of construction activities.]**¹

26 ²**[e.] d.**² All proposed mixed use parking projects shall
27 comply with Leadership in Energy and Environmental Design
28 (LEED) standards, to the extent that the United States Green
29 Building Council shall have promulgated standards for the project
30 type proposed.

31

32 ¹**[3.] 4.**¹ This act shall take effect immediately.

33

34

35

36

37 Amends requirements for certain mixed use parking projects
38 undertaken by municipal redevelopers under Economic
39 Redevelopment and Growth Grant program; increases total
40 available tax credits by \$25 million.

SENATE, No. 2677

STATE OF NEW JERSEY
220th LEGISLATURE

INTRODUCED MAY 19, 2022

Sponsored by:
Senator NELLIE POU
District 35 (Bergen and Passaic)

SYNOPSIS

Amends requirements for certain mixed use parking projects undertaken by municipal redevelopers under Economic Redevelopment and Growth Grant program.

CURRENT VERSION OF TEXT

As introduced.



1 AN ACT concerning mixed use parking projects and amending and
2 supplementing P.L.2009, c.90.

3

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

6

7 1. Section 3 of P.L.2009, c.90 (C.52:27D-489c) is amended to
8 read as follows:

9 3. As used in sections 3 through 18 of P.L.2009, c.90
10 (C.52:27D-489c et al.):

11 "Applicant" means a developer proposing to enter into a
12 redevelopment incentive grant agreement.

13 "Ancillary infrastructure project" means structures or
14 improvements that are located within the incentive area but outside
15 the project area of a redevelopment project, including, but not
16 limited to, docks, bulkheads, parking garages, public electric
17 vehicle charging stations, freight rail spurs, roadway overpasses,
18 and train station platforms, provided a developer or municipal
19 redeveloper has demonstrated that the redevelopment project would
20 not be economically viable or promote the use of public
21 transportation without such improvements, as approved by the State
22 Treasurer.

23 "Authority" means the New Jersey Economic Development
24 Authority established under section 4 of P.L.1974, c.80 (C.34:1B-
25 4).

26 "Aviation district" means all areas within the boundaries of the
27 "Atlantic City International Airport," established pursuant to section
28 24 of P.L.1991, c.252 (C.27:25A-24), and the Federal Aviation
29 Administration William J. Hughes Technical Center and the area
30 within a one-mile radius of the outermost boundary of the "Atlantic
31 City International Airport" and the Federal Aviation Administration
32 William J. Hughes Technical Center.

33 "Deep poverty pocket" means a population census tract having a
34 poverty level of 20 percent or more, and which is located within the
35 incentive area and has been determined by the authority to be an
36 area appropriate for development and in need of economic
37 development incentive assistance.

38 "Developer" means any person who enters or proposes to enter
39 into a redevelopment incentive grant agreement pursuant to the
40 provisions of section 9 of P.L.2009, c.90 (C.52:27D-489i), or its
41 successors or assignees, including but not limited to a lender that
42 completes a redevelopment project, operates a redevelopment
43 project, or completes and operates a redevelopment project. A
44 developer also may be a municipal redeveloper as defined herein or
45 Rutgers, the State University of New Jersey.

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.

1 "Director" means the Director of the Division of Taxation in the
2 Department of the Treasury.

3 "Disaster recovery project" means a redevelopment project
4 located on property that has been wholly or substantially damaged
5 or destroyed as a result of a federally-declared disaster, and which
6 is located within the incentive area and has been determined by the
7 authority to be in an area appropriate for development and in need
8 of economic development incentive assistance.

9 "Distressed municipality" means a municipality that is qualified
10 to receive assistance under P.L.1978, c.14 (C.52:27D-178 et seq.), a
11 municipality under the supervision of the Local Finance Board
12 pursuant to the provisions of the "Local Government Supervision
13 Act (1947)," P.L.1947, c.151 (C.52:27BB-1 et seq.), a municipality
14 identified by the Director of the Division of Local Government
15 Services in the Department of Community Affairs to be facing
16 serious fiscal distress, a SDA municipality, or a municipality in
17 which a major rail station is located.

18 "Electric vehicle charging station" means an electric component
19 assembly or cluster of component assemblies designed specifically
20 to charge batteries within electric vehicles by permitting the transfer
21 of electric energy to a battery or other storage device in an electric
22 vehicle.

23 "Eligibility period" means the period of time specified in a
24 redevelopment incentive grant agreement for the payment of
25 reimbursements to a developer, which period shall not exceed 20
26 years, with the term to be determined solely at the discretion of the
27 applicant.

28 "Eligible revenue" means the property tax increment and any
29 other incremental revenues set forth in section 11 of P.L.2009, c.90
30 (C.52:27D-489k), except in the case of a Garden State Growth
31 Zone, in which the property tax increment and any other
32 incremental revenues are calculated as those incremental revenues
33 that would have existed notwithstanding the provisions of the "New
34 Jersey Economic Opportunity Act of 2013," P.L.2013, c.161
35 (C.52:27D-489p et al.).

36 "Garden State Growth Zone" or "growth zone" means the four
37 New Jersey cities with the lowest median family income based on
38 the 2009 American Community Survey from the US Census, (Table
39 708. Household, Family, and Per Capita Income and Individuals,
40 and Families Below Poverty Level by City: 2009); a municipality
41 which contains a Tourism District as established pursuant to section
42 5 of P.L.2011, c.18 (C.5:12-219) and regulated by the Casino
43 Reinvestment Development Authority; or an aviation district.

44 "Highlands development credit receiving area or redevelopment
45 area" means an area located within an incentive area and designated
46 by the Highlands Council for the receipt of Highlands Development
47 Credits under the Highlands Transfer Development Rights Program
48 authorized under section 13 of P.L.2004, c.120 (C.13:20-13).

1 "Incentive grant" means reimbursement of all or a portion of the
2 project financing gap of a redevelopment project through the State
3 or a local Economic Redevelopment and Growth Grant program
4 pursuant to section 4 or section 5 of P.L.2009, c.90 (C.52:27D-489d
5 or C.52:27D-489e).

6 "Infrastructure improvements in the public right-of-way" mean
7 public structures or improvements, including public electric vehicle
8 charging stations, located in the public right-of-way that are located
9 within a project area or that constitute an ancillary infrastructure
10 project, either of which are dedicated to or owned by a
11 governmental body or agency upon completion, or any required
12 payment in lieu of the structures, improvements or projects, or any
13 costs of remediation associated with the structures, improvements
14 or projects, and that are determined by the authority, in consultation
15 with applicable State agencies, to be consistent with and in
16 furtherance of State public infrastructure objectives and initiatives.

17 "Low-income housing" means housing affordable according to
18 federal Department of Housing and Urban Development or other
19 recognized standards for home ownership and rental costs and
20 occupied or reserved for occupancy by households with a gross
21 household income equal to 50 percent or less of the median gross
22 household income for households of the same size within the
23 housing region in which the housing is located.

24 "Major rail station" means a railroad station located within a
25 qualified incentive area which provides access to the public to a
26 minimum of six rail passenger service lines operated by the New
27 Jersey Transit Corporation.

28 "Mixed use parking project" means a redevelopment project, the
29 parking component of which shall constitute 51 percent or more of
30 any of the following:

- 31 a. the total square footage of the entire mixed use parking
32 project;
- 33 b. the estimated revenues of the entire mixed use parking
34 project; or
- 35 c. the total construction cost of the entire mixed use parking
36 project.

37 "Moderate-income housing" means housing affordable,
38 according to United States Department of Housing and Urban
39 Development or other recognized standards for home ownership
40 and rental costs, and occupied or reserved for occupancy by
41 households with a gross household income equal to more than 50
42 percent but less than 80 percent of the median gross household
43 income for households of the same size within the housing region in
44 which the housing is located.

45 "Municipal redeveloper" means an applicant for a redevelopment
46 incentive grant agreement, which applicant is:

1 a. a municipal government, a municipal parking authority, or a
2 redevelopment agency acting on behalf of a municipal government
3 as defined in section 3 of P.L.1992, c.79 (C.40A:12A-3); or

4 b. a developer of a mixed use parking project, provided that the
5 parking component of the mixed use parking project is operated and
6 maintained by a municipal parking authority for the term of any
7 financial assistance granted pursuant to P.L.2015, c.69.

8 "Municipal Revitalization Index" means the 2007 index by the
9 Office for Planning Advocacy within the Department of State
10 measuring or ranking municipal distress.

11 "Non-parking component" means that portion of a mixed use
12 parking project not used for parking, together with the portion of
13 the costs of the mixed use parking project, including but not limited
14 to the footings, foundations, site work, infrastructure, and soft costs
15 that are allocable to the non-parking use.

16 "Parking component" means that portion of a mixed use parking
17 project used for parking, together with the portion of the costs of
18 the mixed use parking project, including but not limited to the
19 footings, foundations, site work, infrastructure, and soft costs that
20 are allocable to the parking use. The parking component, which
21 may include enclosed pedestrian walkways or a skybridge, may be
22 in the same structure as all the non-parking components or may be
23 in a structure with some non-parking components with the
24 remaining non-parking components in an adjacent or nearby
25 structure that is no more than one third of a mile from the parking
26 components.

27 "Project area" means land or lands located within the incentive
28 area under common ownership or control including through a
29 redevelopment agreement with a municipality, or as otherwise
30 established by a municipality or a redevelopment agreement
31 executed by a State entity to implement a redevelopment project.

32 "Project cost" means the costs incurred in connection with the
33 redevelopment project by the developer until the issuance of a
34 permanent certificate of occupancy, or until such other time
35 specified by the authority, for a specific investment or
36 improvement, including the costs relating to receiving Highlands
37 Development Credits under the Highlands Transfer Development
38 Rights Program authorized pursuant to section 13 of P.L.2004,
39 c.120 (C.13:20-13), lands, buildings, improvements, real or
40 personal property, or any interest therein, including leases
41 discounted to present value, including lands under water, riparian
42 rights, space rights and air rights acquired, owned, developed or
43 redeveloped, constructed, reconstructed, rehabilitated or improved,
44 any environmental remediation costs, plus costs not directly related
45 to construction, of an amount not to exceed 20 percent of the total
46 costs, capitalized interest paid to third parties, and the cost of
47 infrastructure improvements, including ancillary infrastructure
48 projects, and, for projects located in a Garden State Growth Zone

1 only, the cost of infrastructure improvements including any
2 ancillary infrastructure project and the amount by which total
3 project cost exceeds the cost of an alternative location for the
4 redevelopment project, but excluding any particular costs for which
5 the project has received federal, State, or local funding. For mixed
6 use parking projects only, project costs shall include any particular
7 costs for which the project has received federal, State, or local
8 funding.

9 "Project financing gap" means:

10 a. the part of the total project cost, including return on
11 investment, that remains to be financed after all other sources of
12 capital have been accounted for, including, but not limited to,
13 developer-contributed capital, which shall not be less than 20
14 percent of the total project cost, which may include the value of any
15 existing land and improvements in the project area owned or
16 controlled by the developer, and the cost of infrastructure
17 improvements in the public right-of-way, subject to review by the
18 State Treasurer, and investor or financial entity capital or loans for
19 which the developer, after making all good faith efforts to raise
20 additional capital, certifies that additional capital cannot be raised
21 from other sources on a non-recourse basis; and

22 b. the amount by which total project cost exceeds the cost of an
23 alternative location for the out-of-State redevelopment project.

24 "Project revenue" means all rents, fees, sales, and payments
25 generated by a project, less taxes or other government payments.

26 "Property tax increment" means the amount obtained by:

27 a. multiplying the general tax rate levied each year by the
28 taxable value of all the property assessed within a project area in
29 the same year, excluding any special assessments; and

30 b. multiplying that product by a fraction having a numerator
31 equal to the taxable value of all the property assessed within the
32 project area, minus the property tax increment base, and having a
33 denominator equal to the taxable value of all property assessed
34 within the project area.

35 For the purpose of this definition, "property tax increment base"
36 means the aggregate taxable value of all property assessed which is
37 located within the redevelopment project area as of October 1st of
38 the year preceding the year in which the redevelopment incentive
39 grant agreement is authorized.

40 "Public electric vehicle charging station" means an electric
41 vehicle charging station located at a publicly available parking
42 space.

43 "Public hydrogen fueling station" means publicly available
44 equipment to store and dispense hydrogen fuel to vehicles
45 according to industry codes and standards.

46 "Publicly available parking space" means a parking space that is
47 available to, and accessible by, the public and may include on-street
48 parking spaces and parking spaces in surface lots or parking

1 garages, but shall not include: a parking space that is part of, or
2 associated with, a private residence; or a parking space that is
3 reserved for the exclusive use of an individual driver or vehicle or
4 for a group of drivers or vehicles, such as employees, tenants,
5 visitors, residents of a common interest development, or residents
6 of an adjacent building.

7 "Qualified incubator facility" means a commercial building
8 located within an incentive area: which contains 100,000 or more
9 square feet of office, laboratory, or industrial space; which is
10 located near, and presents opportunities for collaboration with, a
11 research institution, teaching hospital, college, or university; and
12 within which, at least 75 percent of the gross leasable area is
13 restricted for use by one or more technology startup companies
14 during the commitment period.

15 "Qualified residential project" means a redevelopment project
16 that is predominantly residential and includes multi-family
17 residential units for purchase or lease, or dormitory units for
18 purchase or lease, having a total project cost of at least
19 \$17,500,000, if the project is located in any municipality with a
20 population greater than 200,000 according to the latest federal
21 decennial census, or having a total project cost of at least
22 \$10,000,000 if the project is located in any municipality with a
23 population less than 200,000 according to the latest federal
24 decennial census, or is a disaster recovery project, or having a total
25 project cost of \$5,000,000 if the project is in a Garden State Growth
26 Zone.

27 "Qualifying economic redevelopment and growth grant incentive
28 area" or "incentive area" means:

- 29 a. an aviation district;
30 b. a port district;
31 c. a distressed municipality; or
32 d. an area (1) designated pursuant to the "State Planning Act,"
33 P.L.1985, c.398 (C.52:18A-196 et seq.), as:

- 34 (a) Planning Area 1 (Metropolitan);
35 (b) Planning Area 2 (Suburban); or
36 (c) Planning Area 3 (Fringe Planning Area);
37 (2) located within a smart growth area and planning area
38 designated in a master plan adopted by the New Jersey
39 Meadowlands Commission pursuant to subsection (i) of section 6 of
40 P.L.1968, c.404 (C.13:17-6) or subject to a redevelopment plan
41 adopted by the New Jersey Meadowlands Commission pursuant to
42 section 20 of P.L.1968, c.404 (C.13:17-21);

- 43 (3) located within any land owned by the New Jersey Sports and
44 Exposition Authority, established pursuant to P.L.1971, c.137
45 (C.5:10-1 et seq.), within the boundaries of the Hackensack
46 Meadowlands District as delineated in section 4 of P.L.1968, c.404
47 (C.13:17-4);

- 1 (4) located within a regional growth area, rural development
2 area zoned for industrial use as of the effective date of P.L.2016,
3 c.75, town, village, or a military and federal installation area
4 designated in the comprehensive management plan prepared and
5 adopted by the Pinelands Commission pursuant to the "Pinelands
6 Protection Act," P.L.1979, c.111 (C.13:18A-1 et seq.);
- 7 (5) located within the planning area of the Highlands Region as
8 defined in section 3 of P.L.2004, c.120 (C.13:20-3) or in a
9 highlands development credit receiving area or redevelopment area;
- 10 (6) located within a Garden State Growth Zone;
- 11 (7) located within land approved for closure under any federal
12 Base Closure and Realignment Commission action; or
- 13 (8) located only within the following portions of the areas
14 designated pursuant to the "State Planning Act," P.L.1985, c.398
15 (C.52:18A-196 et al.), as Planning Area 4A (Rural Planning Area),
16 Planning Area 4B (Rural/Environmentally Sensitive) or Planning
17 Area 5 (Environmentally Sensitive) if Planning Area 4A (Rural
18 Planning Area), Planning Area 4B (Rural/Environmentally
19 Sensitive) or Planning Area 5 (Environmentally Sensitive) is
20 located within:
 - 21 (a) a designated center under the State Development and
22 Redevelopment Plan;
 - 23 (b) a designated growth center in an endorsed plan until the
24 State Planning Commission revises and readopts New Jersey's State
25 Strategic Plan and adopts regulations to revise this definition as it
26 pertains to Statewide planning areas;
 - 27 (c) any area determined to be in need of redevelopment pursuant
28 to sections 5 and 6 of P.L.1992, c.79 (C.40A:12A-5 and
29 C.40A:12A-6) or in need of rehabilitation pursuant to section 14 of
30 P.L.1992, c.79 (C.40A:12A-14);
 - 31 (d) any area on which a structure exists or previously existed
32 including any desired expansion of the footprint of the existing or
33 previously existing structure provided the expansion otherwise
34 complies with all applicable federal, State, county, and local
35 permits and approvals;
 - 36 (e) the planning area of the Highlands Region as defined in
37 section 3 of P.L.2004, c.120 (C.13:20-3) or a highlands
38 development credit receiving area or redevelopment area; or
 - 39 (f) any area on which an existing tourism destination project is
40 located.
- 41 "Qualifying economic redevelopment and growth grant incentive
42 area" or "incentive area" shall not include any property located
43 within the preservation area of the Highlands Region as defined in
44 the "Highlands Water Protection and Planning Act," P.L.2004,
45 c.120 (C.13:20-1 et al.).
- 46 "Redevelopment incentive grant agreement" means an agreement
47 between:

1 a. the State and the New Jersey Economic Development
2 Authority and a developer; or

3 b. a municipality and a developer, or a municipal ordinance
4 authorizing a project to be undertaken by a municipal redeveloper,
5 under which, in exchange for the proceeds of an incentive grant, the
6 developer agrees to perform any work or undertaking necessary for
7 a redevelopment project, including the clearance, development or
8 redevelopment, construction, or rehabilitation of any structure or
9 improvement of commercial, industrial, residential, or public
10 structures or improvements within a qualifying economic
11 redevelopment and growth grant incentive area or a transit village.

12 "Redevelopment project" means a specific construction project
13 or improvement, including lands, buildings, improvements, real and
14 personal property or any interest therein, including lands under
15 water, riparian rights, space rights and air rights, acquired, owned,
16 leased, developed or redeveloped, constructed, reconstructed,
17 rehabilitated or improved, undertaken by a developer, owner or
18 tenant, or both, within a project area and any ancillary infrastructure
19 project including infrastructure improvements in the public right-of-
20 way, as set forth in an application to be made to the authority. The
21 use of the term "redevelopment project" in sections 3 through 18 of
22 P.L.2009, c.90 (C.52:27D-489c et al.) shall not be limited to only
23 redevelopment projects located in areas determined to be in need of
24 redevelopment pursuant to sections 5 and 6 of P.L.1992, c.79
25 (C.40A:12A-5 and C.40A:12A-6) but shall also include, but not be
26 limited to, any work or undertaking in accordance with the
27 "Redevelopment Area Bond Financing Law," sections 1 through 10
28 of P.L.2001, c.310 (C.40A:12A-64 et seq.) or other applicable law,
29 pursuant to a redevelopment plan adopted by a State entity, or as
30 described in the resolution adopted by a public entity created by
31 State law with the power to adopt a redevelopment plan or
32 otherwise determine the location, type and character of a
33 redevelopment project or part of a redevelopment project on land
34 owned or controlled by it or within its jurisdiction, including but
35 not limited to, the New Jersey Meadowlands Commission
36 established pursuant to P.L.1968, c.404 (C.13:17-1 et seq.), the
37 New Jersey Sports and Exposition Authority established pursuant to
38 P.L.1971 c.137 (C.5:10-1 et seq.) and the Fort Monmouth
39 Economic Revitalization Authority created pursuant to P.L.2010,
40 c.51 (C.52:27I-18 et seq.). A redevelopment project may include
41 the development of zero-emission vehicle fueling and charging
42 infrastructure.

43 "Redevelopment utility" means a self-liquidating fund created by
44 a municipality pursuant to section 12 of P.L.2009, c.90 (C.52:27D-
45 489l) to account for revenues collected and incentive grants paid
46 pursuant to section 11 of P.L.2009, c.90 (C.52:27D-489k), or other
47 revenues dedicated to a redevelopment project.

1 "Revenue increment base" means the amounts of all eligible
2 revenues from sources within the redevelopment project area in the
3 calendar year proceeding the year in which the redevelopment
4 incentive grant agreement is executed, as certified by the State
5 Treasurer for State revenues, and the chief financial officer of the
6 municipality for municipal revenues.

7 "SDA district" means an SDA district as defined in section 3 of
8 P.L.2000, c.72 (C.18A:7G-3).

9 "SDA municipality" means a municipality in which an SDA
10 district is situated.

11 "Technology startup company" means a for profit business that
12 has been in operation fewer than five years and is developing or
13 possesses a proprietary technology or business method of a high-
14 technology or life science-related product, process, or service which
15 the business intends to move to commercialization.

16 "Tourism destination project" means a redevelopment project
17 that will be among the most visited privately owned or operated
18 tourism or recreation sites in the State, and which is located within
19 the incentive area and has been determined by the authority to be in
20 an area appropriate for development and in need of economic
21 development incentive assistance.

22 "Transit project" means a redevelopment project located within a
23 1/2-mile radius, or one-mile radius for projects located in a Garden
24 State Growth Zone, surrounding the mid-point of a New Jersey
25 Transit Corporation, Port Authority Transit Corporation, or Port
26 Authority Trans-Hudson Corporation rail, bus, or ferry station
27 platform area, including all light rail stations.

28 "Transit village" means a community with a bus, train, light rail,
29 or ferry station that has developed a plan to achieve its economic
30 development and revitalization goals and has been designated by
31 the New Jersey Department of Transportation as a transit village.

32 "University infrastructure" means any of the following located
33 on the campus of Rutgers, the State University of New Jersey:

34 a. buildings and structures, such as academic buildings,
35 recreation centers, indoor athletic facilities, public works garages,
36 and water and sewer treatment and pumping facilities;

37 b. open space with improvements, such as athletic fields and
38 other outdoor athletic facilities, planned commons, and parks; and

39 c. transportation facilities, such as bus shelters and parking
40 facilities.

41 "Urban transit hub" means an urban transit hub, as defined in
42 section 10 of P.L.2007, c.346 (C.34:1B-208), that is located within
43 an eligible municipality, as defined in section 10 of P.L.2007, c.346
44 (C.34:1B-208), or all light rail stations and property located within
45 a one-mile radius of the mid-point of the platform area of such a
46 rail, bus, or ferry station if the property is in a qualified
47 municipality under the "Municipal Rehabilitation and Economic
48 Recovery Act," P.L.2002, c.43 (C.52:27BBB-1 et al.).

1 "Vacant commercial building" means any commercial building
2 or complex of commercial buildings having over 400,000 square
3 feet of office, laboratory, or industrial space that is more than 70
4 percent unoccupied at the time of application to the authority or is
5 negatively impacted by the approval of a "qualified business
6 facility," as defined pursuant to section 2 of P.L.2007, c.346
7 (C.34:1B-208), or any vacant commercial building in a Garden
8 State Growth Zone having over 35,000 square feet of office,
9 laboratory, or industrial space, or over 200,000 square feet of
10 office, laboratory, or industrial space in Atlantic, Burlington,
11 Camden, Cape May, Cumberland, Gloucester, Ocean, or Salem
12 counties available for occupancy for a period of over one year.

13 "Vacant health facility project" means a redevelopment project
14 where a health facility, as defined by section 2 of P.L.1971, c.136
15 (C.26:2H-2), currently exists and is considered vacant. A health
16 facility shall be considered vacant if at least 70 percent of that
17 facility has not been open to the public or utilized to serve any
18 patients at the time of application to the authority.

19 "Zero-emission vehicle" means a vehicle certified as a zero
20 emission vehicle pursuant to the California Air Resources Board
21 zero emission vehicle standards for the applicable model year,
22 including but not limited to, battery electric-powered vehicles and
23 hydrogen fuel cell vehicles.

24 "Zero-emission vehicle fueling and charging infrastructure"
25 means infrastructure to charge or fuel zero-emission vehicles,
26 including but not limited to, public electric vehicle charging
27 stations and public hydrogen fueling stations.

28 (cf: P.L.2021, c.168, s.6)

29

30 2. (New section) Notwithstanding any provision of the "New
31 Jersey Economic Stimulus Act of 2009," P.L.2009, c.90 (C.52:27D-
32 489a et al.) to the contrary, the following provisions shall apply to
33 any mixed use parking project to be undertaken by a municipal
34 redeveloper after the effective date of P.L. , c. (C.)
35 (pending before the Legislature as this bill), for which a
36 redevelopment incentive grant is awarded:

37 a. A municipal redeveloper shall submit a temporary certificate
38 of occupancy for any proposed mixed use parking project no later
39 than June 30, 2026.

40 b. (1) Except as provided in paragraph (2) of this subsection, a
41 redevelopment incentive grant award shall be equal to 100 percent
42 of the total project costs allocated to the parking component of the
43 project and 40 percent of the total project costs allocated to the non-
44 parking component of a proposed mixed use parking project.

45 (2) A redevelopment incentive grant award shall be equal to 100
46 percent of the total project costs allocated to the parking component
47 of the project and 80 percent of the total project costs allocated to

1 the non-parking component of the mixed use parking project if the
2 mixed use parking project is:

3 (a) constructed upon all or a portion of a project site that was
4 previously the subject of an award of tax credits pursuant to the
5 “Urban Transit Hub Tax Credit Act,” P.L.2007, c. 346 (C.34:1B-
6 207 et seq.) or the “New Jersey Economic Stimulus Act of 2009,”
7 P.L.2009, c. 90 (C.52:27D-489a et al.), but the tax credits were not
8 issued; or

9 (b) constructed to be utilized by a visitor center or youth center
10 within or adjacent to a national historic park.

11 c. A municipal redeveloper shall not be required to
12 demonstrate a project financing gap to the authority and shall not be
13 required to provide an equity contribution with respect to the
14 parking component of the mixed use parking project.

15 d. The terms of any approval, granted by the authority, for a
16 proposed mixed use parking project undertaken by a municipal
17 redeveloper, which has not yet commenced construction activities,
18 shall automatically be modified to reflect the terms established
19 pursuant to P.L. , c. (C.) (pending before the Legislature as
20 this bill), without necessitating any further action by the authority.
21 All dates of required action by municipal redeveloper contained in
22 an approval, granted by the authority, shall be automatically
23 extended by the thirty-month period corresponding to the temporary
24 certificate of occupancy submission date established by subsection
25 a. of this section.

26 For the purposes of this subsection, demolition and site work
27 shall not constitute the commencement of construction activities.

28 e. All proposed mixed use parking projects shall comply with
29 Leadership in Energy and Environmental Design (LEED) standards,
30 to the extent that the United States Green Building Council shall
31 have promulgated standards for the project type proposed.

32

33 3. This act shall take effect immediately.

34

35

36

STATEMENT

37

38 This bill modifies the requirements for certain proposed mixed
39 use parking projects undertaken by municipal redevelopers under
40 the Economic Redevelopment and Growth Grant program.

41 The bill amends the definition of “project cost” under existing
42 law to include any particular costs for which the project has
43 received federal, State, or local funding and creates new
44 requirements to apply to any proposed mixed use parking project,
45 for which a redevelopment incentive grant is awarded, that is to be
46 undertaken by a municipal redeveloper after the effective date bill.

1 Under the bill, a municipal redeveloper is required to submit a
2 temporary certificate of occupancy for any proposed mixed use
3 parking project no later than June 30, 2026.

4 The bill provides for redevelopment incentive grant awards of
5 equal to 100 percent of the total project costs for the parking
6 component and 40 percent of the total project costs for the non-
7 parking component of a mixed use parking project. However
8 redevelopment incentive grant awards are to be equal to 100 percent
9 of the total project costs for the parking component and 80 percent
10 for the non-parking component, if the mixed use parking project is:
11 1) constructed upon all or a portion of a project site that was
12 previously awarded tax credits pursuant to the “Urban Transit Hub
13 Tax Credit Act” or the “New Jersey Economic Stimulus Act of
14 2009,” but those tax credits were not issued; or 2) constructed to be
15 utilized by a visitor center or youth center within or adjacent to a
16 national historic park.

17 The bill does not require municipal redevelopers to demonstrate
18 a project financing gap to the New Jersey Economic Development
19 Authority (authority) or provide an equity contribution with respect
20 to the parking component.

21 The terms of any approval, granted by the authority, for a
22 proposed mixed use parking project undertaken by a municipal
23 redeveloper, which has not yet commenced construction activities,
24 are to automatically be modified to reflect the terms established by
25 this bill, without necessitating any further action by the authority.
26 All dates of required action by the municipal redeveloper contained
27 in an approval are to be automatically extended by the thirty-month
28 period corresponding to the temporary certificate of occupancy
29 submission date established by the bill. For the purposes of the bill,
30 demolition and site work does not constitute the commencement of
31 construction activities.

32 Finally, the bill provides that all proposed mixed use parking
33 projects are to comply with Leadership in Energy and
34 Environmental Design (LEED) standards, to the extent that the
35 United States Green Building Council has promulgated standards
36 for the project type proposed.

37 It is the sponsor’s intent to facilitate the construction of
38 structured parking where undertaken or operated by a public body,
39 as the construction of such structured parking is necessary to
40 facilitate the effective redevelopment of densely populated areas,
41 yet in many instances the cost of such construction has become
42 prohibitive.

SENATE BUDGET AND APPROPRIATIONS COMMITTEE

STATEMENT TO

SENATE, No. 2677

with committee amendments

STATE OF NEW JERSEY

DATED: JUNE 6, 2022

The Senate Budget and Appropriations Committee reports favorably Senate Bill No. 2677, with committee amendments.

As amended and reported, the bill modifies certain requirements of the Economic Redevelopment and Growth Grant (ERG) program for mixed-use parking projects undertaken by municipal redevelopers.

The bill amends the definition of “project cost” for any mixed-use parking project that is undertaken by a municipal redeveloper and that did not commence construction before the declaration of the COVID-19 public health emergency on March 9, 2020. For these projects, project costs would also include any particular costs for which the project has received federal, State, or local funding.

Additionally, the bill specifies that the redevelopment incentive grant awarded for these projects would equal 100 percent of the total project costs for the parking component and 40 percent of the total project costs for the non-parking component of the mixed-use parking project. However, the bill also clarifies that the grant award would equal 100 percent of the total project costs for the parking component and 80 percent for the non-parking component if the mixed-use parking project is: (1) constructed upon all or a portion of a project site that was previously awarded tax credits pursuant to the “Urban Transit Hub Tax Credit Act” or the “New Jersey Economic Stimulus Act of 2009,” but those tax credits were not issued; (2) an entertainment venue with seating capacity in excess of 5,000; or (3) constructed to be utilized by a visitor center or youth center within or adjacent to a national historic park.

Under the bill, a municipal redeveloper of a mixed-use parking project would be required to submit a temporary certificate of occupancy for the project no later than June 30, 2026. The bill also provides that municipal redevelopers would not be required to demonstrate a project financing gap to the New Jersey Economic Development Authority (EDA) or provide an equity contribution with respect to the parking component of the project.

The bill provides that the terms of any approval granted by the EDA for a mixed-use parking project undertaken by a municipal redeveloper, which project has not yet commenced construction activities other than demolition or site work, would be automatically

modified to reflect the terms established by this bill, without necessitating any further action by the EDA. All dates of required action by the municipal redeveloper contained in an approval would be automatically extended by the 30-month period corresponding to the temporary certificate of occupancy submission date established by the bill.

Finally, the bill provides that all proposed mixed-use parking projects are required to comply with Leadership in Energy and Environmental Design (LEED) standards to the extent that the United States Green Building Council has promulgated standards for the project type proposed.

COMMITTEE AMENDMENTS:

The committee amendments provide that the expanded definition of “project cost,” which includes particular costs for which a project received federal, State, or local funding, would only apply to mixed-use parking projects that are undertaken by municipal redevelopers and that did not commence construction before the declaration of the COVID-19 public health emergency on March 9, 2020. As introduced, this definition would have applied to all mixed-use parking projects approved under the ERG program.

As provided under current law, the amendments also provide that if a municipal redeveloper undertakes a mixed-use parking project that would be an entertainment venue with seating capacity in excess of 5,000, then the municipal redeveloper would receive a redevelopment incentive grant based on 100 percent of the eligible project costs allocated to the parking component of the project and 80 percent of the eligible project costs allocated to the non-parking component of the project.

The amendments also clarify that the terms of any approval granted by the EDA for a mixed-use parking project undertaken by a municipal redeveloper, which project has not yet commenced construction activities other than demolition or site work, would be automatically modified to reflect the terms established by this bill, without necessitating any further action by the EDA.

FISCAL IMPACT:

The Office of Legislative Services concludes that the bill would decrease State revenues by an indeterminate amount because the bill expands the scope of costs for which municipal redevelopers of mixed-use parking projects can qualify for tax credits under the Economic Redevelopment and Growth Program. The State revenue loss will begin at an indeterminate time and will depend on when certain project milestones are met, but in no case will the loss extend beyond FY 2036.

LEGISLATIVE FISCAL ESTIMATE

[First Reprint]

SENATE, No. 2677

STATE OF NEW JERSEY 220th LEGISLATURE

DATED: JUNE 15, 2022

SUMMARY

- Synopsis:** Amends requirements for certain mixed use parking projects undertaken by municipal redevelopers under Economic Redevelopment and Growth Grant program.
- Type of Impact:** Annual decrease in State revenues.
- Agencies Affected:** New Jersey Economic Development Authority.

Office of Legislative Services Estimate

Annual Fiscal Impact	
State Revenue Decrease	Indeterminate

- The Office of Legislative Services (OLS) concludes that the bill would decrease annual State revenues by an indeterminate amount by expanding the scope of eligible project costs for which municipal redevelopers of mixed-use parking projects can qualify for tax credits under the New Jersey Economic Redevelopment and Growth (ERG) Program.
- Under the ERG program, the New Jersey Economic Development Authority (EDA) may issue tax credits to the redevelopers of mixed-use parking projects, which credits can be claimed over the 10-year period following the issuance of a certificate of occupancy for the project. Because the bill extends the deadline for the submission of a temporary certificate of occupancy for an eligible project to June 2026, the State revenue losses resulting from the bill could potentially extend to FY 2036.

BILL DESCRIPTION

This bill modifies certain requirements of the ERG program for mixed-use parking projects undertaken by municipal redevelopers.

The bill amends the definition of “project cost” for any mixed-use parking project that is undertaken by a municipal redeveloper and that did not commence construction before the declaration of the COVID-19 public health emergency on March 9, 2020. For these projects,

project costs would also include any particular costs for which the project has received federal, State, or local funding.

Additionally, the bill specifies that the redevelopment incentive grant awarded for these projects would equal 100 percent of the total project costs for the parking component and 40 percent of the total project costs for the non-parking component of the mixed-use parking project. However, the bill also clarifies that the grant award would equal 100 percent of the total project costs for the parking component and 80 percent for the non-parking component if the mixed-use parking project is: (1) constructed upon all or a portion of a project site that was previously awarded tax credits pursuant to the Urban Transit Hub Tax Credit Act or the New Jersey Economic Stimulus Act of 2009, but those tax credits were not issued; (2) an entertainment venue with seating capacity in excess of 5,000; or (3) constructed to be utilized by a visitor center or youth center within or adjacent to a national historic park.

Under the bill, a municipal redeveloper of a mixed-use parking project would be required to submit a temporary certificate of occupancy for the project no later than June 30, 2026. The bill also provides that municipal redevelopers would not be required to demonstrate a project financing gap to the EDA or provide an equity contribution with respect to the parking component of the project.

The bill provides that the terms of any approval granted by the EDA for a mixed-use parking project undertaken by a municipal redeveloper, which project has not yet commenced construction activities other than demolition or site work, would be automatically modified to reflect the terms established by this bill, without necessitating any further action by the EDA. All dates of required action by the municipal redeveloper contained in an approval would be automatically extended by the 30-month period corresponding to the temporary certificate of occupancy submission date established by the bill.

Finally, the bill provides that all proposed mixed-use parking projects are required to comply with LEED standards to the extent that the United States Green Building Council has promulgated standards for the project type proposed.

FISCAL ANALYSIS

EXECUTIVE BRANCH

None received.

OFFICE OF LEGISLATIVE SERVICES

The OLS concludes that the bill will decrease annual State revenues by an indeterminate amount by expanding the scope of eligible project costs for which municipal redevelopers of mixed-use parking projects can qualify for tax credits under the ERG program.

Under the ERG program, the EDA may issue tax credits to the redevelopers of mixed-use parking projects, which credits can be claimed over the 10-year period following the issuance of a certificate of occupancy for the project. Notably, the amount of tax credits awarded for a project is determined based on a percentage of the project's total eligible costs. Consequently, by expanding the definition of "project costs" for certain mixed-use parking projects to include particular costs supported by federal, State, or local funding, the bill would increase the amount of credits awarded to an eligible mixed-use parking project that received such funding. Moreover, because the bill extends the deadline for the submission of a temporary certificate of occupancy

for an eligible project to June 2026, the State revenue losses resulting from the bill could potentially extend to FY 2036.

The OLS also notes that by extending the deadline for municipal redevelopers to obtain temporary certificates of occupancy for approved mixed-use parking projects, the bill increases the likelihood that these projects will satisfy all requirements of the ERG program, thereby allowing the municipal redeveloper to realize the awarded tax credits. Accordingly, the bill may increase the total amount of tax credits that are actually claimed or sold by municipal redevelopers to the extent that the bill allows certain additional mixed-use parking projects to be completed in a timely manner.

Section: Authorities, Utilities, Transportation and Communications Section

*Analyst: Joseph A. Pezzulo
Senior Research Analyst*

*Approved: Thomas Koenig
Legislative Budget and Finance Officer*

This legislative fiscal estimate has been produced by the Office of Legislative Services due to the failure of the Executive Branch to respond to our request for a fiscal note.

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

SENATE BUDGET AND APPROPRIATIONS COMMITTEE

STATEMENT TO

[First Reprint]

SENATE, No. 2677

with committee amendments

STATE OF NEW JERSEY

DATED: JUNE 27, 2022

The Senate Budget and Appropriations Committee reports favorably Senate Bill No. 2677 (1R), with committee amendments.

As amended and reported, this bill increases the total tax credits available by the New Jersey Economic Development Authority (EDA) under the Economic Redevelopment and Growth Grant (ERG) program by \$25 million. The bill also modifies requirements for certain mixed-use parking projects undertaken by municipal redevelopers under the ERG program.

Notably, the bill increases the total tax credits available under the ERG Program by \$25 million, which credits would be made available to certain qualified residential projects and mixed-use parking projects that are located in Garden State Growth Zones having a population in excess of 125,000. The bill also extends the deadlines by which certain developers may submit a letter of support from the host municipality until December 31, 2022.

The bill amends the definition of “project cost” for any mixed-use parking project that is undertaken by a municipal redeveloper and that did not commence construction before the declaration of the COVID-19 public health emergency on March 9, 2020. For these projects, project costs may include, in the discretion of the EDA, the cost or value of land, demolition, and equity contributions, as well as any particular costs for which the project has received State or local funding.

Under the bill, a municipal redeveloper of a mixed-use parking project would be required to submit a temporary certificate of occupancy for the project no later than June 30, 2026. In the case of certain projects approved after the effective date of P.L.2017, c.59, the bill also extends the deadline to submit a temporary certificate of occupancy until June 30, 2026.

Additionally, the bill specifies that the redevelopment incentive grant awarded for these projects would equal 100 percent of the total project costs for the parking component and 40 percent of the total project costs for the non-parking component of the mixed-use parking project. However, the bill also clarifies that the grant award would

equal 100 percent of the total project costs for the parking component and 80 percent for the non-parking component if the mixed-use parking project is: (1) constructed upon all or a portion of a project site that was previously awarded tax credits pursuant to the “Urban Transit Hub Tax Credit Act” or the “New Jersey Economic Stimulus Act of 2009,” but those tax credits were not issued; (2) an entertainment venue with seating capacity in excess of 5,000; or (3) constructed to be utilized by a visitor center or youth center within or adjacent to a national historic park.

The bill provides that the terms of any approval by the EDA may be modified upon application to the EDA for review and approval, provided, however, the developer would not be required to pay a fee for the modification.

Lastly, the bill provides that all proposed mixed-use parking projects are required to comply with Leadership in Energy and Environmental Design (LEED) standards to the extent that the United States Green Building Council has promulgated standards for the project type proposed.

COMMITTEE AMENDMENTS:

The committee amendments:

(1) increase the total tax credits available under the ERG Program by \$25 million, which credits would be available for certain qualified residential projects and mixed-use parking projects that are located in Garden State Growth Zones having a population in excess of 125,000;

(2) extend, from December 31, 2021 to December 31, 2022, the deadline by which certain developers are required to submit a letter of support from the host municipality to the EDA;

(3) extend, from December 31, 2023 to June 30, 2026, the deadline by which certain projects approved after the effective date of P.L.2017, c.59 are required to submit a temporary certificate of occupancy;

(4) revise the scope of “project costs” for mixed-use parking projects undertaken by municipal redevelopers, which did not commence construction before the declaration of the COVID-19 public health emergency. Specifically, the amendments provide that “project costs” may include, in the discretion of the EDA, the cost or value of land, demolition, and equity contributions, as well as any particular costs for which the project has received State or local funding;

(5) remove a provision of the bill that would have exempted municipal redevelopers from the requirements to demonstrate a project financing gap and provide an equity contribution with respect to the parking component of the project; and

(6) provide that the terms of any approval by the EDA for a proposed mixed-use parking project undertaken by a municipal

redeveloper may be modified upon application to the EDA, not automatically as previously required under the bill, except that the developer would not be required to pay a fee for the modification.

FISCAL IMPACT:

The Office of Legislative Services (OLS) concludes that this bill would decrease total State revenues by up to \$25 million by allowing the New Jersey Economic Development Authority (EDA) to issue additional tax credits under the Economic Redevelopment and Growth Program.

The additional tax credits would be restricted to certain qualified residential projects and mixed-use parking projects that are located in Garden State Growth Zones having a population in excess of 125,000. However, the bill does not extend the deadline by which developers or municipal redevelopers may apply for these tax credits. Instead, the bill extends the deadlines to submit certain program documents for certain projects that applied to the EDA before December 31, 2021.

The bill also expands the scope of “project costs” for certain mixed-use parking projects undertaken by municipal redevelopers, and which did not commence construction before the declaration of the COVID-19 public health emergency. Specifically, the bill provides that these project costs may include, in the discretion of the EDA, the cost or value of land, demolition, and equity contributions, as well as any particular costs for which the project has received State or local funding.

Accordingly, the OLS assumes that the additional tax credits would be made available to certain mixed-use parking project for which the bill expands the scope of eligible project costs, which costs are used to calculate the total tax credits issued for the project. However, due to the discretionary nature of this allowance, the OLS is unable to predict how many additional project costs will be approved by the EDA.

Regardless, the State revenue loss resulting from the bill would begin at an indeterminate time and would depend on when certain project milestones are met, but in no case will the loss extend beyond FY 2036.

LEGISLATIVE FISCAL ESTIMATE

[Second Reprint]

SENATE, No. 2677

STATE OF NEW JERSEY 220th LEGISLATURE

DATED: JULY 1, 2022

SUMMARY

- Synopsis:** Amends requirements for certain mixed use parking projects undertaken by municipal redevelopers under Economic Redevelopment and Growth Grant program; increases total available tax credits by \$25 million.
- Type of Impact:** Annual decrease in State revenues.
- Agencies Affected:** New Jersey Economic Development Authority.

Office of Legislative Services Estimate

Fiscal Impact	Total Impact
State Revenue Decrease	Up to \$25 Million

- The Office of Legislative Services (OLS) concludes that the bill would decrease total State revenues by up to \$25 million by allowing the New Jersey Economic Development Authority (EDA) to issue additional tax credits under the Economic Redevelopment and Growth (ERG) Program. The OLS assumes that the additional tax credits would be made available to certain mixed-use parking projects for which the bill expands the scope of eligible project costs.
- Under the ERG program, the EDA may issue tax credits to the redevelopers of mixed-use parking projects, which credits can be claimed over the 10-year period following the issuance of a certificate of occupancy for the project. Because the bill extends the deadline for the submission of a temporary certificate of occupancy for an eligible project to June 2026, the State revenue losses resulting from the bill could potentially extend to FY 2036.

BILL DESCRIPTION

This bill increases the total tax credits available by the EDA under the ERG program by \$25 million. The bill also modifies requirements for certain mixed-use parking projects undertaken by municipal redevelopers under the ERG program.

The \$25 million increase in the total tax credits available under the ERG Program would be made available to certain qualified residential projects and mixed-use parking projects that are located in Garden State Growth Zones having a population in excess of 125,000. The bill also extends the deadlines by which certain developers may submit a letter of support from the host municipality until December 31, 2022.

The bill amends the definition of “project cost” for any mixed-use parking project that is undertaken by a municipal redeveloper and that did not commence construction before the declaration of the COVID-19 public health emergency on March 9, 2020. For these projects, project costs may include, in the discretion of the EDA, the cost or value of land, demolition, and equity contributions, as well as any particular costs for which the project has received State or local funding.

Under the bill, a municipal redeveloper of a mixed-use parking project would be required to submit a temporary certificate of occupancy for the project no later than June 30, 2026. In the case of certain projects approved after the effective date of P.L.2017, c.59, the bill also extends the deadline to submit a temporary certificate of occupancy until June 30, 2026.

Additionally, the bill specifies that the redevelopment incentive grant awarded for these projects would equal 100 percent of the total project costs for the parking component and 40 percent of the total project costs for the non-parking component of the mixed-use parking project. However, the bill also clarifies that the grant award would equal 100 percent of the total project costs for the parking component and 80 percent for the non-parking component if the mixed-use parking project is: (1) constructed upon all or a portion of a project site that was previously awarded tax credits pursuant to the Urban Transit Hub Tax Credit Act or the New Jersey Economic Stimulus Act of 2009, but those tax credits were not issued; (2) an entertainment venue with seating capacity in excess of 5,000; or (3) constructed to be utilized by a visitor center or youth center within or adjacent to a national historic park.

The bill provides that the terms of any approval by the EDA may be modified upon application to the EDA for review and approval, provided, however, the developer would not be required to pay a fee for the modification.

Lastly, the bill provides that all proposed mixed-use parking projects are required to comply with Leadership in Energy and Environmental Design standards to the extent that the United States Green Building Council has promulgated standards for the project type proposed.

FISCAL ANALYSIS

EXECUTIVE BRANCH

None received.

OFFICE OF LEGISLATIVE SERVICES

The OLS concludes that this bill would decrease total State revenues by up to \$25 million by allowing the EDA to issue additional tax credits under the ERG program.

Under the ERG program, the EDA may issue tax credits to the redevelopers of mixed-use parking projects, which credits can be claimed over the 10-year period following the issuance of a certificate of occupancy for the project. The amount of tax credits awarded for a project is determined based on a percentage of the project’s total eligible costs. Notably, this bill increases the total amount of tax credits that may be awarded under the program by \$25 million and expands the scope of “project costs” that may be approved for certain mixed-use parking projects.

Specifically, the additional tax credits would be restricted to certain qualified residential projects and mixed-use parking projects that are located in Garden State Growth Zones having a population in excess of 125,000. However, the bill does not extend the deadline by which developers or municipal redevelopers may apply for these tax credits. Instead, the bill extends the deadlines to submit certain program documents for certain projects that applied to the EDA before December 31, 2021.

As noted, the bill also expands the scope of “project costs” for certain mixed-use parking projects undertaken by municipal redevelopers, and which did not commence construction before the declaration of the COVID-19 public health emergency. Specifically, the bill provides that these project costs may include, in the discretion of the EDA, the cost or value of land, demolition, and equity contributions, as well as any particular costs for which the project has received State or local funding.

Accordingly, the OLS assumes that the additional tax credits would be made available to certain mixed-use parking projects for which the bill expands the scope of eligible project costs, which are used to calculate the total tax credits issued for the project. However, due to the discretionary nature of this allowance, the OLS is unable to predict how many additional project costs will be approved by the EDA. Regardless, because the bill extends the deadline for the submission of a temporary certificate of occupancy for an eligible project to June 2026, the State revenue losses resulting from the bill could potentially extend to FY 2036.

The OLS also notes that by extending the deadline for municipal redevelopers to obtain temporary certificates of occupancy for approved mixed-use parking projects, the bill increases the likelihood that these projects will satisfy all requirements of the ERG program, thereby allowing the municipal redeveloper to realize the awarded tax credits. Accordingly, the bill may increase the total amount of tax credits that are actually claimed or sold by municipal redevelopers to the extent that the bill allows certain additional mixed-use parking projects to be completed in a timely manner.

Section: Authorities, Utilities, Transportation and Communications Section

*Analyst: Joseph A. Pezzulo
Senior Research Analyst*

*Approved: Thomas Koenig
Legislative Budget and Finance Officer*

This legislative fiscal estimate has been produced by the Office of Legislative Services due to the failure of the Executive Branch to respond to our request for a fiscal note.

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

ASSEMBLY, No. 4068

STATE OF NEW JERSEY 220th LEGISLATURE

INTRODUCED MAY 26, 2022

Sponsored by:

Assemblyman BENJIE E. WIMBERLY

District 35 (Bergen and Passaic)

Assemblywoman SHAVONDA E. SUMTER

District 35 (Bergen and Passaic)

Assemblywoman VERLINA REYNOLDS-JACKSON

District 15 (Hunterdon and Mercer)

SYNOPSIS

Amends requirements for certain mixed use parking projects undertaken by municipal redevelopers under Economic Redevelopment and Growth Grant program.

CURRENT VERSION OF TEXT

As introduced.



A4068 WIMBERLY, SUMTER

2

1 AN ACT concerning mixed use parking projects and amending and
2 supplementing P.L.2009, c.90.

3

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

6

7 1. Section 3 of P.L.2009, c.90 (C.52:27D-489c) is amended to
8 read as follows:

9 3. As used in sections 3 through 18 of P.L.2009, c.90
10 (C.52:27D-489c et al.):

11 "Applicant" means a developer proposing to enter into a
12 redevelopment incentive grant agreement.

13 "Ancillary infrastructure project" means structures or
14 improvements that are located within the incentive area but outside
15 the project area of a redevelopment project, including, but not
16 limited to, docks, bulkheads, parking garages, public electric
17 vehicle charging stations, freight rail spurs, roadway overpasses,
18 and train station platforms, provided a developer or municipal
19 redeveloper has demonstrated that the redevelopment project would
20 not be economically viable or promote the use of public
21 transportation without such improvements, as approved by the State
22 Treasurer.

23 "Authority" means the New Jersey Economic Development
24 Authority established under section 4 of P.L.1974, c.80 (C.34:1B-
25 4).

26 "Aviation district" means all areas within the boundaries of the
27 "Atlantic City International Airport," established pursuant to section
28 24 of P.L.1991, c.252 (C.27:25A-24), and the Federal Aviation
29 Administration William J. Hughes Technical Center and the area
30 within a one-mile radius of the outermost boundary of the "Atlantic
31 City International Airport" and the Federal Aviation Administration
32 William J. Hughes Technical Center.

33 "Deep poverty pocket" means a population census tract having a
34 poverty level of 20 percent or more, and which is located within the
35 incentive area and has been determined by the authority to be an
36 area appropriate for development and in need of economic
37 development incentive assistance.

38 "Developer" means any person who enters or proposes to enter
39 into a redevelopment incentive grant agreement pursuant to the
40 provisions of section 9 of P.L.2009, c.90 (C.52:27D-489i), or its
41 successors or assignees, including but not limited to a lender that
42 completes a redevelopment project, operates a redevelopment
43 project, or completes and operates a redevelopment project. A
44 developer also may be a municipal redeveloper as defined herein or
45 Rutgers, the State University of New Jersey.

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.

1 "Director" means the Director of the Division of Taxation in the
2 Department of the Treasury.

3 "Disaster recovery project" means a redevelopment project
4 located on property that has been wholly or substantially damaged
5 or destroyed as a result of a federally-declared disaster, and which
6 is located within the incentive area and has been determined by the
7 authority to be in an area appropriate for development and in need
8 of economic development incentive assistance.

9 "Distressed municipality" means a municipality that is qualified
10 to receive assistance under P.L.1978, c.14 (C.52:27D-178 et seq.), a
11 municipality under the supervision of the Local Finance Board
12 pursuant to the provisions of the "Local Government Supervision
13 Act (1947)," P.L.1947, c.151 (C.52:27BB-1 et seq.), a municipality
14 identified by the Director of the Division of Local Government
15 Services in the Department of Community Affairs to be facing
16 serious fiscal distress, a SDA municipality, or a municipality in
17 which a major rail station is located.

18 "Electric vehicle charging station" means an electric component
19 assembly or cluster of component assemblies designed specifically
20 to charge batteries within electric vehicles by permitting the transfer
21 of electric energy to a battery or other storage device in an electric
22 vehicle.

23 "Eligibility period" means the period of time specified in a
24 redevelopment incentive grant agreement for the payment of
25 reimbursements to a developer, which period shall not exceed 20
26 years, with the term to be determined solely at the discretion of the
27 applicant.

28 "Eligible revenue" means the property tax increment and any
29 other incremental revenues set forth in section 11 of P.L.2009, c.90
30 (C.52:27D-489k), except in the case of a Garden State Growth
31 Zone, in which the property tax increment and any other
32 incremental revenues are calculated as those incremental revenues
33 that would have existed notwithstanding the provisions of the "New
34 Jersey Economic Opportunity Act of 2013," P.L.2013, c.161
35 (C.52:27D-489p et al.).

36 "Garden State Growth Zone" or "growth zone" means the four
37 New Jersey cities with the lowest median family income based on
38 the 2009 American Community Survey from the US Census, (Table
39 708. Household, Family, and Per Capita Income and Individuals,
40 and Families Below Poverty Level by City: 2009); a municipality
41 which contains a Tourism District as established pursuant to section
42 5 of P.L.2011, c.18 (C.5:12-219) and regulated by the Casino
43 Reinvestment Development Authority; or an aviation district.

44 "Highlands development credit receiving area or redevelopment
45 area" means an area located within an incentive area and designated
46 by the Highlands Council for the receipt of Highlands Development
47 Credits under the Highlands Transfer Development Rights Program
48 authorized under section 13 of P.L.2004, c.120 (C.13:20-13).

1 "Incentive grant" means reimbursement of all or a portion of the
2 project financing gap of a redevelopment project through the State
3 or a local Economic Redevelopment and Growth Grant program
4 pursuant to section 4 or section 5 of P.L.2009, c.90 (C.52:27D-489d
5 or C.52:27D-489e).

6 "Infrastructure improvements in the public right-of-way" mean
7 public structures or improvements, including public electric vehicle
8 charging stations, located in the public right-of-way that are located
9 within a project area or that constitute an ancillary infrastructure
10 project, either of which are dedicated to or owned by a
11 governmental body or agency upon completion, or any required
12 payment in lieu of the structures, improvements or projects, or any
13 costs of remediation associated with the structures, improvements
14 or projects, and that are determined by the authority, in consultation
15 with applicable State agencies, to be consistent with and in
16 furtherance of State public infrastructure objectives and initiatives.

17 "Low-income housing" means housing affordable according to
18 federal Department of Housing and Urban Development or other
19 recognized standards for home ownership and rental costs and
20 occupied or reserved for occupancy by households with a gross
21 household income equal to 50 percent or less of the median gross
22 household income for households of the same size within the
23 housing region in which the housing is located.

24 "Major rail station" means a railroad station located within a
25 qualified incentive area which provides access to the public to a
26 minimum of six rail passenger service lines operated by the New
27 Jersey Transit Corporation.

28 "Mixed use parking project" means a redevelopment project, the
29 parking component of which shall constitute 51 percent or more of
30 any of the following:

- 31 a. the total square footage of the entire mixed use parking
32 project;
- 33 b. the estimated revenues of the entire mixed use parking
34 project; or
- 35 c. the total construction cost of the entire mixed use parking
36 project.

37 "Moderate-income housing" means housing affordable,
38 according to United States Department of Housing and Urban
39 Development or other recognized standards for home ownership
40 and rental costs, and occupied or reserved for occupancy by
41 households with a gross household income equal to more than 50
42 percent but less than 80 percent of the median gross household
43 income for households of the same size within the housing region in
44 which the housing is located.

45 "Municipal redeveloper" means an applicant for a redevelopment
46 incentive grant agreement, which applicant is:

1 a. a municipal government, a municipal parking authority, or a
2 redevelopment agency acting on behalf of a municipal government
3 as defined in section 3 of P.L.1992, c.79 (C.40A:12A-3); or

4 b. a developer of a mixed use parking project, provided that the
5 parking component of the mixed use parking project is operated and
6 maintained by a municipal parking authority for the term of any
7 financial assistance granted pursuant to P.L.2015, c.69.

8 "Municipal Revitalization Index" means the 2007 index by the
9 Office for Planning Advocacy within the Department of State
10 measuring or ranking municipal distress.

11 "Non-parking component" means that portion of a mixed use
12 parking project not used for parking, together with the portion of
13 the costs of the mixed use parking project, including but not limited
14 to the footings, foundations, site work, infrastructure, and soft costs
15 that are allocable to the non-parking use.

16 "Parking component" means that portion of a mixed use parking
17 project used for parking, together with the portion of the costs of
18 the mixed use parking project, including but not limited to the
19 footings, foundations, site work, infrastructure, and soft costs that
20 are allocable to the parking use. The parking component, which
21 may include enclosed pedestrian walkways or a skybridge, may be
22 in the same structure as all the non-parking components or may be
23 in a structure with some non-parking components with the
24 remaining non-parking components in an adjacent or nearby
25 structure that is no more than one third of a mile from the parking
26 components.

27 "Project area" means land or lands located within the incentive
28 area under common ownership or control including through a
29 redevelopment agreement with a municipality, or as otherwise
30 established by a municipality or a redevelopment agreement
31 executed by a State entity to implement a redevelopment project.

32 "Project cost" means the costs incurred in connection with the
33 redevelopment project by the developer until the issuance of a
34 permanent certificate of occupancy, or until such other time
35 specified by the authority, for a specific investment or
36 improvement, including the costs relating to receiving Highlands
37 Development Credits under the Highlands Transfer Development
38 Rights Program authorized pursuant to section 13 of P.L.2004,
39 c.120 (C.13:20-13), lands, buildings, improvements, real or
40 personal property, or any interest therein, including leases
41 discounted to present value, including lands under water, riparian
42 rights, space rights and air rights acquired, owned, developed or
43 redeveloped, constructed, reconstructed, rehabilitated or improved,
44 any environmental remediation costs, plus costs not directly related
45 to construction, of an amount not to exceed 20 percent of the total
46 costs, capitalized interest paid to third parties, and the cost of
47 infrastructure improvements, including ancillary infrastructure
48 projects, and, for projects located in a Garden State Growth Zone

1 only, the cost of infrastructure improvements including any
2 ancillary infrastructure project and the amount by which total
3 project cost exceeds the cost of an alternative location for the
4 redevelopment project, but excluding any particular costs for which
5 the project has received federal, State, or local funding. For mixed
6 use parking projects only, project costs shall include any particular
7 costs for which the project has received federal, State, or local
8 funding.

9 "Project financing gap" means:

10 a. the part of the total project cost, including return on
11 investment, that remains to be financed after all other sources of
12 capital have been accounted for, including, but not limited to,
13 developer-contributed capital, which shall not be less than 20
14 percent of the total project cost, which may include the value of any
15 existing land and improvements in the project area owned or
16 controlled by the developer, and the cost of infrastructure
17 improvements in the public right-of-way, subject to review by the
18 State Treasurer, and investor or financial entity capital or loans for
19 which the developer, after making all good faith efforts to raise
20 additional capital, certifies that additional capital cannot be raised
21 from other sources on a non-recourse basis; and

22 b. the amount by which total project cost exceeds the cost of an
23 alternative location for the out-of-State redevelopment project.

24 "Project revenue" means all rents, fees, sales, and payments
25 generated by a project, less taxes or other government payments.

26 "Property tax increment" means the amount obtained by:

27 a. multiplying the general tax rate levied each year by the
28 taxable value of all the property assessed within a project area in
29 the same year, excluding any special assessments; and

30 b. multiplying that product by a fraction having a numerator
31 equal to the taxable value of all the property assessed within the
32 project area, minus the property tax increment base, and having a
33 denominator equal to the taxable value of all property assessed
34 within the project area.

35 For the purpose of this definition, "property tax increment base"
36 means the aggregate taxable value of all property assessed which is
37 located within the redevelopment project area as of October 1st of
38 the year preceding the year in which the redevelopment incentive
39 grant agreement is authorized.

40 "Public electric vehicle charging station" means an electric
41 vehicle charging station located at a publicly available parking
42 space.

43 "Public hydrogen fueling station" means publicly available
44 equipment to store and dispense hydrogen fuel to vehicles
45 according to industry codes and standards.

46 "Publicly available parking space" means a parking space that is
47 available to, and accessible by, the public and may include on-street
48 parking spaces and parking spaces in surface lots or parking

1 garages, but shall not include: a parking space that is part of, or
2 associated with, a private residence; or a parking space that is
3 reserved for the exclusive use of an individual driver or vehicle or
4 for a group of drivers or vehicles, such as employees, tenants,
5 visitors, residents of a common interest development, or residents
6 of an adjacent building.

7 "Qualified incubator facility" means a commercial building
8 located within an incentive area: which contains 100,000 or more
9 square feet of office, laboratory, or industrial space; which is
10 located near, and presents opportunities for collaboration with, a
11 research institution, teaching hospital, college, or university; and
12 within which, at least 75 percent of the gross leasable area is
13 restricted for use by one or more technology startup companies
14 during the commitment period.

15 "Qualified residential project" means a redevelopment project
16 that is predominantly residential and includes multi-family
17 residential units for purchase or lease, or dormitory units for
18 purchase or lease, having a total project cost of at least
19 \$17,500,000, if the project is located in any municipality with a
20 population greater than 200,000 according to the latest federal
21 decennial census, or having a total project cost of at least
22 \$10,000,000 if the project is located in any municipality with a
23 population less than 200,000 according to the latest federal
24 decennial census, or is a disaster recovery project, or having a total
25 project cost of \$5,000,000 if the project is in a Garden State Growth
26 Zone.

27 "Qualifying economic redevelopment and growth grant incentive
28 area" or "incentive area" means:

- 29 a. an aviation district;
30 b. a port district;
31 c. a distressed municipality; or
32 d. an area (1) designated pursuant to the "State Planning Act,"
33 P.L.1985, c.398 (C.52:18A-196 et seq.), as:

- 34 (a) Planning Area 1 (Metropolitan);
35 (b) Planning Area 2 (Suburban); or
36 (c) Planning Area 3 (Fringe Planning Area);
37 (2) located within a smart growth area and planning area
38 designated in a master plan adopted by the New Jersey
39 Meadowlands Commission pursuant to subsection (i) of section 6 of
40 P.L.1968, c.404 (C.13:17-6) or subject to a redevelopment plan
41 adopted by the New Jersey Meadowlands Commission pursuant to
42 section 20 of P.L.1968, c.404 (C.13:17-21);

- 43 (3) located within any land owned by the New Jersey Sports and
44 Exposition Authority, established pursuant to P.L.1971, c.137
45 (C.5:10-1 et seq.), within the boundaries of the Hackensack
46 Meadowlands District as delineated in section 4 of P.L.1968, c.404
47 (C.13:17-4);

- 1 (4) located within a regional growth area, rural development
2 area zoned for industrial use as of the effective date of P.L.2016,
3 c.75, town, village, or a military and federal installation area
4 designated in the comprehensive management plan prepared and
5 adopted by the Pinelands Commission pursuant to the "Pinelands
6 Protection Act," P.L.1979, c.111 (C.13:18A-1 et seq.);
- 7 (5) located within the planning area of the Highlands Region as
8 defined in section 3 of P.L.2004, c.120 (C.13:20-3) or in a
9 highlands development credit receiving area or redevelopment area;
- 10 (6) located within a Garden State Growth Zone;
- 11 (7) located within land approved for closure under any federal
12 Base Closure and Realignment Commission action; or
- 13 (8) located only within the following portions of the areas
14 designated pursuant to the "State Planning Act," P.L.1985, c.398
15 (C.52:18A-196 et al.), as Planning Area 4A (Rural Planning Area),
16 Planning Area 4B (Rural/Environmentally Sensitive) or Planning
17 Area 5 (Environmentally Sensitive) if Planning Area 4A (Rural
18 Planning Area), Planning Area 4B (Rural/Environmentally
19 Sensitive) or Planning Area 5 (Environmentally Sensitive) is
20 located within:
 - 21 (a) a designated center under the State Development and
22 Redevelopment Plan;
 - 23 (b) a designated growth center in an endorsed plan until the
24 State Planning Commission revises and readopts New Jersey's State
25 Strategic Plan and adopts regulations to revise this definition as it
26 pertains to Statewide planning areas;
 - 27 (c) any area determined to be in need of redevelopment pursuant
28 to sections 5 and 6 of P.L.1992, c.79 (C.40A:12A-5 and
29 C.40A:12A-6) or in need of rehabilitation pursuant to section 14 of
30 P.L.1992, c.79 (C.40A:12A-14);
 - 31 (d) any area on which a structure exists or previously existed
32 including any desired expansion of the footprint of the existing or
33 previously existing structure provided the expansion otherwise
34 complies with all applicable federal, State, county, and local
35 permits and approvals;
 - 36 (e) the planning area of the Highlands Region as defined in
37 section 3 of P.L.2004, c.120 (C.13:20-3) or a highlands
38 development credit receiving area or redevelopment area; or
 - 39 (f) any area on which an existing tourism destination project is
40 located.
- 41 "Qualifying economic redevelopment and growth grant incentive
42 area" or "incentive area" shall not include any property located
43 within the preservation area of the Highlands Region as defined in
44 the "Highlands Water Protection and Planning Act," P.L.2004,
45 c.120 (C.13:20-1 et al.).
- 46 "Redevelopment incentive grant agreement" means an agreement
47 between:

1 a. the State and the New Jersey Economic Development
2 Authority and a developer; or

3 b. a municipality and a developer, or a municipal ordinance
4 authorizing a project to be undertaken by a municipal redeveloper,
5 under which, in exchange for the proceeds of an incentive grant, the
6 developer agrees to perform any work or undertaking necessary for
7 a redevelopment project, including the clearance, development or
8 redevelopment, construction, or rehabilitation of any structure or
9 improvement of commercial, industrial, residential, or public
10 structures or improvements within a qualifying economic
11 redevelopment and growth grant incentive area or a transit village.

12 "Redevelopment project" means a specific construction project
13 or improvement, including lands, buildings, improvements, real and
14 personal property or any interest therein, including lands under
15 water, riparian rights, space rights and air rights, acquired, owned,
16 leased, developed or redeveloped, constructed, reconstructed,
17 rehabilitated or improved, undertaken by a developer, owner or
18 tenant, or both, within a project area and any ancillary infrastructure
19 project including infrastructure improvements in the public right-of-
20 way, as set forth in an application to be made to the authority. The
21 use of the term "redevelopment project" in sections 3 through 18 of
22 P.L.2009, c.90 (C.52:27D-489c et al.) shall not be limited to only
23 redevelopment projects located in areas determined to be in need of
24 redevelopment pursuant to sections 5 and 6 of P.L.1992, c.79
25 (C.40A:12A-5 and C.40A:12A-6) but shall also include, but not be
26 limited to, any work or undertaking in accordance with the
27 "Redevelopment Area Bond Financing Law," sections 1 through 10
28 of P.L.2001, c.310 (C.40A:12A-64 et seq.) or other applicable law,
29 pursuant to a redevelopment plan adopted by a State entity, or as
30 described in the resolution adopted by a public entity created by
31 State law with the power to adopt a redevelopment plan or
32 otherwise determine the location, type and character of a
33 redevelopment project or part of a redevelopment project on land
34 owned or controlled by it or within its jurisdiction, including but
35 not limited to, the New Jersey Meadowlands Commission
36 established pursuant to P.L.1968, c.404 (C.13:17-1 et seq.), the
37 New Jersey Sports and Exposition Authority established pursuant to
38 P.L.1971 c.137 (C.5:10-1 et seq.) and the Fort Monmouth
39 Economic Revitalization Authority created pursuant to P.L.2010,
40 c.51 (C.52:27I-18 et seq.). A redevelopment project may include
41 the development of zero-emission vehicle fueling and charging
42 infrastructure.

43 "Redevelopment utility" means a self-liquidating fund created by
44 a municipality pursuant to section 12 of P.L.2009, c.90 (C.52:27D-
45 489l) to account for revenues collected and incentive grants paid
46 pursuant to section 11 of P.L.2009, c.90 (C.52:27D-489k), or other
47 revenues dedicated to a redevelopment project.

1 "Revenue increment base" means the amounts of all eligible
2 revenues from sources within the redevelopment project area in the
3 calendar year proceeding the year in which the redevelopment
4 incentive grant agreement is executed, as certified by the State
5 Treasurer for State revenues, and the chief financial officer of the
6 municipality for municipal revenues.

7 "SDA district" means an SDA district as defined in section 3 of
8 P.L.2000, c.72 (C.18A:7G-3).

9 "SDA municipality" means a municipality in which an SDA
10 district is situated.

11 "Technology startup company" means a for profit business that
12 has been in operation fewer than five years and is developing or
13 possesses a proprietary technology or business method of a high-
14 technology or life science-related product, process, or service which
15 the business intends to move to commercialization.

16 "Tourism destination project" means a redevelopment project
17 that will be among the most visited privately owned or operated
18 tourism or recreation sites in the State, and which is located within
19 the incentive area and has been determined by the authority to be in
20 an area appropriate for development and in need of economic
21 development incentive assistance.

22 "Transit project" means a redevelopment project located within a
23 1/2-mile radius, or one-mile radius for projects located in a Garden
24 State Growth Zone, surrounding the mid-point of a New Jersey
25 Transit Corporation, Port Authority Transit Corporation, or Port
26 Authority Trans-Hudson Corporation rail, bus, or ferry station
27 platform area, including all light rail stations.

28 "Transit village" means a community with a bus, train, light rail,
29 or ferry station that has developed a plan to achieve its economic
30 development and revitalization goals and has been designated by
31 the New Jersey Department of Transportation as a transit village.

32 "University infrastructure" means any of the following located
33 on the campus of Rutgers, the State University of New Jersey:

34 a. buildings and structures, such as academic buildings,
35 recreation centers, indoor athletic facilities, public works garages,
36 and water and sewer treatment and pumping facilities;

37 b. open space with improvements, such as athletic fields and
38 other outdoor athletic facilities, planned commons, and parks; and

39 c. transportation facilities, such as bus shelters and parking
40 facilities.

41 "Urban transit hub" means an urban transit hub, as defined in
42 section 10 of P.L.2007, c.346 (C.34:1B-208), that is located within
43 an eligible municipality, as defined in section 10 of P.L.2007, c.346
44 (C.34:1B-208), or all light rail stations and property located within
45 a one-mile radius of the mid-point of the platform area of such a
46 rail, bus, or ferry station if the property is in a qualified
47 municipality under the "Municipal Rehabilitation and Economic
48 Recovery Act," P.L.2002, c.43 (C.52:27BBB-1 et al.).

1 "Vacant commercial building" means any commercial building
2 or complex of commercial buildings having over 400,000 square
3 feet of office, laboratory, or industrial space that is more than 70
4 percent unoccupied at the time of application to the authority or is
5 negatively impacted by the approval of a "qualified business
6 facility," as defined pursuant to section 2 of P.L.2007, c.346
7 (C.34:1B-208), or any vacant commercial building in a Garden
8 State Growth Zone having over 35,000 square feet of office,
9 laboratory, or industrial space, or over 200,000 square feet of
10 office, laboratory, or industrial space in Atlantic, Burlington,
11 Camden, Cape May, Cumberland, Gloucester, Ocean, or Salem
12 counties available for occupancy for a period of over one year.

13 "Vacant health facility project" means a redevelopment project
14 where a health facility, as defined by section 2 of P.L.1971, c.136
15 (C.26:2H-2), currently exists and is considered vacant. A health
16 facility shall be considered vacant if at least 70 percent of that
17 facility has not been open to the public or utilized to serve any
18 patients at the time of application to the authority.

19 "Zero-emission vehicle" means a vehicle certified as a zero
20 emission vehicle pursuant to the California Air Resources Board
21 zero emission vehicle standards for the applicable model year,
22 including but not limited to, battery electric-powered vehicles and
23 hydrogen fuel cell vehicles.

24 "Zero-emission vehicle fueling and charging infrastructure"
25 means infrastructure to charge or fuel zero-emission vehicles,
26 including but not limited to, public electric vehicle charging
27 stations and public hydrogen fueling stations.

28 (cf: P.L.2021, c.168, s.6)

29

30 2. (New section) Notwithstanding any provision of the "New
31 Jersey Economic Stimulus Act of 2009," P.L.2009, c.90 (C.52:27D-
32 489a et al.) to the contrary, the following provisions shall apply to
33 any mixed use parking project to be undertaken by a municipal
34 redeveloper after the effective date of P.L. , c. (C.)
35 (pending before the Legislature as this bill), for which a
36 redevelopment incentive grant is awarded:

37 a. A municipal redeveloper shall submit a temporary certificate
38 of occupancy for any proposed mixed use parking project no later
39 than June 30, 2026.

40 b. (1) Except as provided in paragraph (2) of this subsection, a
41 redevelopment incentive grant award shall be equal to 100 percent
42 of the total project costs allocated to the parking component of the
43 project and 40 percent of the total project costs allocated to the non-
44 parking component of a proposed mixed use parking project.

45 (2) A redevelopment incentive grant award shall be equal to 100
46 percent of the total project costs allocated to the parking component
47 of the project and 80 percent of the total project costs allocated to

1 the non-parking component of the mixed use parking project if the
2 mixed use parking project is:

3 (a) constructed upon all or a portion of a project site that was
4 previously the subject of an award of tax credits pursuant to the
5 “Urban Transit Hub Tax Credit Act,” P.L.2007, c. 346 (C.34:1B-
6 207 et seq.) or the “New Jersey Economic Stimulus Act of 2009,”
7 P.L.2009, c. 90 (C.52:27D-489a et al.), but the tax credits were not
8 issued; or

9 (b) constructed to be utilized by a visitor center or youth center
10 within or adjacent to a national historic park.

11 c. A municipal redeveloper shall not be required to
12 demonstrate a project financing gap to the authority and shall not be
13 required to provide an equity contribution with respect to the
14 parking component of the mixed use parking project.

15 d. The terms of any approval, granted by the authority, for a
16 proposed mixed use parking project undertaken by a municipal
17 redeveloper, which has not yet commenced construction activities,
18 shall automatically be modified to reflect the terms established
19 pursuant to P.L. , c. (C.) (pending before the Legislature as
20 this bill), without necessitating any further action by the authority.
21 All dates of required action by municipal redeveloper contained in
22 an approval, granted by the authority, shall be automatically
23 extended by the thirty-month period corresponding to the temporary
24 certificate of occupancy submission date established by subsection
25 a. of this section.

26 For the purposes of this subsection, demolition and site work
27 shall not constitute the commencement of construction activities.

28 e. All proposed mixed use parking projects shall comply with
29 Leadership in Energy and Environmental Design (LEED) standards,
30 to the extent that the United States Green Building Council shall
31 have promulgated standards for the project type proposed.

32

33 3. This act shall take effect immediately.

34

35

36

STATEMENT

37

38 This bill modifies the requirements for certain proposed mixed
39 use parking projects undertaken by municipal redevelopers under
40 the Economic Redevelopment and Growth Grant program.

41 The bill amends the definition of “project cost” under existing
42 law to include any particular costs for which the project has
43 received federal, State, or local funding and creates new
44 requirements to apply to any proposed mixed use parking project,
45 for which a redevelopment incentive grant is awarded, that is to be
46 undertaken by a municipal redeveloper after the effective date bill.

1 Under the bill, a municipal redeveloper is required to submit a
2 temporary certificate of occupancy for any proposed mixed use
3 parking project no later than June 30, 2026.

4 The bill provides for redevelopment incentive grant awards of
5 equal to 100 percent of the total project costs for the parking
6 component and 40 percent of the total project costs for the non-
7 parking component of a mixed use parking project. However
8 redevelopment incentive grant awards are to be equal to 100 percent
9 of the total project costs for the parking component and 80 percent
10 for the non-parking component, if the mixed use parking project is:
11 1) constructed upon all or a portion of a project site that was
12 previously awarded tax credits pursuant to the “Urban Transit Hub
13 Tax Credit Act” or the “New Jersey Economic Stimulus Act of
14 2009,” but those tax credits were not issued; or 2) constructed to be
15 utilized by a visitor center or youth center within or adjacent to a
16 national historic park.

17 The bill does not require municipal redevelopers to demonstrate
18 a project financing gap to the New Jersey Economic Development
19 Authority (authority) or provide an equity contribution with respect
20 to the parking component.

21 The terms of any approval, granted by the authority, for a
22 proposed mixed use parking project undertaken by a municipal
23 redeveloper, which has not yet commenced construction activities,
24 are to automatically be modified to reflect the terms established by
25 this bill, without necessitating any further action by the authority.
26 All dates of required action by the municipal redeveloper contained
27 in an approval are to be automatically extended by the thirty-month
28 period corresponding to the temporary certificate of occupancy
29 submission date established by the bill. For the purposes of the bill,
30 demolition and site work does not constitute the commencement of
31 construction activities.

32 Finally, the bill provides that all proposed mixed use parking
33 projects are to comply with Leadership in Energy and
34 Environmental Design (LEED) standards, to the extent that the
35 United States Green Building Council has promulgated standards
36 for the project type proposed.

37 It is the sponsor’s intent to facilitate the construction of
38 structured parking where undertaken or operated by a public body,
39 as the construction of such structured parking is necessary to
40 facilitate the effective redevelopment of densely populated areas,
41 yet in many instances the cost of such construction has become
42 prohibitive.

ASSEMBLY SPECIAL COMMITTEE ON INFRASTRUCTURE
AND NATURAL RESOURCES

STATEMENT TO
ASSEMBLY, No. 4068

with committee amendments

STATE OF NEW JERSEY

DATED: JUNE 13, 2022

The Assembly Special Committee on Infrastructure and Natural Resources reports favorably and with committee amendments Assembly Bill No. 4068.

As amended by the committee, this bill would modify certain requirements of the Economic Redevelopment and Growth Grant (ERG) program for mixed-use parking projects undertaken by municipal redevelopers.

The bill amends the definition of “project cost” for any mixed-use parking project that is undertaken by a municipal redeveloper and that did not commence construction before the declaration of the COVID-19 public health emergency on March 9, 2020. For these projects, project costs would also include any particular costs for which the project has received federal, State, or local funding.

Additionally, the bill specifies that the redevelopment incentive grant awarded for these projects would equal 100 percent of the total project costs for the parking component and 40 percent of the total project costs for the non-parking component of the mixed-use parking project. However, the bill also clarifies that the grant award would equal 100 percent of the total project costs for the parking component and 80 percent for the non-parking component if the mixed-use parking project is: (1) constructed upon all or a portion of a project site that was previously awarded tax credits pursuant to the “Urban Transit Hub Tax Credit Act” or the “New Jersey Economic Stimulus Act of 2009,” but those tax credits were not issued; (2) an entertainment venue with seating capacity in excess of 5,000; or (3) constructed to be utilized by a visitor center or youth center within or adjacent to a national historic park.

Under the bill, a municipal redeveloper of a mixed-use parking project would be required to submit a temporary certificate of occupancy for the project no later than June 30, 2026. The bill also provides that municipal redevelopers would not be required to demonstrate a project financing gap to the New Jersey Economic Development Authority (EDA) or provide an equity contribution with respect to the parking component of the project.

The bill provides that the terms of any approval granted by the EDA for a mixed-use parking project undertaken by a municipal redeveloper, which project has not yet commenced construction activities other than demolition or site work, would be automatically modified to reflect the terms established by this bill, without necessitating any further action by the EDA. All dates of required action by the municipal redeveloper contained in an approval would be automatically extended by the 30-month period corresponding to the temporary certificate of occupancy submission date established by the bill.

Finally, the bill provides that all proposed mixed-use parking projects are required to comply with Leadership in Energy and Environmental Design (LEED) standards to the extent that the United States Green Building Council has promulgated standards for the project type proposed.

COMMITTEE AMENDMENTS:

The committee amendments provide that the expanded definition of “project cost,” which includes particular costs for which a project received federal, State, or local funding, would only apply to mixed-use parking projects that are undertaken by municipal redevelopers and that did not commence construction before the declaration of the COVID-19 public health emergency on March 9, 2020. As introduced, this definition would have applied to all mixed-use parking projects approved under the ERG program.

As provided under current law, the amendments also provide that if a municipal redeveloper undertakes a mixed-use parking project that would be an entertainment venue with seating capacity in excess of 5,000, then the municipal redeveloper would receive a redevelopment incentive grant based on 100 percent of the eligible project costs allocated to the parking component of the project and 80 percent of the eligible project costs allocated to the non-parking component of the project.

The amendments also clarify that the terms of any approval granted by the EDA for a mixed-use parking project undertaken by a municipal redeveloper, which project has not yet commenced construction activities other than demolition or site work, would be automatically modified to reflect the terms established by this bill, without necessitating any further action by the EDA.

ASSEMBLY APPROPRIATIONS COMMITTEE

STATEMENT TO

[First Reprint]

ASSEMBLY, No. 4068

STATE OF NEW JERSEY

DATED: JUNE 14, 2022

The Assembly Appropriations Committee reports favorably Assembly Bill No. 4068 (1R).

This bill modifies the requirements for certain proposed mixed use parking projects undertaken by municipal redevelopers under the Economic Redevelopment and Growth Grant program.

The bill amends the definition of “project cost” for any mixed-use parking project that is undertaken by a municipal redeveloper and that did not commence construction before the declaration of the COVID-19 public health emergency on March 9, 2020. For these projects, project costs would also include any particular costs for which the project has received federal, State, or local funding.

Additionally, the bill specifies that the redevelopment incentive grant awarded for these projects would equal 100 percent of the total project costs for the parking component and 40 percent of the total project costs for the non-parking component of the mixed-use parking project. However, the bill also clarifies that the grant award would equal 100 percent of the total project costs for the parking component and 80 percent for the non-parking component if the mixed-use parking project is: (1) constructed upon all or a portion of a project site that was previously awarded tax credits pursuant to the “Urban Transit Hub Tax Credit Act” or the “New Jersey Economic Stimulus Act of 2009,” but those tax credits were not issued; (2) an entertainment venue with seating capacity in excess of 5,000; or (3) constructed to be utilized by a visitor center or youth center within or adjacent to a national historic park.

Under the bill, a municipal redeveloper of a mixed-use parking project would be required to submit a temporary certificate of occupancy for the project no later than June 30, 2026. The bill also provides that municipal redevelopers would not be required to demonstrate a project financing gap to the New Jersey Economic Development Authority (EDA) or provide an equity contribution with respect to the parking component of the project.

The bill provides that the terms of any approval granted by the EDA for a mixed-use parking project undertaken by a municipal redeveloper, which project has not yet commenced construction activities other than demolition or site work, would be

automatically modified to reflect the terms established by this bill, without necessitating any further action by the EDA. All dates of required action by the municipal redeveloper contained in an approval would be automatically extended by the 30-month period corresponding to the temporary certificate of occupancy submission date established by the bill.

Finally, the bill provides that all proposed mixed-use parking projects are required to comply with Leadership in Energy and Environmental Design (LEED) standards to the extent that the United States Green Building Council has promulgated standards for the project type proposed.

FISCAL IMPACT:

The Office of Legislative Services (OLS) concludes that this bill would decrease State revenues by an indeterminate amount because the bill expands the scope of costs for which municipal redevelopers of mixed-use parking projects can qualify for tax credits under the Economic Redevelopment and Growth Grant Program. The State revenue loss will begin at an indeterminate time and will depend on when certain project milestones are met, but in no case will the loss extend beyond FY 2036.

LEGISLATIVE FISCAL ESTIMATE

[First Reprint]

ASSEMBLY, No. 4068

STATE OF NEW JERSEY 220th LEGISLATURE

DATED: JUNE 20, 2022

SUMMARY

- Synopsis:** Amends requirements for certain mixed use parking projects undertaken by municipal redevelopers under Economic Redevelopment and Growth Grant program.
- Type of Impact:** Annual decrease in State revenues.
- Agencies Affected:** New Jersey Economic Development Authority.

Office of Legislative Services Estimate

Annual Fiscal Impact	
State Revenue Decrease	Indeterminate

- The Office of Legislative Services (OLS) concludes that the bill would decrease annual State revenues by an indeterminate amount by expanding the scope of eligible project costs for which municipal redevelopers of mixed-use parking projects can qualify for tax credits under the New Jersey Economic Redevelopment and Growth (ERG) Program.
- Under the ERG program, the New Jersey Economic Development Authority (EDA) may issue tax credits to the redevelopers of mixed-use parking projects, which credits can be claimed over the 10-year period following the issuance of a certificate of occupancy for the project. Because the bill extends the deadline for the submission of a temporary certificate of occupancy for an eligible project to June 2026, the State revenue losses resulting from the bill could potentially extend to FY 2036.

BILL DESCRIPTION

This bill modifies certain requirements of the ERG program for mixed-use parking projects undertaken by municipal redevelopers.

The bill amends the definition of “project cost” for any mixed-use parking project that is undertaken by a municipal redeveloper and that did not commence construction before the

declaration of the COVID-19 public health emergency on March 9, 2020. For these projects, project costs would also include any particular costs for which the project has received federal, State, or local funding.

Additionally, the bill specifies that the redevelopment incentive grant awarded for these projects would equal 100 percent of the total project costs for the parking component and 40 percent of the total project costs for the non-parking component of the mixed-use parking project. However, the bill also clarifies that the grant award would equal 100 percent of the total project costs for the parking component and 80 percent for the non-parking component if the mixed-use parking project is: (1) constructed upon all or a portion of a project site that was previously awarded tax credits pursuant to the Urban Transit Hub Tax Credit Act or the New Jersey Economic Stimulus Act of 2009, but those tax credits were not issued; (2) an entertainment venue with seating capacity in excess of 5,000; or (3) constructed to be utilized by a visitor center or youth center within or adjacent to a national historic park.

Under the bill, a municipal redeveloper of a mixed-use parking project would be required to submit a temporary certificate of occupancy for the project no later than June 30, 2026. The bill also provides that municipal redevelopers would not be required to demonstrate a project financing gap to the EDA or provide an equity contribution with respect to the parking component of the project.

The bill provides that the terms of any approval granted by the EDA for a mixed-use parking project undertaken by a municipal redeveloper, which project has not yet commenced construction activities other than demolition or site work, would be automatically modified to reflect the terms established by this bill, without necessitating any further action by the EDA. All dates of required action by the municipal redeveloper contained in an approval would be automatically extended by the 30-month period corresponding to the temporary certificate of occupancy submission date established by the bill.

Finally, the bill provides that all proposed mixed-use parking projects are required to comply with LEED standards to the extent that the United States Green Building Council has promulgated standards for the project type proposed.

FISCAL ANALYSIS

EXECUTIVE BRANCH

None received.

OFFICE OF LEGISLATIVE SERVICES

The OLS concludes that the bill will decrease annual State revenues by an indeterminate amount by expanding the scope of eligible project costs for which municipal redevelopers of mixed-use parking projects can qualify for tax credits under the ERG program.

Under the ERG program, the EDA may issue tax credits to the redevelopers of mixed-use parking projects, which credits can be claimed over the 10-year period following the issuance of a certificate of occupancy for the project. Notably, the amount of tax credits awarded for a project is determined based on a percentage of the project's total eligible costs. Consequently, by expanding the definition of "project costs" for certain mixed-use parking projects to include particular costs supported by federal, State, or local funding, the bill would increase the amount of credits awarded to an eligible mixed-use parking project that received such funding. Moreover, because the bill extends the deadline for the submission of a temporary certificate of occupancy

for an eligible project to June 2026, the State revenue losses resulting from the bill could potentially extend to FY 2036.

The OLS also notes that by extending the deadline for municipal redevelopers to obtain temporary certificates of occupancy for approved mixed-use parking projects, the bill increases the likelihood that these projects will satisfy all requirements of the ERG program, thereby allowing the municipal redeveloper to realize the awarded tax credits. Accordingly, the bill may increase the total amount of tax credits that are actually claimed or sold by municipal redevelopers to the extent that the bill allows certain additional mixed-use parking projects to be completed in a timely manner.

Section: Authorities, Utilities, Transportation and Communications Section

*Analyst: Joseph A. Pezzulo
Senior Research Analyst*

*Approved: Thomas Koenig
Legislative Budget and Finance Officer*

This legislative fiscal estimate has been produced by the Office of Legislative Services due to the failure of the Executive Branch to respond to our request for a fiscal note.

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

ASSEMBLY BUDGET COMMITTEE

STATEMENT TO

[First Reprint]

ASSEMBLY, No. 4068

with committee amendments

STATE OF NEW JERSEY

DATED: JUNE 27, 2022

The Assembly Budget Committee reports favorably Assembly Bill No. 4068 (1R), with committee amendments.

As amended and reported, this bill increases the total tax credits available by the New Jersey Economic Development Authority (EDA) under the Economic Redevelopment and Growth Grant (ERG) program by \$25 million. The bill also modifies requirements for certain mixed-use parking projects undertaken by municipal redevelopers under the ERG program.

Notably, the \$25 million increase in the total tax credits available under the ERG Program by \$25 million, which credits would be made available to certain qualified residential projects and mixed-use parking projects that are located in Garden State Growth Zones having a population in excess of 125,000. The bill also extends the deadlines by which certain developers may submit a letter of support from the host municipality until December 31, 2022.

The bill amends the definition of “project cost” for any mixed-use parking project that is undertaken by a municipal redeveloper and that did not commence construction before the declaration of the COVID-19 public health emergency on March 9, 2020. For these projects, project costs may include, in the discretion of the EDA, the cost or value of land, demolition, and equity contributions, as well as any particular costs for which the project has received State or local funding.

Under the bill, a municipal redeveloper of a mixed-use parking project would be required to submit a temporary certificate of occupancy for the project no later than June 30, 2026. In the case of certain projects approved after the effective date of P.L.2017, c.59, the bill also extends the deadline to submit a temporary certificate of occupancy until June 30, 2026.

Additionally, the bill specifies that the redevelopment incentive grant awarded for these projects would equal 100 percent of the total project costs for the parking component and 40 percent of the total project costs for the non-parking component of the mixed-use parking project. However, the bill also clarifies that the grant award would

equal 100 percent of the total project costs for the parking component and 80 percent for the non-parking component if the mixed-use parking project is: (1) constructed upon all or a portion of a project site that was previously awarded tax credits pursuant to the “Urban Transit Hub Tax Credit Act” or the “New Jersey Economic Stimulus Act of 2009,” but those tax credits were not issued; (2) an entertainment venue with seating capacity in excess of 5,000; or (3) constructed to be utilized by a visitor center or youth center within or adjacent to a national historic park.

The bill provides that the terms of any approval by the EDA may be modified upon application to the EDA for review and approval, provided, however, the developer would not be required to pay a fee for the modification.

Lastly, the bill provides that all proposed mixed-use parking projects are required to comply with Leadership in Energy and Environmental Design (LEED) standards to the extent that the United States Green Building Council has promulgated standards for the project type proposed.

COMMITTEE AMENDMENTS:

The committee amendments:

(1) increase the total tax credits available under the ERG Program by \$25 million, which credits would be available for certain qualified residential projects and mixed-use parking projects that are located in Garden State Growth Zones having a population in excess of 125,000;

(2) extend, from December 31, 2021 to December 31, 2022, the deadline by which certain developers are required to submit a letter of support from the host municipality to the EDA;

(3) extend, from December 31, 2023 to June 30, 2026, the deadline by which certain projects approved after the effective date of P.L.2017, c.59 are required to submit a temporary certificate of occupancy;

(4) revise the scope of “project costs” for mixed-use parking projects undertaken by municipal redevelopers, which did not commence construction before the declaration of the COVID-19 public health emergency. Specifically, the amendments provide that “project costs” may include, in the discretion of the EDA, the cost or value of land, demolition, and equity contributions, as well as any particular costs for which the project has received State or local funding;

(5) remove a provision of the bill that would have exempted municipal redevelopers from the requirements to demonstrate a project financing gap and provide an equity contribution with respect to the parking component of the project; and

(6) provide that the terms of any approval by the EDA for a proposed mixed-use parking project undertaken by a municipal

redeveloper may be modified upon application to the EDA, not automatically as previously required under the bill, except that the developer would not be required to pay a fee for the modification.

FISCAL IMPACT:

The Office of Legislative Services (OLS) concludes that this bill would decrease total State revenues by up to \$25 million by allowing the New Jersey Economic Development Authority (EDA) to issue additional tax credits under the Economic Redevelopment and Growth Program.

The additional tax credits would be restricted to certain qualified residential projects and mixed-use parking projects that are located in Garden State Growth Zones having a population in excess of 125,000. However, the bill does not extend the deadline by which developers or municipal redevelopers may apply for these tax credits. Instead, the bill extends the deadlines to submit certain program documents for certain projects that applied to the EDA before December 31, 2021.

The bill also expands the scope of “project costs” for certain mixed-use parking projects undertaken by municipal redevelopers, and which did not commence construction before the declaration of the COVID-19 public health emergency. Specifically, the bill provides that these project costs may include, in the discretion of the EDA, the cost or value of land, demolition, and equity contributions, as well as any particular costs for which the project has received State or local funding.

Accordingly, the OLS assumes that the additional tax credits would be made available to certain mixed-use parking project for which the bill expands the scope of eligible project costs, which costs are used to calculate the total tax credits issued for the project. However, due to the discretionary nature of this allowance, the OLS is unable to predict how many additional project costs will be approved by the EDA.

Regardless, the State revenue loss resulting from the bill would begin at an indeterminate time and would depend on when certain project milestones are met, but in no case will the loss extend beyond FY 2036.

LEGISLATIVE FISCAL ESTIMATE

[Second Reprint]

ASSEMBLY, No. 4068

STATE OF NEW JERSEY 220th LEGISLATURE

DATED: JULY 1, 2022

SUMMARY

- Synopsis:** Amends requirements for certain mixed use parking projects undertaken by municipal redevelopers under Economic Redevelopment and Growth Grant program; increases total available tax credits by \$25 million.
- Type of Impact:** Annual decrease in State revenues.
- Agencies Affected:** New Jersey Economic Development Authority.

Office of Legislative Services Estimate

Fiscal Impact	Total Impact
State Revenue Decrease	Up to \$25 Million

- The Office of Legislative Services (OLS) concludes that the bill would decrease total State revenues by up to \$25 million by allowing the New Jersey Economic Development Authority (EDA) to issue additional tax credits under the Economic Redevelopment and Growth (ERG) Program. The OLS assumes that the additional tax credits would be made available to certain mixed-use parking projects for which the bill expands the scope of eligible project costs.
- Under the ERG program, the EDA may issue tax credits to the redevelopers of mixed-use parking projects, which credits can be claimed over the 10-year period following the issuance of a certificate of occupancy for the project. Because the bill extends the deadline for the submission of a temporary certificate of occupancy for an eligible project to June 2026, the State revenue losses resulting from the bill could potentially extend to FY 2036.

BILL DESCRIPTION

This bill increases the total tax credits available by the EDA under the ERG program by \$25 million. The bill also modifies requirements for certain mixed-use parking projects undertaken by municipal redevelopers under the ERG program.

The \$25 million increase in the total tax credits available under the ERG Program would be made available to certain qualified residential projects and mixed-use parking projects that are located in Garden State Growth Zones having a population in excess of 125,000. The bill also extends the deadlines by which certain developers may submit a letter of support from the host municipality until December 31, 2022.

The bill amends the definition of “project cost” for any mixed-use parking project that is undertaken by a municipal redeveloper and that did not commence construction before the declaration of the COVID-19 public health emergency on March 9, 2020. For these projects, project costs may include, in the discretion of the EDA, the cost or value of land, demolition, and equity contributions, as well as any particular costs for which the project has received State or local funding.

Under the bill, a municipal redeveloper of a mixed-use parking project would be required to submit a temporary certificate of occupancy for the project no later than June 30, 2026. In the case of certain projects approved after the effective date of P.L.2017, c.59, the bill also extends the deadline to submit a temporary certificate of occupancy until June 30, 2026.

Additionally, the bill specifies that the redevelopment incentive grant awarded for these projects would equal 100 percent of the total project costs for the parking component and 40 percent of the total project costs for the non-parking component of the mixed-use parking project. However, the bill also clarifies that the grant award would equal 100 percent of the total project costs for the parking component and 80 percent for the non-parking component if the mixed-use parking project is: (1) constructed upon all or a portion of a project site that was previously awarded tax credits pursuant to the Urban Transit Hub Tax Credit Act or the New Jersey Economic Stimulus Act of 2009, but those tax credits were not issued; (2) an entertainment venue with seating capacity in excess of 5,000; or (3) constructed to be utilized by a visitor center or youth center within or adjacent to a national historic park.

The bill provides that the terms of any approval by the EDA may be modified upon application to the EDA for review and approval, provided, however, the developer would not be required to pay a fee for the modification.

Lastly, the bill provides that all proposed mixed-use parking projects are required to comply with Leadership in Energy and Environmental Design standards to the extent that the United States Green Building Council has promulgated standards for the project type proposed.

FISCAL ANALYSIS

EXECUTIVE BRANCH

None received.

OFFICE OF LEGISLATIVE SERVICES

The OLS concludes that this bill would decrease total State revenues by up to \$25 million by allowing the EDA to issue additional tax credits under the ERG program.

Under the ERG program, the EDA may issue tax credits to the redevelopers of mixed-use parking projects, which credits can be claimed over the 10-year period following the issuance of a certificate of occupancy for the project. The amount of tax credits awarded for a project is determined based on a percentage of the project’s total eligible costs. Notably, this bill increases the total amount of tax credits that may be awarded under the program by \$25 million and expands the scope of “project costs” that may be approved for certain mixed-use parking projects.

Specifically, the additional tax credits would be restricted to certain qualified residential projects and mixed-use parking projects that are located in Garden State Growth Zones having a population in excess of 125,000. However, the bill does not extend the deadline by which developers or municipal redevelopers may apply for these tax credits. Instead, the bill extends the deadlines to submit certain program documents for certain projects that applied to the EDA before December 31, 2021.

As noted, the bill also expands the scope of “project costs” for certain mixed-use parking projects undertaken by municipal redevelopers, and which did not commence construction before the declaration of the COVID-19 public health emergency. Specifically, the bill provides that these project costs may include, in the discretion of the EDA, the cost or value of land, demolition, and equity contributions, as well as any particular costs for which the project has received State or local funding.

Accordingly, the OLS assumes that the additional tax credits would be made available to certain mixed-use parking projects for which the bill expands the scope of eligible project costs, which are used to calculate the total tax credits issued for the project. However, due to the discretionary nature of this allowance, the OLS is unable to predict how many additional project costs will be approved by the EDA. Regardless, because the bill extends the deadline for the submission of a temporary certificate of occupancy for an eligible project to June 2026, the State revenue losses resulting from the bill could potentially extend to FY 2036.

The OLS also notes that by extending the deadline for municipal redevelopers to obtain temporary certificates of occupancy for approved mixed-use parking projects, the bill increases the likelihood that these projects will satisfy all requirements of the ERG program, thereby allowing the municipal redeveloper to realize the awarded tax credits. Accordingly, the bill may increase the total amount of tax credits that are actually claimed or sold by municipal redevelopers to the extent that the bill allows certain additional mixed-use parking projects to be completed in a timely manner.

Section: Authorities, Utilities, Transportation and Communications Section

*Analyst: Joseph A. Pezzulo
Senior Research Analyst*

*Approved: Thomas Koenig
Legislative Budget and Finance Officer*

This legislative fiscal estimate has been produced by the Office of Legislative Services due to the failure of the Executive Branch to respond to our request for a fiscal note.

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

LEGISLATIVE FISCAL ESTIMATE: No

VETO MESSAGE: No

GOVERNOR'S PRESS RELEASE ON SIGNING: Yes

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: No

HEARINGS: No

NEWSPAPER ARTICLES: Yes

Gabrielle Saulsbery, 'New law aims to limit high costs of NJ's post-secondary training programs', NJBIZ (online), 29 Jul2022

end

P.L. 2022, CHAPTER 76, *approved July 29, 2022*
Assembly, No. 1695 (*First Reprint*)

1 AN ACT concerning ¹**[information provided by]** career-oriented
2 programs of study at¹ institutions of higher education¹, degree-
3 granting proprietary institutions,¹ and private career schools,
4 ¹**[amending P.L.2009, c.197,]**¹ and supplementing ¹**[P.L.1989,**
5 **c.293 (C.34:15C-1 et seq.), and Title 45 of the Revised Statutes]**
6 P.L.2009, c.197 (C.18A:3B-44 et seq.) and P.L.2005, c.354
7 (C.34:15C-10.1)¹.
8

9 **BE IT ENACTED** by the Senate and General Assembly of the State
10 of New Jersey:
11

12 ¹**[**1. Section 2 of P.L.2009, c.197 (C.18A:3B-44) is amended to
13 read as follows:
14

15 2. a. **[A four-year public]** An institution of higher education
16 and a proprietary institution which has been authorized to offer
17 licensed degree programs shall provide for public inspection on its
18 website comprehensive information on the cost of attendance, the
19 graduation rates of admitted students, and the faculty of the
20 institution, and shall also provide for public inspection on its
21 website employment data for recent graduates of the institution.
22 The purpose of the information shall be to maximize the awareness
23 of students and their families of the costs associated with
24 enrollment in the institution, the institution's success in ensuring the
25 graduation and employment of its students, and the composition of
26 the teaching faculty that a student will encounter in his coursework.
27 The institution shall post, and annually update, a student consumer
28 information report on its website that includes, if applicable:

29 (1) overall two-year and three-year graduation rates, and overall
30 four-year and six-year graduation rates, as applicable;

31 (2) two-year and three-year graduation rates by demographic
32 group, and four-year and six-year graduation rates by demographic
33 group, as applicable;

34 (3) two-year and three-year graduation rates by major, and four-
35 year and six-year graduation rates by major, as applicable;

36 (4) two-year and three-year graduation rates for student-athletes,
37 and four-year and six-year graduation rates for student-athletes, as
applicable;

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:

¹AssemblyAHI committee amendments adopted March 14, 2022.

- 1 (5) the student transfer rate, including the rate of students who
2 graduate from a county college and subsequently enroll in a four-
3 year institution of higher education;
- 4 (6) an overview of the institutions to which former students of
5 that **【college or university】** institution have transferred prior to the
6 completion of a degree;
- 7 (7) the cost for the current academic year of attending the
8 institution including tuition, student fees, room and board, and
9 books and materials;
- 10 (8) a description of the types of financial assistance offered
11 directly by the institution to both student-athletes and to students
12 who do not participate in athletic programs at the institution;
- 13 (9) the percent of student-athletes who receive financial
14 assistance directly from the institution and the average value of the
15 assistance and the percent of students who do not participate in
16 athletic programs at the institution who receive financial assistance
17 directly from the institution and the average value of the assistance;
- 18 (10) the total projected cost for an incoming freshman to live on
19 campus and complete a degree in four years and the total projected
20 cost for an incoming freshman to commute to school and complete a
21 degree in four years;
- 22 (11) the total projected cost for an incoming freshman to live on
23 campus and complete a degree in six years and the total projected
24 cost for an incoming freshman to commute to school and complete a
25 degree in six years;
- 26 (12) average student loan indebtedness of four-year graduates
27 for both students who live on campus and students who commute,
28 and average student loan indebtedness of two-year graduates;
- 29 (13) average student loan indebtedness of six-year graduates for
30 both students who live on campus and students who commute, and
31 average student loan indebtedness of three-year graduates;
- 32 (14) average student loan indebtedness of a student who
33 withdraws from the institution prior to the completion of a degree
34 program for both students who live on campus and students who
35 commute;
- 36 (15) an overview of the institution's faculty, including the
37 percentage of faculty employed as a tenured professor, the
38 percentage of faculty employed as a full-time non-tenured
39 professor, and the percentage of faculty employed as an adjunct or
40 visiting professor;
- 41 (16) the percentage of courses taught by each of the different
42 categories of faculty; **【and】**
- 43 (17) an indicator of each academic department's capacity to
44 serve the students majoring within that department's programs, as
45 determined by the **【Commission on】** Secretary of Higher
46 Education; and
- 47 (18) employment data beginning with data compiled for
48 students who graduate from the institution during the 2021-2022

1 academic year. The employment data shall include, but need not be
2 limited to, the employment rate and average annual salary of
3 students by academic major two years following the academic year
4 in which the students graduated from the institution, and the number
5 and percentage of students who are employed two years following
6 the academic year in which the students graduated from the
7 institution, as compiled in the comparative report and provided by
8 the Secretary of Higher Education pursuant to section 10 of P.L. ,
9 c. (C.) (pending before the Legislature as this bill).

10 The institution shall provide with all paper applications for
11 admission to the institution a hard copy of the information prepared
12 pursuant to this section.

13 b. **【A four-year public】** An institution of higher education and
14 a proprietary institution authorized to offer licensed degree
15 programs shall conform to the guidelines, criteria, and format
16 prescribed by the 【Commission on】 Secretary of Higher Education
17 in reporting the information required pursuant to this section.

18 c. **【A four-year public】** An institution of higher education and
19 a proprietary institution authorized to offer licensed degree
20 programs shall submit its student consumer information report to
21 the 【Commission on】 Secretary of Higher Education for inclusion
22 in a comparative profile of the student consumer information
23 reports of all 【four-year public】 institutions of higher education.

24 d. **【A four-year public】** An institution of higher education and
25 a proprietary institution authorized to offer licensed degree
26 programs shall ensure that the page of its Internet site which
27 includes its student consumer information report contains a link to
28 the page of the 【Commission on】 Secretary of Higher Education's
29 Internet site that includes the comparative profile required pursuant
30 to subsection b. of section 3 of this act.

31 e. **【A four-year public】** An institution of higher education and
32 a proprietary institution authorized to offer licensed degree
33 programs shall ensure that the Internet site for submitting an online
34 application to the institution contains a link to the institution's
35 student consumer information report.

36 f. **【A four-year public】** An institution of higher education and
37 a proprietary institution authorized to offer licensed degree
38 programs shall require the parent or guardian of a student applying
39 for admission into the institution, or the student if he is an
40 independent adult, to sign and submit a statement acknowledging
41 that he has reviewed the institution's student consumer information
42 report.

43 (cf: P.L.2009, c.197, s.2) ¹

44
45 ¹【2. Section 3 of P.L.2009, c.197 (C.18A:3B-45) is amended to
46 read as follows:

1 3. a. The **【Commission on】** Secretary of Higher Education
2 shall issue guidelines and criteria for collecting and calculating the
3 information required pursuant to section 2 of this act and shall
4 prescribe a uniform reporting method for posting the information.

5 b. The **【Commission on】** Secretary of Higher Education shall
6 annually compile the student consumer information reports
7 submitted pursuant to subsection c. of section 2 of this act into a
8 comparative profile of all **【four-year public】** institutions of higher
9 education and proprietary institutions authorized to offer licensed
10 degree programs. The **【commission】** secretary shall present the
11 information on its website in a manner that allows **【college】**
12 students and their families to easily compare student consumer
13 information across public institutions, across independent
14 institutions, and across proprietary institutions authorized to offer
15 licensed degree programs.

16 (cf: P.L.2009, c.197, s.3)¹

17
18 ¹**【3. (New section)** Within 12 months of the effective date of
19 P.L. , c. (C.) (pending before the Legislature as this bill),
20 the Secretary of Higher Education shall establish a performance
21 quality standard for programs of study offered by institutions of
22 higher education and proprietary institutions authorized to offer
23 licensed degree programs. The standard shall be based on the ratio
24 of the earnings of students in the programs to the tuition and fees
25 charged to those students net of any institutional grant aid. The
26 secretary shall ensure that the programs of study meet a minimum
27 acceptable level of performance for the standard, up to and
28 including revocation of an institution’s license to award academic
29 degrees.

30 The secretary, in consultation with the Attorney General and the
31 Commissioner of Labor and Workforce Development, shall adopt,
32 in accordance with the “Administrative Procedure Act,” P.L. 1968,
33 c.410 (C.52:14B-1 et seq.), rules and regulations as may be
34 necessary to implement the provisions of this section. **】**¹

35
36 ¹**【4. (New section)** a. A private career school authorized to
37 offer an educational program required for licensure, registration or
38 certification in a profession or occupation regulated by a
39 professional or occupational board established in the Division of
40 Consumer Affairs shall provide for public inspection on its website
41 comprehensive information on the cost of attendance, the
42 graduation or completion rates of admitted students, and the faculty
43 of the school, and shall also provide for public inspection on its
44 website employment data for recent graduates. The purpose of the
45 information shall be to maximize the awareness of students of the
46 costs associated with enrollment in the school, the success in
47 ensuring the graduation and employment of its students, and the

1 composition of the teaching faculty that a student will encounter in
2 his coursework. The school shall post, and annually update, a
3 student consumer information report on its website that includes, if
4 applicable:

- 5 (1) overall graduation or completion rates;
- 6 (2) graduation or completion rates by demographic group;
- 7 (3) the student transfer rate;
- 8 (4) an overview of the schools to which former students have
9 transferred prior to the completion of an educational program;
- 10 (5) the amount of any school charges, including tuition and fees;
- 11 (6) a description of the types of financial assistance offered
12 directly by the school to students;
- 13 (7) the total projected cost for an incoming student to complete
14 the educational program;
- 15 (8) average student loan indebtedness of graduates;
- 16 (9) average student loan indebtedness of a student who
17 withdraws from the school prior to the completion of the
18 educational program;
- 19 (10) an overview of the school's faculty, including the
20 percentage of faculty employed on a full-time basis and the
21 percentage of faculty employed on a part-time basis; and
- 22 (11) employment data beginning with data compiled for
23 students who graduate from the school during the 2021-2022
24 academic year. The employment data shall include, but need not be
25 limited to, the employment rate and average annual salary of
26 students two years following the academic year in which the
27 students graduated from the school, as compiled in the comparative
28 report and provided by the Attorney General pursuant to section 10
29 of P.L. , c. (C.) (pending before the Legislature as this
30 bill).

31 The school shall provide with all paper applications for
32 admission a hard copy of the information prepared pursuant to this
33 subsection.

34 b. A private career school shall conform to the guidelines,
35 criteria, and format prescribed by the Attorney General in reporting
36 the information required pursuant to subsection a. of this section.
37 The institution shall submit its student consumer information report
38 to the Attorney General for inclusion in a comparative profile of the
39 student consumer information reports of all such schools.

40 c. A private career school shall ensure that the page of its
41 Internet site which includes its student consumer information report
42 contains a link to the page of the Attorney General's Internet site
43 that includes the comparative profile required pursuant to
44 subsection b. of section 5 of P.L. , c. (C.) (pending before
45 the Legislature as this bill).

46 d. A private career school shall ensure that the Internet site for
47 submitting an online application to the institution contains a link to
48 the institution's student consumer information report.

1 e. A private career school shall require a student applying for
2 admission to the school to sign and submit a statement
3 acknowledging that he has reviewed the school's student consumer
4 information report.】¹

5
6 ¹【5. (New section) a. The Attorney General shall issue
7 guidelines and criteria for collecting and calculating the information
8 required pursuant to section 4 of P.L. , c. (C.) (pending
9 before the Legislature as this bill) and shall prescribe a uniform
10 reporting method for posting the information.

11 b. The Attorney General shall annually compile the student
12 consumer information reports submitted pursuant to subsection b. of
13 section 4 of P.L. , c. (C.) (pending before the Legislature as
14 this bill) into a comparative profile of all private career schools
15 authorized to offer educational programs required for licensure,
16 registration, or certification in professions or occupations regulated
17 by a professional or occupational board established in the Division
18 of Consumer Affairs. The Attorney General shall present the
19 information on its website in a manner that allows students to easily
20 compare student consumer information across private career
21 schools.】¹

22
23 ¹【6. (New section) Within 12 months of the effective date of
24 P.L. , c. (C.) (pending before the Legislature as this bill), the
25 Attorney General shall establish a performance quality standard for
26 private career schools authorized to offer an educational program
27 required for licensure, registration, or certification in a profession
28 or occupation regulated by a professional or occupational board
29 established in the Division of Consumer Affairs. The performance
30 quality standard shall be based on the ratio of the earnings of
31 students in private career schools to the tuition and fees charged to
32 those students net of any school grant aid. The Attorney General
33 shall ensure that private career schools meet a minimum acceptable
34 level of performance for this standard, up to and including
35 revocation of a school's authorization to offer educational programs
36 regulated by a professional or occupational board in the Division of
37 Consumer Affairs.

38 The Attorney General, in consultation with the Secretary of
39 Higher Education and the Commissioner of Labor and Workforce
40 Development, shall adopt, in accordance with the "Administrative
41 Procedure Act," P.L. 1968, c.410 (C.52:14B-1 et seq.), rules and
42 regulations as may be necessary to implement the provisions of this
43 section.】¹

44
45 ¹【7. (New section) a. A private career school authorized by the
46 Department of Labor and Workforce Development to offer one or
47 more occupational training programs shall provide for public

1 inspection on its website comprehensive information on the cost of
2 attendance, the graduation or completion rates of students, and the
3 faculty of the school, and shall also provide for public inspection on
4 its website employment data for recent graduates of the school. The
5 purpose of the information shall be to maximize the awareness of
6 students of the costs associated with enrollment in the school, the
7 success in ensuring the graduation and employment of its students,
8 and the composition of the teaching faculty that a student will
9 encounter in his coursework. The school shall post, and annually
10 update, a student consumer information report on its website that
11 includes, if applicable:

- 12 (1) overall graduation or completion rates;
- 13 (2) graduation or completion rates by demographic group;
- 14 (3) the student transfer rate;
- 15 (4) an overview of the schools to which former students have
16 transferred prior to the completion of a program;
- 17 (5) the amount of any school charges, including tuition and fees;
- 18 (6) a description of the types of financial assistance offered
19 directly by the school to students;
- 20 (7) the total projected cost for an incoming student to complete
21 a program;
- 22 (8) average student loan indebtedness of graduates;
- 23 (9) average student loan indebtedness of a student who
24 withdraws from the school prior to the completion of an
25 occupational program;
- 26 (10) an overview of the school's faculty, including the
27 percentage of faculty employed on a full-time basis and the
28 percentage of faculty employed on a part-time basis; and
- 29 (11) employment data beginning with data compiled for
30 students who graduate from the school during the 2021-2022
31 academic year. The employment data shall include, but need not be
32 limited to, the employment rate and average annual salary of
33 students two years following the academic year in which the
34 students graduated from the school, as compiled in the comparative
35 report and provided by the Commissioner of Labor and Workforce
36 Development pursuant to section 10 of P.L. , c. (C.)
37 (pending before the Legislature as this bill).

38 The school shall provide with all paper applications for
39 admission to the school a hard copy of the information prepared
40 pursuant to this subsection.

41 b. The private career school shall conform to the guidelines,
42 criteria, and format prescribed by the commissioner in reporting the
43 information required pursuant to this section. The school shall
44 submit its student consumer information report to the commissioner
45 for inclusion in a comparative profile of the student consumer
46 information reports of all such schools.

47 c. A private career school shall ensure that the page of its
48 Internet site which includes its student consumer information report

1 contains a link to the page of the department's Internet site that
2 includes the comparative profile required pursuant to subsection b.
3 of section 8 of P.L. , c. (C.) (pending before the Legislature
4 as this bill).

5 d. A private career school shall ensure that the Internet site for
6 submitting an online application to the school contains a link to the
7 school's student consumer information report.

8 e. A private career school shall require a student applying for
9 admission to sign and submit a statement acknowledging that he has
10 reviewed the school's student consumer information report. **1**

11

12 **1**[8. (New section) a. The Commissioner of Labor and
13 Workforce Development shall issue guidelines and criteria for
14 collecting and calculating the information required pursuant to
15 section 7 of P.L. , c. (C.) (pending before the Legislature as
16 this bill) and shall prescribe a uniform reporting method for posting
17 the information.

18 b. The commissioner shall annually compile the student
19 consumer information reports submitted pursuant to subsection b. of
20 section 7 of P.L. , c. (C.) (pending before the Legislature as
21 this bill) into a comparative profile of all private career schools
22 authorized to offer one or more occupational training programs. The
23 commissioner shall present the information on its website in a
24 manner that allows students to easily compare student consumer
25 information across private career schools regulated by the
26 department. **1**

27

28 **1**[9. (New section) Within 12 months of the effective date of
29 P.L. , c. (C.) (pending before the Legislature as this bill), the
30 Commissioner of Labor and Workforce Development shall establish
31 standards for private career schools authorized by the department to
32 offer one or more occupational training programs. The standards
33 shall be based on the ratio of the earnings of students in private
34 career schools to the tuition and fees charged to those students net
35 of any school grant aid. The commissioner shall ensure that private
36 career schools meet a minimum acceptable level of performance for
37 the standard, up to and including revocation of a school's certificate
38 of approval.

39 The commissioner, in consultation with the Secretary of Higher
40 Education and the Attorney General, shall adopt, in accordance with
41 the "Administrative Procedure Act," P.L. 1968, c.410 (C.52:14B-
42 1 et seq.), rules and regulations as may be necessary to implement
43 the provisions of this section. **1**

44

45 **1**[10. (New section) a. As used in this section, "career-oriented
46 program of study" means a program that delivers occupation-
47 specific skills and knowledge of all aspects of an industry, provides

1 technical skill proficiency, and culminates in the attainment of an
2 industry-recognized postsecondary credential.

3 b. No later than the beginning of the 2021-2022 academic year,
4 the Secretary of Higher Education, the Department of Labor and
5 Workforce Development, and the Division of Consumer Affairs
6 shall enter into a memorandum of understanding to develop a data
7 system that will collect the employment data for students who
8 graduate or withdraw prior to the completion of a degree program
9 from an institution of higher education or from a proprietary
10 institution authorized to offer licensed degree programs in the State,
11 or from a private career school, to produce an employment
12 comparative report for all institutions and schools.

13 The Department of Labor and Workforce Development shall also
14 initiate efforts to enter into an agreement with other states for the
15 sharing of unemployment insurance information for the purposes of
16 P.L. , c. (C.) (pending before the Legislature as this bill).

17 c. An institution of higher education, a proprietary institution
18 authorized to offer licensed degree programs, and a private career
19 school shall submit to the department, as applicable, for each
20 student who graduates or withdraws from the institution or school
21 in an academic year or school year:

- 22 (1) the student's social security number;
- 23 (2) the student's degree program or professional and
24 occupational program;
- 25 (3) the student's graduation date or date of withdrawal and
26 portion of the program completed at withdrawal from the institution
27 or school;
- 28 (4) information on the student's loan debt obtained from the
29 federal student loan program and any loans the institution or school
30 has certified, arranged, or is otherwise aware of, or of which it
31 should reasonably be aware; and
- 32 (5) institutional or school charges for which the student is
33 responsible net of any institutional or school grant aid.

34 An institution of higher education, a proprietary institution
35 authorized to offer licensed degree programs, and a private career
36 school shall also submit to the department the clear identification of
37 the institution's or school's career-oriented programs of study.

38 The department shall adopt standards and procedures to prevent
39 any State agency from publishing, disclosing, or releasing
40 information which could identify any individual and shall not
41 publish, disclose, or otherwise release information which could
42 identify any individual.

43 d. The department shall submit the employment information
44 compiled pursuant to this section to the Secretary of Higher
45 Education, the Attorney General, and the Commissioner of Labor
46 and Workforce Development. The secretary, Attorney General, and
47 commissioner, respectively, shall use the information to compile an
48 employment comparative report for each institution of higher

1 education, degree-granting proprietary institution, and private
2 career school which shall include, as applicable:

3 (1) the employment rate and average annual salary of students
4 by academic major, in the case of an academic degree program, or
5 program in the case of private career schools, two years following
6 graduation from the institution or school;

7 (2) the employment rate and average annual salary of students
8 two years following the academic year in which the students
9 graduated from the institution or school; and

10 (3) the employment rate and average annual salary of students
11 two years following withdrawal from the institution or school prior
12 to the completion of a degree program or school program.

13 The secretary, Attorney General, and commissioner shall
14 distribute the employment comparative report to each institution of
15 higher education, proprietary institution authorized to offer licensed
16 degree programs, and private career school for inclusion on the
17 institution's or school's website and inclusion in the student
18 consumer information report prepared by the institution or school. ¹

19

20 ¹11. (New section) Three years following the effective date of
21 P.L. , c. (C.) (pending before the Legislature as this bill),
22 the Secretary of Higher Education, Attorney General, and
23 Commissioner of Labor and Workforce Development shall submit a
24 report to the Governor and, pursuant to section 2 of P.L.1991, c.164
25 (C.52:14-19.1), the Legislature. The report shall include
26 recommendations on the ability to use the data collected pursuant to
27 subsection c. of section 10 of P.L. , c. (C.) (pending before
28 the Legislature as this bill) to establish a Statewide gainful
29 employment requirement that requires an institution or school to
30 demonstrate that its graduates earn enough to adequately repay their
31 student loans by meeting a certain debt-to-income ratio, and any
32 other recommendations for establishing a gainful employment
33 requirement. ¹

34

35 ¹1. (New section) a. As used in this section, "career-oriented
36 program of study" means a program that provides occupation-specific
37 knowledge and technical skill proficiency that culminates in the
38 attainment of a license for a specific occupation or is represented by
39 the institution as preparing students for employment in a specific
40 occupation. "Career-oriented program of study" shall not include a
41 program dedicated primarily to the education or training of ministers,
42 priests, rabbis or other professional persons in the field of religion.

43 b. Within 12 months of the effective date of P.L. , c. (C.)
44 (pending before the Legislature as this bill), the Secretary of Higher
45 Education shall establish a performance quality standard for career-
46 oriented programs of study offered by institutions of higher education
47 and degree-granting proprietary institutions. In establishing the
48 standard, the secretary shall consider the ratio of the tuition and fees

1 charged to students in the career-oriented program net of any
2 institutional grant aid to the average earnings of New Jersey workers
3 employed in the specific occupation for which the career-oriented
4 program prepares students.

5 c. The secretary shall ensure that career-oriented programs of
6 study offered by institutions of higher education and degree-granting
7 proprietary institutions meet a minimum acceptable level of
8 performance, as determined by the secretary. In the event that the
9 secretary determines that a program does not meet the minimum
10 acceptable level of performance, the secretary shall suspend or
11 terminate that program and take additional action to suspend or revoke
12 the institution's license to award academic degrees.

13 d. An institution of higher education or degree-granting
14 proprietary institution shall submit to the secretary the clear
15 identification of the institution's career-oriented programs of study in a
16 form and in a manner as determined by the secretary.

17 e. The secretary shall adopt, in accordance with the
18 "Administrative Procedure Act," P.L.1968, c.410 (C.52:14B-1 et seq.),
19 rules and regulations as may be necessary to implement the provisions
20 of this section.¹

21

22 ¹2. (New section) a. Within 12 months of the effective date of
23 P.L. , c. (C.) (pending before the Legislature as this bill), the
24 Commissioner of Labor and Workforce Development shall establish
25 performance quality standards for:

26 (1) private career schools, referred to and defined as "qualifying
27 schools" under section 4 of P.L.1989, c.293 (C.34:15C-1), authorized
28 jointly under section 13 of P.L.2005, c.354 (C.34:15C-10.1) by the
29 Commissioner of Labor and Workforce Development and the
30 Commissioner of Education to operate in New Jersey; and

31 (2) private career schools authorized by a professional or
32 occupational board established within the Division of Consumer
33 Affairs, in the Department of Law and Public Safety, to offer an
34 educational program required for licensure, registration, or
35 certification in a profession or occupation regulated by a professional
36 or occupational board established within the division.

37 b. In establishing the performance quality standards, the
38 Commissioner of Labor and Workforce Development shall consider
39 the ratio of the tuition and fees charged to students in the program net
40 of any institutional grant aid to the average earnings of New Jersey
41 workers employed in the specific occupation for which the program
42 prepares students.

43 (1) In the event that the Commissioner of Labor and Workforce
44 Development determines that a program offered by a private career
45 school does not meet the minimum acceptable level of performance,
46 the Commissioner of Labor and Workforce Development and the
47 Commissioner of Education shall, pursuant to section 13 of P.L.2005,

1 c.354 (C.34:15C-10.1), revoke, suspend or make conditional the
2 certificate of approval issued under that law.

3 (2) In the event that the Commissioner of Labor and Workforce
4 Development determines that an educational program required for
5 licensure, registration, or certification in a profession or occupation
6 regulated by a professional or occupational board established within
7 the Division of Consumer Affairs does not meet the minimum
8 acceptable level of performance, the Commissioner of Labor and
9 Workforce Development shall issue a written determination directing
10 the applicable board within the Division of Consumer Affairs to
11 suspend or revoke the private career school's license or accreditation
12 to offer such program.

13 c. All private career schools, including those operating with a
14 certificate of approval issued jointly by the Commissioner of Labor
15 and Workforce Development and the Commissioner of Education, and
16 those authorized by a professional or occupational board established
17 within the Division of Consumer Affairs to offer an educational
18 program required for licensure, registration, or certification in a
19 profession or occupation regulated by a professional or occupational
20 board established within the Division of Consumer Affairs, shall
21 submit a quarterly report to the Commissioner of Labor and Workforce
22 Development that includes:

23 (1) the tuition and fees charged for each program;

24 (2) a record for each student enrolled in each program. The student
25 record shall include, but not be limited to: the student's social security
26 number, gender, date of birth, date of enrollment, any date of
27 completion, date of termination, date of start in a job, date of
28 application for a license, licensing examination result, date of issuance
29 of a license, and any credential issued; and

30 (3) any additional information that may be required by the
31 Commissioner of Labor and Workforce Development.

32 d. Each private career school may be required by the
33 Commissioner of Labor and Workforce Development to submit
34 additional reports on a more frequent basis.

35 (1) In the event that the Commissioner of Labor and Workforce
36 Development determines that a program offered by a private career
37 school has failed to submit any report required under this section, the
38 Commissioner of Labor and Workforce Development and the
39 Commissioner of Education shall, pursuant to section 13 of P.L.2005,
40 c.354 (C.34:15C-10.1), revoke, suspend or make conditional the
41 certificate of approval issued under that law.

42 (2) In the event that the Commissioner of Labor and Workforce
43 Development determines that an educational program required for
44 licensure, registration, or certification in a profession or occupation
45 regulated by a professional or occupational board established within
46 the Division of Consumer Affairs has failed to submit any report
47 required under this section, the Commissioner of Labor and Workforce
48 Development shall issue a written determination directing the

1 applicable board within the division to suspend or revoke the private
2 career school's license or accreditation to offer such program.

3 e. Upon receiving the written determination from the
4 Commissioner of Labor and Workforce Development directing the
5 suspension or revocation of the private career school's license or
6 accreditation to offer a program, the applicable board within the
7 Division of Consumer Affairs may delay the effective date of the
8 suspension or revocation for a reasonable time if it determines that
9 doing so is necessary for the applicable board, or the affected private
10 career school at the direction of the applicable board, to protect the
11 interests of students.

12 f. Nothing in this section shall be construed to affect the authority
13 of a professional or occupational board established within the Division
14 of Consumer Affairs to suspend or revoke the license or accreditation
15 of a private career school pursuant to Title 45 of the Revised Statutes.

16 g. The Commissioner of Labor and Workforce Development, in
17 consultation with the Commissioner of Education and the Attorney
18 General, shall adopt, in accordance with the "Administrative
19 Procedure Act," P.L.1968, c.410 (C.52:14B-1 et seq.), rules and
20 regulations as may be necessary to implement the provisions of this
21 section.¹

22

23 ¹**[12.]** 3.¹ This act shall take effect immediately.

24

25

26

27

28 Requires Secretary of Higher Education and DOLWD to
29 establish performance quality standards for career-oriented
30 programs of study offered by institutions of higher education,
31 degree-granting proprietary institutions, and private career schools.

ASSEMBLY, No. 1695

STATE OF NEW JERSEY

220th LEGISLATURE

PRE-FILED FOR INTRODUCTION IN THE 2022 SESSION

Sponsored by:

Assemblywoman MILA M. JASEY

District 27 (Essex and Morris)

Assemblywoman ANNETTE QUIJANO

District 20 (Union)

Assemblywoman BRITNEE N. TIMBERLAKE

District 34 (Essex and Passaic)

SYNOPSIS

Requires institutions of higher education and private career schools to provide on website employment data of graduates; requires DOLWD to compile certain employment information.

CURRENT VERSION OF TEXT

Introduced Pending Technical Review by Legislative Counsel.



(Sponsorship Updated As Of: 2/14/2022)

A1695 JASEY, QUIJANO

2

1 AN ACT concerning information provided by institutions of higher
2 education and private career schools, amending P.L.2009, c.197,
3 and supplementing P.L.1989, c.293 (C.34:15C-1 et seq.), and
4 Title 45 of the Revised Statutes.

5

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

8

9 1. Section 2 of P.L.2009, c.197 (C.18A:3B-44) is amended to
10 read as follows:

11 2. a. **[A four-year public]** An institution of higher education
12 and a proprietary institution which has been authorized to offer
13 licensed degree programs shall provide for public inspection on its
14 website comprehensive information on the cost of attendance, the
15 graduation rates of admitted students, and the faculty of the
16 institution, and shall also provide for public inspection on its
17 website employment data for recent graduates of the institution.
18 The purpose of the information shall be to maximize the awareness
19 of students and their families of the costs associated with
20 enrollment in the institution, the institution's success in ensuring the
21 graduation and employment of its students, and the composition of
22 the teaching faculty that a student will encounter in his coursework.
23 The institution shall post, and annually update, a student consumer
24 information report on its website that includes, if applicable:

25 (1) overall two-year and three-year graduation rates, and overall
26 four-year and six-year graduation rates, as applicable;

27 (2) two-year and three-year graduation rates by demographic
28 group, and four-year and six-year graduation rates by demographic
29 group, as applicable;

30 (3) two-year and three-year graduation rates by major, and four-
31 year and six-year graduation rates by major, as applicable;

32 (4) two-year and three-year graduation rates for student-athletes,
33 and four-year and six-year graduation rates for student-athletes, as
34 applicable;

35 (5) the student transfer rate, including the rate of students who
36 graduate from a county college and subsequently enroll in a four-
37 year institution of higher education;

38 (6) an overview of the institutions to which former students of
39 that [college or university] institution have transferred prior to the
40 completion of a degree;

41 (7) the cost for the current academic year of attending the
42 institution including tuition, student fees, room and board, and
43 books and materials;

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.

- 1 (8) a description of the types of financial assistance offered
2 directly by the institution to both student-athletes and to students
3 who do not participate in athletic programs at the institution;
- 4 (9) the percent of student-athletes who receive financial
5 assistance directly from the institution and the average value of the
6 assistance and the percent of students who do not participate in
7 athletic programs at the institution who receive financial assistance
8 directly from the institution and the average value of the assistance;
- 9 (10) the total projected cost for an incoming freshman to live on
10 campus and complete a degree in four years and the total projected
11 cost for an incoming freshman to commute to school and complete a
12 degree in four years;
- 13 (11) the total projected cost for an incoming freshman to live on
14 campus and complete a degree in six years and the total projected
15 cost for an incoming freshman to commute to school and complete a
16 degree in six years;
- 17 (12) average student loan indebtedness of four-year graduates
18 for both students who live on campus and students who commute, and
19 average student loan indebtedness of two-year graduates;
- 20 (13) average student loan indebtedness of six-year graduates for
21 both students who live on campus and students who commute, and
22 average student loan indebtedness of three-year graduates;
- 23 (14) average student loan indebtedness of a student who
24 withdraws from the institution prior to the completion of a degree
25 program for both students who live on campus and students who
26 commute;
- 27 (15) an overview of the institution's faculty, including the
28 percentage of faculty employed as a tenured professor, the
29 percentage of faculty employed as a full-time non-tenured
30 professor, and the percentage of faculty employed as an adjunct or
31 visiting professor;
- 32 (16) the percentage of courses taught by each of the different
33 categories of faculty; **【and】**
- 34 (17) an indicator of each academic department's capacity to
35 serve the students majoring within that department's programs, as
36 determined by the **【Commission on】** Secretary of Higher
37 Education; and
- 38 (18) employment data beginning with data compiled for
39 students who graduate from the institution during the 2021-2022
40 academic year. The employment data shall include, but need not be
41 limited to, the employment rate and average annual salary of
42 students by academic major two years following the academic year
43 in which the students graduated from the institution, and the number
44 and percentage of students who are employed two years following
45 the academic year in which the students graduated from the
46 institution, as compiled in the comparative report and provided by
47 the Secretary of Higher Education pursuant to section 10 of P.L. ,
48 c. (C.) (pending before the Legislature as this bill).

1 The institution shall provide with all paper applications for
2 admission to the institution a hard copy of the information prepared
3 pursuant to this section.

4 b. **【A four-year public】** An institution of higher education and
5 a proprietary institution authorized to offer licensed degree
6 programs shall conform to the guidelines, criteria, and format
7 prescribed by the **【Commission on】** Secretary of Higher Education
8 in reporting the information required pursuant to this section.

9 c. **【A four-year public】** An institution of higher education and
10 a proprietary institution authorized to offer licensed degree
11 programs shall submit its student consumer information report to
12 the **【Commission on】** Secretary of Higher Education for inclusion
13 in a comparative profile of the student consumer information
14 reports of all **【four-year public】** institutions of higher education.

15 d. **【A four-year public】** An institution of higher education and
16 a proprietary institution authorized to offer licensed degree
17 programs shall ensure that the page of its Internet site which
18 includes its student consumer information report contains a link to
19 the page of the **【Commission on】** Secretary of Higher Education's
20 Internet site that includes the comparative profile required pursuant
21 to subsection b. of section 3 of this act.

22 e. **【A four-year public】** An institution of higher education and
23 a proprietary institution authorized to offer licensed degree
24 programs shall ensure that the Internet site for submitting an online
25 application to the institution contains a link to the institution's
26 student consumer information report.

27 f. **【A four-year public】** An institution of higher education and
28 a proprietary institution authorized to offer licensed degree
29 programs shall require the parent or guardian of a student applying
30 for admission into the institution, or the student if he is an
31 independent adult, to sign and submit a statement acknowledging
32 that he has reviewed the institution's student consumer information
33 report.

34 (cf: P.L.2009, c.197, s.2)

35
36 2. Section 3 of P.L.2009, c.197 (C.18A:3B-45) is amended to
37 read as follows:

38 3. a. The **【Commission on】** Secretary of Higher Education
39 shall issue guidelines and criteria for collecting and calculating the
40 information required pursuant to section 2 of this act and shall
41 prescribe a uniform reporting method for posting the information.

42 b. The **【Commission on】** Secretary of Higher Education shall
43 annually compile the student consumer information reports
44 submitted pursuant to subsection c. of section 2 of this act into a
45 comparative profile of all **【four-year public】** institutions of higher
46 education and proprietary institutions authorized to offer licensed
47 degree programs. The **【commission】** secretary shall present the

1 information on its website in a manner that allows **[college]**
2 students and their families to easily compare student consumer
3 information across public institutions, across independent
4 institutions, and across proprietary institutions authorized to offer
5 licensed degree programs.

6 (cf: P.L.2009, c.197, s.3)

7

8 3. (New section) Within 12 months of the effective date of
9 P.L. , c. (C.) (pending before the Legislature as this bill),
10 the Secretary of Higher Education shall establish a performance
11 quality standard for programs of study offered by institutions of
12 higher education and proprietary institutions authorized to offer
13 licensed degree programs. The standard shall be based on the ratio
14 of the earnings of students in the programs to the tuition and fees
15 charged to those students net of any institutional grant aid. The
16 secretary shall ensure that the programs of study meet a minimum
17 acceptable level of performance for the standard, up to and
18 including revocation of an institution's license to award academic
19 degrees.

20 The secretary, in consultation with the Attorney General and the
21 Commissioner of Labor and Workforce Development, shall adopt,
22 in accordance with the "Administrative Procedure Act," P.L. 1968,
23 c.410 (C.52:14B-1 et seq.), rules and regulations as may be
24 necessary to implement the provisions of this section.

25

26 4. (New section) a. A private career school authorized to offer
27 an educational program required for licensure, registration or
28 certification in a profession or occupation regulated by a
29 professional or occupational board established in the Division of
30 Consumer Affairs shall provide for public inspection on its website
31 comprehensive information on the cost of attendance, the
32 graduation or completion rates of admitted students, and the faculty
33 of the school, and shall also provide for public inspection on its
34 website employment data for recent graduates. The purpose of the
35 information shall be to maximize the awareness of students of the
36 costs associated with enrollment in the school, the success in
37 ensuring the graduation and employment of its students, and the
38 composition of the teaching faculty that a student will encounter in
39 his coursework. The school shall post, and annually update, a
40 student consumer information report on its website that includes, if
41 applicable:

42 (1) overall graduation or completion rates;

43 (2) graduation or completion rates by demographic group;

44 (3) the student transfer rate;

45 (4) an overview of the schools to which former students have
46 transferred prior to the completion of an educational program;

47 (5) the amount of any school charges, including tuition and fees;

- 1 (6) a description of the types of financial assistance offered
2 directly by the school to students;
- 3 (7) the total projected cost for an incoming student to complete
4 the educational program;
- 5 (8) average student loan indebtedness of graduates;
- 6 (9) average student loan indebtedness of a student who
7 withdraws from the school prior to the completion of the
8 educational program;
- 9 (10) an overview of the school's faculty, including the
10 percentage of faculty employed on a full-time basis and the
11 percentage of faculty employed on a part-time basis; and
- 12 (11) employment data beginning with data compiled for
13 students who graduate from the school during the 2021-2022
14 academic year. The employment data shall include, but need not be
15 limited to, the employment rate and average annual salary of
16 students two years following the academic year in which the
17 students graduated from the school, as compiled in the comparative
18 report and provided by the Attorney General pursuant to section 10
19 of P.L. , c. (C.) (pending before the Legislature as this
20 bill).

21 The school shall provide with all paper applications for
22 admission a hard copy of the information prepared pursuant to this
23 subsection.

24 b. A private career school shall conform to the guidelines,
25 criteria, and format prescribed by the Attorney General in reporting
26 the information required pursuant to subsection a. of this section.
27 The institution shall submit its student consumer information report
28 to the Attorney General for inclusion in a comparative profile of the
29 student consumer information reports of all such schools.

30 c. A private career school shall ensure that the page of its
31 Internet site which includes its student consumer information report
32 contains a link to the page of the Attorney General's Internet site
33 that includes the comparative profile required pursuant to
34 subsection b. of section 5 of P.L. , c. (C.) (pending before
35 the Legislature as this bill).

36 d. A private career school shall ensure that the Internet site for
37 submitting an online application to the institution contains a link to
38 the institution's student consumer information report.

39 e. A private career school shall require a student applying for
40 admission to the school to sign and submit a statement
41 acknowledging that he has reviewed the school's student consumer
42 information report.

43

44 5. (New section) a. The Attorney General shall issue
45 guidelines and criteria for collecting and calculating the information
46 required pursuant to section 4 of P.L. , c. (C.) (pending
47 before the Legislature as this bill) and shall prescribe a uniform
48 reporting method for posting the information.

1 b. The Attorney General shall annually compile the student
2 consumer information reports submitted pursuant to subsection b. of
3 section 4 of P.L. , c. (C.) (pending before the Legislature as
4 this bill) into a comparative profile of all private career schools
5 authorized to offer educational programs required for licensure,
6 registration, or certification in professions or occupations regulated
7 by a professional or occupational board established in the Division
8 of Consumer Affairs. The Attorney General shall present the
9 information on its website in a manner that allows students to easily
10 compare student consumer information across private career
11 schools.

12
13 6. (New section) Within 12 months of the effective date of
14 P.L. , c. (C.) (pending before the Legislature as this bill), the
15 Attorney General shall establish a performance quality standard for
16 private career schools authorized to offer an educational program
17 required for licensure, registration, or certification in a profession
18 or occupation regulated by a professional or occupational board
19 established in the Division of Consumer Affairs. The performance
20 quality standard shall be based on the ratio of the earnings of
21 students in private career schools to the tuition and fees charged to
22 those students net of any school grant aid. The Attorney General
23 shall ensure that private career schools meet a minimum acceptable
24 level of performance for this standard, up to and including
25 revocation of a school's authorization to offer educational programs
26 regulated by a professional or occupational board in the Division of
27 Consumer Affairs.

28 The Attorney General, in consultation with the Secretary of
29 Higher Education and the Commissioner of Labor and Workforce
30 Development, shall adopt, in accordance with the "Administrative
31 Procedure Act," P.L. 1968, c.410 (C.52:14B-1 et seq.), rules and
32 regulations as may be necessary to implement the provisions of this
33 section.

34
35 7. (New section) a. A private career school authorized by the
36 Department of Labor and Workforce Development to offer one or
37 more occupational training programs shall provide for public
38 inspection on its website comprehensive information on the cost of
39 attendance, the graduation or completion rates of students, and the
40 faculty of the school, and shall also provide for public inspection on
41 its website employment data for recent graduates of the school. The
42 purpose of the information shall be to maximize the awareness of
43 students of the costs associated with enrollment in the school, the
44 success in ensuring the graduation and employment of its students,
45 and the composition of the teaching faculty that a student will
46 encounter in his coursework. The school shall post, and annually
47 update, a student consumer information report on its website that
48 includes, if applicable:

- 1 (1) overall graduation or completion rates;
- 2 (2) graduation or completion rates by demographic group;
- 3 (3) the student transfer rate;
- 4 (4) an overview of the schools to which former students have
- 5 transferred prior to the completion of a program;
- 6 (5) the amount of any school charges, including tuition and fees;
- 7 (6) a description of the types of financial assistance offered
- 8 directly by the school to students;
- 9 (7) the total projected cost for an incoming student to complete
- 10 a program;
- 11 (8) average student loan indebtedness of graduates;
- 12 (9) average student loan indebtedness of a student who
- 13 withdraws from the school prior to the completion of an
- 14 occupational program;
- 15 (10) an overview of the school's faculty, including the
- 16 percentage of faculty employed on a full-time basis and the
- 17 percentage of faculty employed on a part-time basis; and
- 18 (11) employment data beginning with data compiled for
- 19 students who graduate from the school during the 2021-2022
- 20 academic year. The employment data shall include, but need not be
- 21 limited to, the employment rate and average annual salary of
- 22 students two years following the academic year in which the
- 23 students graduated from the school, as compiled in the comparative
- 24 report and provided by the Commissioner of Labor and Workforce
- 25 Development pursuant to section 10 of P.L. , c. (C.)
- 26 (pending before the Legislature as this bill).
- 27 The school shall provide with all paper applications for
- 28 admission to the school a hard copy of the information prepared
- 29 pursuant to this subsection.
- 30 b. The private career school shall conform to the guidelines,
- 31 criteria, and format prescribed by the commissioner in reporting the
- 32 information required pursuant to this section. The school shall
- 33 submit its student consumer information report to the commissioner
- 34 for inclusion in a comparative profile of the student consumer
- 35 information reports of all such schools.
- 36 c. A private career school shall ensure that the page of its
- 37 Internet site which includes its student consumer information report
- 38 contains a link to the page of the department's Internet site that
- 39 includes the comparative profile required pursuant to subsection b.
- 40 of section 8 of P.L. , c. (C.) (pending before the Legislature
- 41 as this bill).
- 42 d. A private career school shall ensure that the Internet site for
- 43 submitting an online application to the school contains a link to the
- 44 school's student consumer information report.
- 45 e. A private career school shall require a student applying for
- 46 admission to sign and submit a statement acknowledging that he has
- 47 reviewed the school's student consumer information report.

1 8. (New section) a. The Commissioner of Labor and
2 Workforce Development shall issue guidelines and criteria for
3 collecting and calculating the information required pursuant to
4 section 7 of P.L. , c. (C.) (pending before the Legislature as
5 this bill) and shall prescribe a uniform reporting method for posting
6 the information.

7 b. The commissioner shall annually compile the student
8 consumer information reports submitted pursuant to subsection b. of
9 section 7 of P.L. , c. (C.) (pending before the Legislature as
10 this bill) into a comparative profile of all private career schools
11 authorized to offer one or more occupational training programs. The
12 commissioner shall present the information on its website in a
13 manner that allows students to easily compare student consumer
14 information across private career schools regulated by the
15 department.

16
17 9. (New section) Within 12 months of the effective date of
18 P.L. , c. (C.) (pending before the Legislature as this bill), the
19 Commissioner of Labor and Workforce Development shall establish
20 standards for private career schools authorized by the department to
21 offer one or more occupational training programs. The standards
22 shall be based on the ratio of the earnings of students in private
23 career schools to the tuition and fees charged to those students net
24 of any school grant aid. The commissioner shall ensure that private
25 career schools meet a minimum acceptable level of performance for
26 the standard, up to and including revocation of a school's certificate
27 of approval.

28 The commissioner, in consultation with the Secretary of Higher
29 Education and the Attorney General, shall adopt, in accordance with
30 the "Administrative Procedure Act," P.L. 1968, c.410 (C.52:14B-
31 1 et seq.), rules and regulations as may be necessary to implement
32 the provisions of this section.

33
34 10. (New section) a. As used in this section, "career-oriented
35 program of study" means a program that delivers occupation-
36 specific skills and knowledge of all aspects of an industry, provides
37 technical skill proficiency, and culminates in the attainment of an
38 industry-recognized postsecondary credential.

39 b. No later than the beginning of the 2021-2022 academic year,
40 the Secretary of Higher Education, the Department of Labor and
41 Workforce Development, and the Division of Consumer Affairs
42 shall enter into a memorandum of understanding to develop a data
43 system that will collect the employment data for students who
44 graduate or withdraw prior to the completion of a degree program
45 from an institution of higher education or from a proprietary
46 institution authorized to offer licensed degree programs in the State,
47 or from a private career school, to produce an employment
48 comparative report for all institutions and schools.

1 The Department of Labor and Workforce Development shall also
2 initiate efforts to enter into an agreement with other states for the
3 sharing of unemployment insurance information for the purposes of
4 P.L. , c. (C.) (pending before the Legislature as this bill).

5 c. An institution of higher education, a proprietary institution
6 authorized to offer licensed degree programs, and a private career
7 school shall submit to the department, as applicable, for each
8 student who graduates or withdraws from the institution or school
9 in an academic year or school year:

10 (1) the student's social security number;

11 (2) the student's degree program or professional and
12 occupational program;

13 (3) the student's graduation date or date of withdrawal and
14 portion of the program completed at withdrawal from the institution
15 or school;

16 (4) information on the student's loan debt obtained from the
17 federal student loan program and any loans the institution or school
18 has certified, arranged, or is otherwise aware of, or of which it
19 should reasonably be aware; and

20 (5) institutional or school charges for which the student is
21 responsible net of any institutional or school grant aid.

22 An institution of higher education, a proprietary institution
23 authorized to offer licensed degree programs, and a private career
24 school shall also submit to the department the clear identification of
25 the institution's or school's career-oriented programs of study.

26 The department shall adopt standards and procedures to prevent
27 any State agency from publishing, disclosing, or releasing
28 information which could identify any individual and shall not
29 publish, disclose, or otherwise release information which could
30 identify any individual.

31 d. The department shall submit the employment information
32 compiled pursuant to this section to the Secretary of Higher
33 Education, the Attorney General, and the Commissioner of Labor
34 and Workforce Development. The secretary, Attorney General, and
35 commissioner, respectively, shall use the information to compile an
36 employment comparative report for each institution of higher
37 education, degree-granting proprietary institution, and private
38 career school which shall include, as applicable:

39 (1) the employment rate and average annual salary of students
40 by academic major, in the case of an academic degree program, or
41 program in the case of private career schools, two years following
42 graduation from the institution or school;

43 (2) the employment rate and average annual salary of students
44 two years following the academic year in which the students
45 graduated from the institution or school; and

46 (3) the employment rate and average annual salary of students
47 two years following withdrawal from the institution or school prior
48 to the completion of a degree program or school program.

1 The secretary, Attorney General, and commissioner shall
2 distribute the employment comparative report to each institution of
3 higher education, proprietary institution authorized to offer licensed
4 degree programs, and private career school for inclusion on the
5 institution's or school's website and inclusion in the student
6 consumer information report prepared by the institution or school.

7
8 11. (New section) Three years following the effective date of
9 P.L. , c. (C.) (pending before the Legislature as this bill),
10 the Secretary of Higher Education, Attorney General, and
11 Commissioner of Labor and Workforce Development shall submit a
12 report to the Governor and, pursuant to section 2 of P.L.1991, c.164
13 (C.52:14-19.1), the Legislature. The report shall include
14 recommendations on the ability to use the data collected pursuant to
15 subsection c. of section 10 of P.L. , c. (C.) (pending before
16 the Legislature as this bill) to establish a Statewide gainful
17 employment requirement that requires an institution or school to
18 demonstrate that its graduates earn enough to adequately repay their
19 student loans by meeting a certain debt-to-income ratio, and any
20 other recommendations for establishing a gainful employment
21 requirement.

22
23 12. This act shall take effect immediately.

24
25
26 STATEMENT

27
28 This bill provides that all institutions of higher education,
29 including independent institutions of higher education, and
30 proprietary institutions authorized to offer licensed degree programs
31 will be subject to the provisions of the "New Jersey College Student
32 and Parent Consumer Information Act," P.L.2009, c.197
33 (C.18A:3B-43 et seq.). Under that act, four-year public institutions
34 of higher education are currently required to provide for public
35 inspection on their websites information on the cost of attendance,
36 the graduation rates of admitted students, and the faculty of the
37 institution. This bill also amends that law to require all institutions
38 of higher education and proprietary institutions licensed to offer
39 academic degrees to include on the institution's website
40 employment data for recent graduates from the institution.

41 In addition to those institutions, this bill requires private career
42 schools authorized to offer educational programs required for
43 licensure, registration, or certification in a profession or occupation
44 regulated by a professional or occupational board established in the
45 Division of Consumer Affairs, and private career schools authorized
46 by the Department of Labor and Workforce Development to offer
47 one or more occupational training programs, to also post similar
48 information on their websites.

1 The bill requires the Secretary of Higher Education, the
2 Department of Labor and Workforce Development, and the
3 Division of Consumer Affairs to enter into a memorandum of
4 understanding to develop a data system that will collect the
5 employment data for postsecondary students in order to produce an
6 employment comparative report of all institutions and private career
7 schools. The bill also requires the department to initiate efforts to
8 enter into an agreement with other states for the purpose of sharing
9 unemployment insurance information.

10 Under the bill, the institutions and private career schools will
11 submit to the department for each student who graduates or
12 withdraws from the institution or school: the student's social
13 security number, degree program or professional and occupational
14 educational program, and graduation or withdrawal date;
15 information on the student's loan debt obtained from the federal
16 student loan program and any loans the institution or school has
17 certified, arranged, or is otherwise aware of, or of which it should
18 reasonably be aware; and the institutional or school charges for
19 which the student is responsible net of any institutional or school
20 grant aid. The institutions and schools will also send the department
21 the clear identification of the institution's or school's career-
22 oriented programs of study. The department will use the
23 information to compile an employment comparative report, which
24 will include:

25 (1) the employment rate and average annual salary of students
26 by academic major, in the case of an academic degree program, or
27 program in the case of private career schools, two years following
28 graduation from the institution or school;

29 (2) the employment rate and average annual salary of students
30 two years following the academic year in which the students
31 graduated from the institution or school; and

32 (3) the employment rate and average annual salary of students
33 two years following withdrawal from the institution or school prior
34 to the completion of a degree program or educational program.

35 The Secretary of Higher Education, Attorney General, and
36 Commissioner of Labor and Workforce Development will distribute
37 the employment comparative report to each institution of higher
38 education, proprietary institution authorized to offer licensed degree
39 programs, and private career school for inclusion on the
40 institution's or school's website and inclusion in the student
41 consumer information report prepared by the institution or school.

ASSEMBLY HIGHER EDUCATION COMMITTEE

STATEMENT TO

ASSEMBLY, No. 1695

with committee amendments

STATE OF NEW JERSEY

DATED: MARCH 14, 2022

The Assembly Higher Education Committee adopts amendments to Assembly Bill No. 1695.

As amended, this bill provides that the Secretary of Higher Education will establish a performance quality standard for career-oriented programs of study offered by institutions of higher education and degree-granting proprietary institutions. In establishing the standard, the secretary is required to consider the ratio of the tuition and fees charged to students in the career-oriented program net of any institutional grant aid to the average earnings of New Jersey workers employed in the specific occupation for which the career-oriented program prepares students.

Under the bill, the secretary will ensure that career-oriented programs of study offered by institutions meet a minimum acceptable level of performance, as determined by the secretary. In the event that the secretary determines that a program does not meet the minimum acceptable level of performance, the secretary will suspend or terminate that program and take additional action to suspend or revoke the institution's license to award academic degrees.

Similarly, the bill also requires the Commissioner of Labor and Workforce Development to establish performance quality standards for:

(1) private career schools, referred to and defined as "qualifying schools," authorized jointly by the Commissioner of Labor and Workforce Development and the Commissioner of Education to operate in New Jersey; and

(2) private career schools authorized by a professional or occupational board established within the Division of Consumer Affairs in the Department of Law and Public Safety to offer an educational program required for licensure, registration, or certification in a profession or occupation regulated by a professional or occupational board established within the division.

In establishing the performance quality standards, the Commissioner of Labor and Workforce Development is required to consider the ratio of the tuition and fees charged to students in the program net of any institutional grant aid to the average earnings of

New Jersey workers employed in the specific occupation for which the program prepares students.

Under the bill, in the event that the Commissioner of Labor and Workforce Development determines that a program offered by a private career school does not meet the minimum acceptable level of performance, the Commissioner of Labor and Workforce Development and the Commissioner of Education are required to revoke, suspend or make conditional the certificate of approval issued under that law. Similarly, in the event that the Commissioner of Labor and Workforce Development determines that an educational program required for licensure, registration, or certification in a profession or occupation regulated by a professional or occupational board established within the division does not meet the minimum acceptable level of performance, the Commissioner of Labor and Workforce Development is required to issue a written determination directing the applicable board within the Division of Consumer Affairs to suspend or revoke the private career school's license or accreditation to offer such program.

COMMITTEE AMENDMENTS:

The committee amended the bill to:

- delete reference to the sections requiring institutions of higher education and degree-granting proprietary institutions to post employment data of recent graduates on their websites, as these requirements were largely made by a previous enactment that amended the “New Jersey College Student and Parent Consumer Information Act”;
- define “career-oriented program of study” to mean a program that provides occupation-specific knowledge and technical skill proficiency that culminates in the attainment of a license for a specific occupation or is represented by the institution as preparing students for employment in a specific occupation. “Career-oriented program of study” does not include a program dedicated primarily to the education or training of ministers, priests, rabbis or other professional persons in the field of religion;
- require the Secretary of Higher Education to establish a performance quality standard for career-oriented programs of study offered by institutions of higher education and degree-granting proprietary institutions;
- require the Commissioner of Labor and Workforce Development to establish performance quality standards for: (1) private career schools, referred to and defined as “qualifying schools,” authorized jointly by the Commissioner of Labor and Workforce Development and the Commissioner of Education to operate in New Jersey; and (2) private career schools authorized by a professional or occupational board

established within the Division of Consumer Affairs in the Department of Law and Public Safety to offer an educational program required for licensure, registration, or certification in a profession or occupation regulated by a professional or occupational board established within the division; and

- delete the sections of the bill concerning private career schools, some of which are overseen by the Department of Labor and Workforce Development and some of which are overseen by the Division of Consumer Affairs in the Department of Law and Public Safety, and consolidate them into one section overseen by the Commissioner of Labor and Workforce Development.

ASSEMBLY HIGHER EDUCATION COMMITTEE

STATEMENT TO

[First Reprint]

ASSEMBLY, No. 1695

STATE OF NEW JERSEY

DATED: MAY 19, 2022

The Assembly Higher Education Committee reports favorably Assembly Bill No. 1695 (1R).

This bill provides that the Secretary of Higher Education will establish a performance quality standard for career-oriented programs of study offered by institutions of higher education and degree-granting proprietary institutions. In establishing the standard, the secretary is required to consider the ratio of the tuition and fees charged to students in the career-oriented program net of any institutional grant aid to the average earnings of New Jersey workers employed in the specific occupation for which the career-oriented program prepares students.

Under the bill, the secretary will ensure that career-oriented programs of study offered by institutions meet a minimum acceptable level of performance, as determined by the secretary. In the event that the secretary determines that a program does not meet the minimum acceptable level of performance, the secretary will suspend or terminate that program and take additional action to suspend or revoke the institution's license to award academic degrees.

Similarly, the bill also requires the Commissioner of Labor and Workforce Development to establish performance quality standards for:

(1) private career schools, referred to and defined as "qualifying schools," authorized jointly by the Commissioner of Labor and Workforce Development and the Commissioner of Education to operate in New Jersey; and

(2) private career schools authorized by a professional or occupational board established within the Division of Consumer Affairs in the Department of Law and Public Safety to offer an educational program required for licensure, registration, or certification in a profession or occupation regulated by a professional or occupational board established within the division.

In establishing the performance quality standards, the Commissioner of Labor and Workforce Development is required to consider the ratio of the tuition and fees charged to students in the program net of any institutional grant aid to the average earnings of

New Jersey workers employed in the specific occupation for which the program prepares students.

Under the bill, in the event that the Commissioner of Labor and Workforce Development determines that a program offered by a private career school does not meet the minimum acceptable level of performance, the Commissioner of Labor and Workforce Development and the Commissioner of Education are required to revoke, suspend or make conditional the certificate of approval issued under that law. Similarly, in the event that the Commissioner of Labor and Workforce Development determines that an educational program required for licensure, registration, or certification in a profession or occupation regulated by a professional or occupational board established within the division does not meet the minimum acceptable level of performance, the Commissioner of Labor and Workforce Development is required to issue a written determination directing the applicable board within the Division of Consumer Affairs to suspend or revoke the private career school's license or accreditation to offer such program.

Under the bill, all private career schools, including those operating with a certificate of approval issued jointly by the Commissioner of Labor and Workforce Development and the Commissioner of Education, and those authorized by a professional or occupational board established within the Division of Consumer Affairs to offer an educational program required for licensure, registration, or certification in a profession or occupation regulated by a professional or occupational board established within the Division of Consumer Affairs, are required to submit a quarterly report to the Commissioner of Labor and Workforce Development that includes:

- (1) the tuition and fees charged for each program;
- (2) a record for each student enrolled in each program. The student record is required to include, at a minimum: the student's social security number, gender, date of birth, date of enrollment, any date of completion, date of termination, date of start in a job, date of application for a license, licensing examination result, date of issuance of a license, and any credential issued; and
- (3) any additional information that may be required by the Commissioner of Labor and Workforce Development.

SENATE, No. 495

STATE OF NEW JERSEY 220th LEGISLATURE

PRE-FILED FOR INTRODUCTION IN THE 2022 SESSION

Sponsored by:

Senator JOSEPH P. CRYAN

District 20 (Union)

Senator SANDRA B. CUNNINGHAM

District 31 (Hudson)

Co-Sponsored by:

Senators Singleton and Turner

SYNOPSIS

Requires institutions of higher education and private career schools to provide on website employment data of graduates; requires DOLWD to compile certain employment information.

CURRENT VERSION OF TEXT

Introduced Pending Technical Review by Legislative Counsel.



1 AN ACT concerning information provided by institutions of higher
2 education and private career schools, amending P.L.2009, c.197,
3 and supplementing P.L.1989, c.293 (C.34:15C-1 et seq.), and
4 Title 45 of the Revised Statutes.

5

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

8

9 1. Section 2 of P.L.2009, c.197 (C.18A:3B-44) is amended to
10 read as follows:

11 2. a. **[A four-year public]** An institution of higher education
12 and a proprietary institution which has been authorized to offer
13 licensed degree programs shall provide for public inspection on its
14 website comprehensive information on the cost of attendance, the
15 graduation rates of admitted students, and the faculty of the
16 institution, and shall also provide for public inspection on its
17 website employment data for recent graduates of the institution.
18 The purpose of the information shall be to maximize the awareness
19 of students and their families of the costs associated with
20 enrollment in the institution, the institution's success in ensuring the
21 graduation and employment of its students, and the composition of
22 the teaching faculty that a student will encounter in his coursework.
23 The institution shall post, and annually update, a student consumer
24 information report on its website that includes, if applicable:

25 (1) overall two-year and three-year graduation rates, and overall
26 four-year and six-year graduation rates, as applicable;

27 (2) two-year and three-year graduation rates by demographic
28 group, and four-year and six-year graduation rates by demographic
29 group, as applicable;

30 (3) two-year and three-year graduation rates by major, and four-
31 year and six-year graduation rates by major, as applicable;

32 (4) two-year and three-year graduation rates for student-athletes,
33 and four-year and six-year graduation rates for student-athletes, as
34 applicable;

35 (5) the student transfer rate, including the rate of students who
36 graduate from a county college and subsequently enroll in a four-
37 year institution of higher education;

38 (6) an overview of the institutions to which former students of
39 that [college or university] institution have transferred prior to the
40 completion of a degree;

41 (7) the cost for the current academic year of attending the
42 institution including tuition, student fees, room and board, and
43 books and materials;

44 (8) a description of the types of financial assistance offered
45 directly by the institution to both student-athletes and to students
46 who do not participate in athletic programs at the institution;

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.

- 1 (9) the percent of student-athletes who receive financial
2 assistance directly from the institution and the average value of the
3 assistance and the percent of students who do not participate in
4 athletic programs at the institution who receive financial assistance
5 directly from the institution and the average value of the assistance;
- 6 (10) the total projected cost for an incoming freshman to live on
7 campus and complete a degree in four years and the total projected
8 cost for an incoming freshman to commute to school and complete a
9 degree in four years;
- 10 (11) the total projected cost for an incoming freshman to live on
11 campus and complete a degree in six years and the total projected
12 cost for an incoming freshman to commute to school and complete a
13 degree in six years;
- 14 (12) average student loan indebtedness of four-year graduates for
15 both students who live on campus and students who commute, and
16 average student loan indebtedness of two-year graduates;
- 17 (13) average student loan indebtedness of six-year graduates for
18 both students who live on campus and students who commute, and
19 average student loan indebtedness of three-year graduates;
- 20 (14) average student loan indebtedness of a student who
21 withdraws from the institution prior to the completion of a degree
22 program for both students who live on campus and students who
23 commute;
- 24 (15) an overview of the institution's faculty, including the
25 percentage of faculty employed as a tenured professor, the
26 percentage of faculty employed as a full-time non-tenured
27 professor, and the percentage of faculty employed as an adjunct or
28 visiting professor;
- 29 (16) the percentage of courses taught by each of the different
30 categories of faculty; **and**
- 31 (17) an indicator of each academic department's capacity to serve
32 the students majoring within that department's programs, as
33 determined by the **Commission on** Secretary of Higher
34 Education; and
- 35 (18) employment data beginning with data compiled for students
36 who graduate from the institution during the 2021-2022 academic
37 year. The employment data shall include, but need not be limited to,
38 the employment rate and average annual salary of students by
39 academic major two years following the academic year in which the
40 students graduated from the institution, and the number and
41 percentage of students who are employed two years following the
42 academic year in which the students graduated from the institution,
43 as compiled in the comparative report and provided by the Secretary
44 of Higher Education pursuant to section 10 of P.L. , c. (C.)
45 (pending before the Legislature as this bill).
- 46 The institution shall provide with all paper applications for
47 admission to the institution a hard copy of the information prepared
48 pursuant to this section.

1 b. **【A four-year public】** An institution of higher education and
2 a proprietary institution authorized to offer licensed degree
3 programs shall conform to the guidelines, criteria, and format
4 prescribed by the **【Commission on】** Secretary of Higher Education
5 in reporting the information required pursuant to this section.

6 c. **【A four-year public】** An institution of higher education and
7 a proprietary institution authorized to offer licensed degree
8 programs shall submit its student consumer information report to
9 the **【Commission on】** Secretary of Higher Education for inclusion
10 in a comparative profile of the student consumer information
11 reports of all **【four-year public】** institutions of higher education.

12 d. **【A four-year public】** An institution of higher education and
13 a proprietary institution authorized to offer licensed degree
14 programs shall ensure that the page of its Internet site which
15 includes its student consumer information report contains a link to
16 the page of the **【Commission on】** Secretary of Higher Education's
17 Internet site that includes the comparative profile required pursuant
18 to subsection b. of section 3 of this act.

19 e. **【A four-year public】** An institution of higher education and
20 a proprietary institution authorized to offer licensed degree
21 programs shall ensure that the Internet site for submitting an online
22 application to the institution contains a link to the institution's
23 student consumer information report.

24 f. **【A four-year public】** An institution of higher education and
25 a proprietary institution authorized to offer licensed degree
26 programs shall require the parent or guardian of a student applying
27 for admission into the institution, or the student if he is an
28 independent adult, to sign and submit a statement acknowledging
29 that he has reviewed the institution's student consumer information
30 report.

31 (cf: P.L.2009, c.197, s.2)

32

33 2. Section 3 of P.L.2009, c.197 (C.18A:3B-45) is amended to
34 read as follows:

35 3. a. The **【Commission on】** Secretary of Higher Education
36 shall issue guidelines and criteria for collecting and calculating the
37 information required pursuant to section 2 of this act and shall
38 prescribe a uniform reporting method for posting the information.

39 b. The **【Commission on】** Secretary of Higher Education shall
40 annually compile the student consumer information reports
41 submitted pursuant to subsection c. of section 2 of this act into a
42 comparative profile of all **【four-year public】** institutions of higher
43 education and proprietary institutions authorized to offer licensed
44 degree programs. The **【commission】** secretary shall present the
45 information on its website in a manner that allows **【college】**
46 students and their families to easily compare student consumer
47 information across public institutions, across independent

1 institutions, and across proprietary institutions authorized to offer
2 licensed degree programs.

3 (cf: P.L.2009, c.197, s.3)

4
5 3. (New section) Within 12 months of the effective date of
6 P.L. , c. (C.) (pending before the Legislature as this bill),
7 the Secretary of Higher Education shall establish a performance
8 quality standard for programs of study offered by institutions of
9 higher education and proprietary institutions authorized to offer
10 licensed degree programs. The standard shall be based on the ratio
11 of the earnings of students in the programs to the tuition and fees
12 charged to those students net of any institutional grant aid. The
13 secretary shall ensure that the programs of study meet a minimum
14 acceptable level of performance for the standard, up to and
15 including revocation of an institution's license to award academic
16 degrees.

17 The secretary, in consultation with the Attorney General and the
18 Commissioner of Labor and Workforce Development, shall adopt,
19 in accordance with the "Administrative Procedure Act," P.L. 1968,
20 c.410 (C.52:14B-1 et seq.), rules and regulations as may be
21 necessary to implement the provisions of this section.

22
23 4. (New section) a. A private career school authorized to offer
24 an educational program required for licensure, registration or
25 certification in a profession or occupation regulated by a
26 professional or occupational board established in the Division of
27 Consumer Affairs shall provide for public inspection on its website
28 comprehensive information on the cost of attendance, the
29 graduation or completion rates of admitted students, and the faculty
30 of the school, and shall also provide for public inspection on its
31 website employment data for recent graduates. The purpose of the
32 information shall be to maximize the awareness of students of the
33 costs associated with enrollment in the school, the success in
34 ensuring the graduation and employment of its students, and the
35 composition of the teaching faculty that a student will encounter in
36 his coursework. The school shall post, and annually update, a
37 student consumer information report on its website that includes, if
38 applicable:

- 39 (1) overall graduation or completion rates;
40 (2) graduation or completion rates by demographic group;
41 (3) the student transfer rate;
42 (4) an overview of the schools to which former students have
43 transferred prior to the completion of an educational program;
44 (5) the amount of any school charges, including tuition and fees;
45 (6) a description of the types of financial assistance offered
46 directly by the school to students;
47 (7) the total projected cost for an incoming student to complete
48 the educational program;

- 1 (8) average student loan indebtedness of graduates;
- 2 (9) average student loan indebtedness of a student who
3 withdraws from the school prior to the completion of the
4 educational program;
- 5 (10) an overview of the school's faculty, including the
6 percentage of faculty employed on a full-time basis and the
7 percentage of faculty employed on a part-time basis; and
- 8 (11) employment data beginning with data compiled for students
9 who graduate from the school during the 2021-2022 academic year.
10 The employment data shall include, but need not be limited to, the
11 employment rate and average annual salary of students two years
12 following the academic year in which the students graduated from
13 the school, as compiled in the comparative report and provided by
14 the Attorney General pursuant to section 10 of P.L. ,
15 c. (C.) (pending before the Legislature as this bill).
- 16 The school shall provide with all paper applications for
17 admission a hard copy of the information prepared pursuant to this
18 subsection.
- 19 b. A private career school shall conform to the guidelines,
20 criteria, and format prescribed by the Attorney General in reporting
21 the information required pursuant to subsection a. of this section.
22 The institution shall submit its student consumer information report
23 to the Attorney General for inclusion in a comparative profile of the
24 student consumer information reports of all such schools.
- 25 c. A private career school shall ensure that the page of its
26 Internet site which includes its student consumer information report
27 contains a link to the page of the Attorney General's Internet site
28 that includes the comparative profile required pursuant to
29 subsection b. of section 5 of P.L. , c. (C.) (pending before
30 the Legislature as this bill).
- 31 d. A private career school shall ensure that the Internet site for
32 submitting an online application to the institution contains a link to
33 the institution's student consumer information report.
- 34 e. A private career school shall require a student applying for
35 admission to the school to sign and submit a statement
36 acknowledging that he has reviewed the school's student consumer
37 information report.
- 38
- 39 5. (New section) a. The Attorney General shall issue
40 guidelines and criteria for collecting and calculating the information
41 required pursuant to section 4 of P.L. , c. (C.) (pending
42 before the Legislature as this bill) and shall prescribe a uniform
43 reporting method for posting the information.
- 44 b. The Attorney General shall annually compile the student
45 consumer information reports submitted pursuant to subsection b. of
46 section 4 of P.L. , c. (C.) (pending before the Legislature as
47 this bill) into a comparative profile of all private career schools
48 authorized to offer educational programs required for licensure,

1 registration, or certification in professions or occupations regulated
2 by a professional or occupational board established in the Division
3 of Consumer Affairs. The Attorney General shall present the
4 information on its website in a manner that allows students to easily
5 compare student consumer information across private career
6 schools.

7
8 6. (New section) Within 12 months of the effective date of
9 P.L. , c. (C.) (pending before the Legislature as this bill), the
10 Attorney General shall establish a performance quality standard for
11 private career schools authorized to offer an educational program
12 required for licensure, registration, or certification in a profession
13 or occupation regulated by a professional or occupational board
14 established in the Division of Consumer Affairs. The performance
15 quality standard shall be based on the ratio of the earnings of
16 students in private career schools to the tuition and fees charged to
17 those students net of any school grant aid. The Attorney General
18 shall ensure that private career schools meet a minimum acceptable
19 level of performance for this standard, up to and including
20 revocation of a school's authorization to offer educational programs
21 regulated by a professional or occupational board in the Division of
22 Consumer Affairs.

23 The Attorney General, in consultation with the Secretary of
24 Higher Education and the Commissioner of Labor and Workforce
25 Development, shall adopt, in accordance with the "Administrative
26 Procedure Act," P.L. 1968, c.410 (C.52:14B-1 et seq.), rules and
27 regulations as may be necessary to implement the provisions of this
28 section.

29
30 7. (New section) a. A private career school authorized by the
31 Department of Labor and Workforce Development to offer one or
32 more occupational training programs shall provide for public
33 inspection on its website comprehensive information on the cost of
34 attendance, the graduation or completion rates of students, and the
35 faculty of the school, and shall also provide for public inspection on
36 its website employment data for recent graduates of the school. The
37 purpose of the information shall be to maximize the awareness of
38 students of the costs associated with enrollment in the school, the
39 success in ensuring the graduation and employment of its students,
40 and the composition of the teaching faculty that a student will
41 encounter in his coursework. The school shall post, and annually
42 update, a student consumer information report on its website that
43 includes, if applicable:

- 44 (1) overall graduation or completion rates;
- 45 (2) graduation or completion rates by demographic group;
- 46 (3) the student transfer rate;
- 47 (4) an overview of the schools to which former students have
48 transferred prior to the completion of a program;

- 1 (5) the amount of any school charges, including tuition and fees;
2 (6) a description of the types of financial assistance offered
3 directly by the school to students;
4 (7) the total projected cost for an incoming student to complete
5 a program;
6 (8) average student loan indebtedness of graduates;
7 (9) average student loan indebtedness of a student who
8 withdraws from the school prior to the completion of an
9 occupational program;
10 (10) an overview of the school's faculty, including the
11 percentage of faculty employed on a full-time basis and the
12 percentage of faculty employed on a part-time basis; and
13 (11) employment data beginning with data compiled for students
14 who graduate from the school during the 2021-2022 academic year.
15 The employment data shall include, but need not be limited to, the
16 employment rate and average annual salary of students two years
17 following the academic year in which the students graduated from
18 the school, as compiled in the comparative report and provided by
19 the Commissioner of Labor and Workforce Development pursuant
20 to section 10 of P.L. , c. (C.) (pending before the
21 Legislature as this bill).
- 22 The school shall provide with all paper applications for
23 admission to the school a hard copy of the information prepared
24 pursuant to this subsection.
- 25 b. The private career school shall conform to the guidelines,
26 criteria, and format prescribed by the commissioner in reporting the
27 information required pursuant to this section. The school shall
28 submit its student consumer information report to the commissioner
29 for inclusion in a comparative profile of the student consumer
30 information reports of all such schools.
- 31 c. A private career school shall ensure that the page of its
32 Internet site which includes its student consumer information report
33 contains a link to the page of the department's Internet site that
34 includes the comparative profile required pursuant to subsection b.
35 of section 8 of P.L. , c. (C.) (pending before the Legislature
36 as this bill).
- 37 d. A private career school shall ensure that the Internet site for
38 submitting an online application to the school contains a link to the
39 school's student consumer information report.
- 40 e. A private career school shall require a student applying for
41 admission to sign and submit a statement acknowledging that he has
42 reviewed the school's student consumer information report.
- 43
- 44 8. (New section) a. The Commissioner of Labor and
45 Workforce Development shall issue guidelines and criteria for
46 collecting and calculating the information required pursuant to
47 section 7 of P.L. , c. (C.) (pending before the Legislature as

1 this bill) and shall prescribe a uniform reporting method for posting
2 the information.

3 b. The commissioner shall annually compile the student
4 consumer information reports submitted pursuant to subsection b. of
5 section 7 of P.L. , c. (C.) (pending before the Legislature as
6 this bill) into a comparative profile of all private career schools
7 authorized to offer one or more occupational training programs. The
8 commissioner shall present the information on its website in a
9 manner that allows students to easily compare student consumer
10 information across private career schools regulated by the
11 department.

12

13 9. (New section) Within 12 months of the effective date of
14 P.L. , c. (C.) (pending before the Legislature as this bill), the
15 Commissioner of Labor and Workforce Development shall establish
16 standards for private career schools authorized by the department to
17 offer one or more occupational training programs. The standards
18 shall be based on the ratio of the earnings of students in private
19 career schools to the tuition and fees charged to those students net
20 of any school grant aid. The commissioner shall ensure that private
21 career schools meet a minimum acceptable level of performance for
22 the standard, up to and including revocation of a school's certificate
23 of approval.

24 The commissioner, in consultation with the Secretary of Higher
25 Education and the Attorney General, shall adopt, in accordance with
26 the "Administrative Procedure Act," P.L. 1968, c.410 (C.52:14B-1
27 et seq.), rules and regulations as may be necessary to implement the
28 provisions of this section.

29

30 10. (New section) a. As used in this section, "career-oriented
31 program of study" means a program that delivers occupation-
32 specific skills and knowledge of all aspects of an industry, provides
33 technical skill proficiency, and culminates in the attainment of an
34 industry-recognized postsecondary credential.

35 b. No later than the beginning of the 2021-2022 academic year,
36 the Secretary of Higher Education, the Department of Labor and
37 Workforce Development, and the Division of Consumer Affairs
38 shall enter into a memorandum of understanding to develop a data
39 system that will collect the employment data for students who
40 graduate or withdraw prior to the completion of a degree program
41 from an institution of higher education or from a proprietary
42 institution authorized to offer licensed degree programs in the State,
43 or from a private career school, to produce an employment
44 comparative report for all institutions and schools.

45 The Department of Labor and Workforce Development shall also
46 initiate efforts to enter into an agreement with other states for the
47 sharing of unemployment insurance information for the purposes of
48 P.L. , c. (C.) (pending before the Legislature as this bill).

1 c. An institution of higher education, a proprietary institution
2 authorized to offer licensed degree programs, and a private career
3 school shall submit to the department, as applicable, for each
4 student who graduates or withdraws from the institution or school
5 in an academic year or school year:

- 6 (1) the student's social security number;
- 7 (2) the student's degree program or professional and
8 occupational program;
- 9 (3) the student's graduation date or date of withdrawal and
10 portion of the program completed at withdrawal from the institution
11 or school;
- 12 (4) information on the student's loan debt obtained from the
13 federal student loan program and any loans the institution or school
14 has certified, arranged, or is otherwise aware of, or of which it
15 should reasonably be aware; and
- 16 (5) institutional or school charges for which the student is
17 responsible net of any institutional or school grant aid.

18 An institution of higher education, a proprietary institution
19 authorized to offer licensed degree programs, and a private career
20 school shall also submit to the department the clear identification of
21 the institution's or school's career-oriented programs of study.

22 The department shall adopt standards and procedures to prevent
23 any State agency from publishing, disclosing, or releasing
24 information which could identify any individual and shall not
25 publish, disclose, or otherwise release information which could
26 identify any individual.

27 d. The department shall submit the employment information
28 compiled pursuant to this section to the Secretary of Higher
29 Education, the Attorney General, and the Commissioner of Labor
30 and Workforce Development. The secretary, Attorney General, and
31 commissioner, respectively, shall use the information to compile an
32 employment comparative report for each institution of higher
33 education, degree-granting proprietary institution, and private
34 career school which shall include, as applicable:

- 35 (1) the employment rate and average annual salary of students
36 by academic major, in the case of an academic degree program, or
37 program in the case of private career schools, two years following
38 graduation from the institution or school;
- 39 (2) the employment rate and average annual salary of students
40 two years following the academic year in which the students
41 graduated from the institution or school; and
- 42 (3) the employment rate and average annual salary of students
43 two years following withdrawal from the institution or school prior
44 to the completion of a degree program or school program.

45 The secretary, Attorney General, and commissioner shall
46 distribute the employment comparative report to each institution of
47 higher education, proprietary institution authorized to offer licensed
48 degree programs, and private career school for inclusion on the

1 institution's or school's website and inclusion in the student
2 consumer information report prepared by the institution or school.

3
4 11. (New section) Three years following the effective date of
5 P.L. , c. (C.) (pending before the Legislature as this bill),
6 the Secretary of Higher Education, Attorney General, and
7 Commissioner of Labor and Workforce Development shall submit a
8 report to the Governor and, pursuant to section 2 of P.L.1991, c.164
9 (C.52:14-19.1), the Legislature. The report shall include
10 recommendations on the ability to use the data collected pursuant to
11 subsection c. of section 10 of P.L. , c. (C.) (pending before
12 the Legislature as this bill) to establish a Statewide gainful
13 employment requirement that requires an institution or school to
14 demonstrate that its graduates earn enough to adequately repay their
15 student loans by meeting a certain debt-to-income ratio, and any
16 other recommendations for establishing a gainful employment
17 requirement.

18
19 12. This act shall take effect immediately.

20
21

22 STATEMENT

23
24 This bill provides that all institutions of higher education,
25 including independent institutions of higher education, and
26 proprietary institutions authorized to offer licensed degree programs
27 will be subject to the provisions of the "New Jersey College Student
28 and Parent Consumer Information Act," P.L.2009, c.197
29 (C.18A:3B-43 et seq.). Under that act, four-year public institutions
30 of higher education are currently required to provide for public
31 inspection on their websites information on the cost of attendance,
32 the graduation rates of admitted students, and the faculty of the
33 institution. This bill also amends that law to require all institutions
34 of higher education and proprietary institutions licensed to offer
35 academic degrees to include on the institution's website
36 employment data for recent graduates from the institution.

37 In addition to those institutions, this bill requires private career
38 schools authorized to offer educational programs required for
39 licensure, registration, or certification in a profession or occupation
40 regulated by a professional or occupational board established in the
41 Division of Consumer Affairs, and private career schools authorized
42 by the Department of Labor and Workforce Development to offer
43 one or more occupational training programs, to also post similar
44 information on their websites.

45 The bill requires the Secretary of Higher Education, the
46 Department of Labor and Workforce Development, and the
47 Division of Consumer Affairs to enter into a memorandum of
48 understanding to develop a data system that will collect the

1 employment data for postsecondary students in order to produce an
2 employment comparative report of all institutions and private career
3 schools. The bill also requires the department to initiate efforts to
4 enter into an agreement with other states for the purpose of sharing
5 unemployment insurance information.

6 Under the bill, the institutions and private career schools will
7 submit to the department for each student who graduates or
8 withdraws from the institution or school: the student's social
9 security number, degree program or professional and occupational
10 educational program, and graduation or withdrawal date;
11 information on the student's loan debt obtained from the federal
12 student loan program and any loans the institution or school has
13 certified, arranged, or is otherwise aware of, or of which it should
14 reasonably be aware; and the institutional or school charges for
15 which the student is responsible net of any institutional or school
16 grant aid. The institutions and schools will also send the department
17 the clear identification of the institution's or school's career-
18 oriented programs of study. The department will use the
19 information to compile an employment comparative report, which
20 will include:

21 (1) the employment rate and average annual salary of students
22 by academic major, in the case of an academic degree program, or
23 program in the case of private career schools, two years following
24 graduation from the institution or school;

25 (2) the employment rate and average annual salary of students
26 two years following the academic year in which the students
27 graduated from the institution or school; and

28 (3) the employment rate and average annual salary of students
29 two years following withdrawal from the institution or school prior
30 to the completion of a degree program or educational program.

31 The Secretary of Higher Education, Attorney General, and
32 Commissioner of Labor and Workforce Development will distribute
33 the employment comparative report to each institution of higher
34 education, proprietary institution authorized to offer licensed degree
35 programs, and private career school for inclusion on the
36 institution's or school's website and inclusion in the student
37 consumer information report prepared by the institution or school.

SENATE HIGHER EDUCATION COMMITTEE

STATEMENT TO

SENATE, No. 495

with committee amendments

STATE OF NEW JERSEY

DATED: JUNE 9, 2022

The Senate Higher Education Committee reports favorably Senate Bill No. 495, with committee amendments.

As amended, this bill provides that the Secretary of Higher Education will establish a performance quality standard for career-oriented programs of study offered by institutions of higher education and degree-granting proprietary institutions. In establishing the standard, the secretary is required to consider the ratio of the tuition and fees charged to students in the career-oriented program net of any institutional grant aid to the average earnings of New Jersey workers employed in the specific occupation for which the career-oriented program prepares students.

Under the bill, the secretary will ensure that career-oriented programs of study offered by institutions meet a minimum acceptable level of performance, as determined by the secretary. In the event that the secretary determines that a program does not meet the minimum acceptable level of performance, the secretary will suspend or terminate that program and take additional action to suspend or revoke the institution's license to award academic degrees.

Similarly, the bill also requires the Commissioner of Labor and Workforce Development to establish performance quality standards for:

(1) private career schools, referred to and defined as "qualifying schools," authorized jointly by the Commissioner of Labor and Workforce Development and the Commissioner of Education to operate in New Jersey; and

(2) private career schools authorized by a professional or occupational board established within the Division of Consumer Affairs in the Department of Law and Public Safety to offer an educational program required for licensure, registration, or certification in a profession or occupation regulated by a professional or occupational board established within the division.

In establishing the performance quality standards, the Commissioner of Labor and Workforce Development is required to consider the ratio of the tuition and fees charged to students in the program net of any institutional grant aid to the average earnings of

New Jersey workers employed in the specific occupation for which the program prepares students.

Under the bill, in the event that the Commissioner of Labor and Workforce Development determines that a program offered by a private career school does not meet the minimum acceptable level of performance, the Commissioner of Labor and Workforce Development and the Commissioner of Education are required to revoke, suspend or make conditional the certificate of approval issued under that law. Similarly, in the event that the Commissioner of Labor and Workforce Development determines that an educational program required for licensure, registration, or certification in a profession or occupation regulated by a professional or occupational board established within the division does not meet the minimum acceptable level of performance, the Commissioner of Labor and Workforce Development is required to issue a written determination directing the applicable board within the Division of Consumer Affairs to suspend or revoke the private career school's license or accreditation to offer such program.

This bill was pre-filed for introduction in the 2022-2023 session pending technical review. As reported, the bill includes the changes required by technical review, which has been performed.

COMMITTEE AMENDMENTS:

The committee amended the bill to:

- delete reference to the sections requiring institutions of higher education and degree-granting proprietary institutions to post employment data of recent graduates on their websites, as these requirements were largely made by a previous enactment that amended the “New Jersey College Student and Parent Consumer Information Act”;
- define “career-oriented program of study” to mean a program that provides occupation-specific knowledge and technical skill proficiency that culminates in the attainment of a license for a specific occupation or is represented by the institution as preparing students for employment in a specific occupation. “Career-oriented program of study” does not include a program dedicated primarily to the education or training of ministers, priests, rabbis or other professional persons in the field of religion;
- require the Secretary of Higher Education to establish a performance quality standard for career-oriented programs of study offered by institutions of higher education and degree-granting proprietary institutions;
- require the Commissioner of Labor and Workforce Development to establish performance quality standards for: (1) private career schools, referred to and defined as “qualifying schools,” authorized jointly by the Commissioner

of Labor and Workforce Development and the Commissioner of Education to operate in New Jersey; and (2) private career schools authorized by a professional or occupational board established within the Division of Consumer Affairs in the Department of Law and Public Safety to offer an educational program required for licensure, registration, or certification in a profession or occupation regulated by a professional or occupational board established within the division; and

- delete the sections of the bill concerning private career schools, some of which are overseen by the Department of Labor and Workforce Development and some of which are overseen by the Division of Consumer Affairs in the Department of Law and Public Safety, and consolidate them into one section overseen by the Commissioner of Labor and Workforce Development.

LEGISLATIVE FISCAL ESTIMATE: No

VETO MESSAGE: No

GOVERNOR'S PRESS RELEASE ON SIGNING: Yes

FOLLOWING WERE PRINTED:

To check for circulating copies, contact New Jersey State Government
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REPORTS: No

HEARINGS: No

NEWSPAPER ARTICLES: No

end

P.L. 2022, CHAPTER 77, *approved July 29, 2022*
Assembly, No. 1797 (*First Reprint*)

1 **AN ACT** concerning accidental disability benefits from the State-
2 administered retirement systems and amending various parts of
3 the statutory law.

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

7
8 1. Section 10 of P.L.1965, c.89 (C.53:5A-10) is amended to read
9 as follows:

10 10. a. Upon the written application by a member in service, by
11 one acting in his behalf or by the State, any member may be retired,
12 not less than 1 month next following the date of filing such
13 application, on an accidental disability retirement allowance,
14 provided, that the medical board, after a medical examination of
15 such member, shall certify that the member is permanently and
16 totally disabled as a direct result of a traumatic event occurring
17 during and as a result of the performance of his regular or assigned
18 duties and that such disability was not the result of the member's
19 willful negligence and that such member is mentally or physically
20 incapacitated for the performance of his usual duties in the Division
21 of State Police which the Superintendent of State Police is willing
22 to assign to him.

23 A ¹member with a¹ preexisting and asymptomatic condition ¹[of
24 a member]¹ that is rendered symptomatic ¹[due to] as a direct
25 result of¹ a traumatic event occurring during and as a result of the
26 performance of ¹the member's¹ regular or assigned duties ¹[shall]
27 may¹ be ¹[deemed a direct result of] eligible for an accidental
28 disability retirement allowance, provided that¹ the traumatic event
29 ¹[for the purposes of this subsection] is caused by a circumstance
30 external to the member and is the substantial contributing cause of
31 the member's permanent and total disability¹.

32 The application to accomplish such retirement must be filed
33 within 5 years of the original traumatic event, but the board of
34 trustees may consider an application filed after the 5-year period if
35 it can be factually demonstrated to the satisfaction of the board of
36 trustees that the disability is due to the accident and the filing was
37 not accomplished within the 5-year period due to a delayed
38 manifestation of the disability or to the member's continued

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:

¹Assembly ASL committee amendments adopted June 9, 2022.

1 employment in a restricted capacity consistent with the nature of his
2 disability in the Division of the State Police upon and at the written
3 request of the superintendent, with the concurrence of the Attorney
4 General, or to other circumstances beyond the control of the
5 member. ¹Any member who was previously denied accidental
6 disability benefits because they had a preexisting and asymptomatic
7 condition which was rendered symptomatic due to a traumatic event
8 during their regular or assigned duties may have their retirement
9 amended to an accidental disability retirement by filing for
10 reconsideration to the Board of Trustees if their application was
11 denied in the last 10 years. Applications for reconsideration
12 pursuant to this provision will not be subject to the 5-year filing
13 period so long as the initial application was timely filed.]¹

14 b. Upon retirement for accidental disability, a member shall
15 receive an accidental disability retirement allowance which shall
16 consist of:

17 (1) An annuity which shall be the actuarial equivalent of his
18 aggregate contributions and

19 (2) A pension in the amount which, when added to the member's
20 annuity, will provide a total retirement allowance of 2/3 of his final
21 compensation.

22 c. Upon the receipt of proper proofs of the death of a member
23 who has retired on an accidental disability retirement allowance,
24 there shall be paid to the member's beneficiary, an amount equal to
25 3 1/2 times the final compensation received by the member in the
26 last year of creditable service; provided, however, that if such death
27 shall occur after the member shall have attained 55 years of age the
28 amount payable shall equal 1/2 of such compensation instead of 3
29 1/2 times such compensation.

30 d. Permanent and total disability resulting from a
31 cardiovascular, pulmonary or musculoskeletal condition which was
32 not a direct result of a traumatic event occurring in the performance
33 of duty shall be deemed an ordinary disability.

34 e. (1) For purposes of this subsection:

35 "Qualifying condition or impairment of health" includes:

36 diseases of the upper respiratory tract and mucosae, including
37 conditions such as conjunctivitis, rhinitis, sinusitis, pharyngitis,
38 laryngitis, vocal cord disease, upper airway hyper-reactivity and
39 tracheo-bronchitis, or a combination of such conditions;

40 diseases of the lower respiratory tract, including but not limited
41 to bronchitis, asthma, reactive airway dysfunction syndrome, and
42 different types of pneumonitis, such as hypersensitivity,
43 granulomatous, or eosinophilic;

44 diseases of the gastroesophageal tract, including esophagitis and
45 reflux disease, either acute or chronic, caused by exposure or
46 aggravated by exposure;

1 diseases of the psychological axis, including post-traumatic
2 stress disorder, anxiety, depression, or any combination of such
3 conditions;

4 diseases of the skin such as contact dermatitis or burns, either
5 acute or chronic in nature, infectious, irritant, allergic, idiopathic or
6 non-specific reactive in nature, caused by exposure or aggravated
7 by exposure; and

8 new onset diseases resulting from exposure as such diseases
9 occurring in the future including cancer, chronic obstructive
10 pulmonary disease, asbestos-related disease, heavy metal poisoning,
11 musculoskeletal disease and chronic psychological disease.

12 "World Trade Center rescue, recovery, or cleanup operations"
13 means the rescue, recovery, or cleanup operations at the World
14 Trade Center site between September 11, 2001 and October 11,
15 2001.

16 "World Trade Center site" means any location below a line
17 starting from the Hudson River and Canal Street, east on Canal
18 Street to Pike Street, south on Pike Street to the East River, and
19 extending to the lower tip of Manhattan.

20 (2) Notwithstanding any provision of subsection a. of this
21 section or any other law to the contrary, for a member who
22 participated, whether or not under orders or instruction by an
23 employer to so participate, in World Trade Center rescue, recovery,
24 or cleanup operations for a minimum of eight hours, permanent and
25 total disability resulting from a qualifying condition or impairment
26 of health shall be presumed to have occurred during and as a result
27 of the performance of the member's regular or assigned duties and
28 not the result of the member's willful negligence, unless the
29 contrary can be proved by competent evidence.

30 A member who did not participate in such operations for a
31 minimum of eight hours shall be eligible for the presumption
32 provided that:

33 the member participated in the rescue, recovery, or cleanup
34 operations at the World Trade Center site between September 11,
35 2001 and September 12, 2001;

36 the member sustained a documented physical injury at the World
37 Trade Center site between September 11, 2001 and September 12,
38 2001 that is a qualifying condition or impairment of health resulting
39 in a disability to the member that prevented the member from
40 continuing to participate in World Trade Center rescue, recovery, or
41 cleanup operations for a minimum of eight hours; and

42 the documented physical injury that resulted in a disability to the
43 member that prevented the member from continuing to participate
44 in World Trade Center rescue, recovery, or cleanup operations for a
45 minimum of eight hours is the qualifying condition or impairment
46 of health for which the member seeks a presumption under this
47 subsection.

1 In order to be eligible for the presumption provided under this
2 subsection, a member shall have successfully passed a physical
3 examination for entry into public service which failed to disclose
4 evidence of the qualifying condition or impairment of health that
5 formed the basis for the permanent and total disability.

6 (3) A member who participated in the World Trade Center
7 rescue, recovery, or cleanup operations for a minimum of eight
8 hours and subsequently retired on a service retirement or an
9 ordinary disability retirement and thereafter incurred a disability
10 caused by a qualifying condition or impairment of health which the
11 medical board determines to be caused by participation in World
12 Trade Center rescue, recovery, or cleanup operations shall be
13 eligible to apply to the board of trustees to have the retiree's
14 retirement allowance recalculated as an accidental disability
15 retirement allowance for benefit payments on or after the date of the
16 application, provided the retiree filed an application for such
17 recalculation within 30 days of the date that the retiree knew or
18 should have known of the existence of such disability and its
19 relation to the rescue, recovery, or cleanup operations. In order to
20 be eligible for such recalculation, the retiree shall have successfully
21 passed a physical examination for entry into public service which
22 failed to disclose evidence of the qualifying condition or
23 impairment of health that formed the basis for the disability.

24 (4) The board of trustees shall promulgate rules and regulations
25 necessary to implement the provisions of this subsection and shall
26 notify members and retirants in the retirement system of the
27 enactment of this act, P.L.2019, c.157, within 30 days of enactment.

28 A member or retiree shall not be eligible for the presumption or
29 recalculation under this subsection unless within two years of the
30 effective date of this act, P.L.2019, c.157, the member or retiree
31 files a written and sworn statement with the retirement system on a
32 form provided by the board of trustees thereof indicating the dates
33 and locations of service.

34 (5) This subsection shall apply regardless of whether the
35 member or retiree, who is otherwise eligible, was enrolled in the
36 retirement system at the time of participation in World Trade Center
37 rescue, recovery, or cleanup operations as specified herein
38 (cf: P.L.2019, c.157, s.3)

39
40 ¹2. (New section) a. A member who was denied an accidental
41 disability retirement allowance between January 1, 2012 and
42 December 31, 2019 solely on the basis that the Board of Trustees
43 determined that the member had a preexisting and asymptomatic
44 condition may apply to the Board of Trustees for reconsideration.
45 Applications for reconsideration pursuant to this section shall be
46 filed within 30 days of the effective date of P.L. , c. (pending
47 before the Legislature as this bill) and such applications shall not be

1 subject to the five-year filing period so long as the initial
2 application for an accidental disability retirement was timely filed.
3 b. Upon approval of an application for reconsideration, the
4 member shall prospectively receive the benefit payments of an
5 accidental disability retirement allowance. The benefit payments
6 shall apply only for payments made after approval of an application
7 for reconsideration by the Board of Trustees pursuant to this
8 section. No member shall be granted a retroactive payment based
9 upon the difference between the benefit the person would have
10 received if an accidental disability retirement allowance were
11 granted at the time of the member's initial application and the
12 benefit that the member has received from that date to the approval
13 of the application for reconsideration.¹

14

15 ¹[2.] 3.¹ This act shall take effect immediately.

16

17

18

19

20 Clarifies that member of SPRS may receive accidental disability
21 benefit under certain circumstances.

ASSEMBLY, No. 1797

STATE OF NEW JERSEY 220th LEGISLATURE

PRE-FILED FOR INTRODUCTION IN THE 2022 SESSION

Sponsored by:

Assemblyman WAYNE P. DEANGELO

District 14 (Mercer and Middlesex)

Assemblyman RONALD S. DANCER

District 12 (Burlington, Middlesex, Monmouth and Ocean)

Assemblywoman AURA K. DUNN

District 25 (Morris and Somerset)

Co-Sponsored by:

Assemblymen Karabinchak, Stanley and Verrelli

SYNOPSIS

Clarifies that member of SPRS may receive accidental disability benefit under certain circumstances.

CURRENT VERSION OF TEXT

Introduced Pending Technical Review by Legislative Counsel.



(Sponsorship Updated As Of: 2/3/2022)

1 AN ACT concerning accidental disability benefits from the State-
2 administered retirement systems and amending various parts of
3 the statutory law.
4

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

7
8 1. Section 10 of P.L.1965, c.89 (C.53:5A-10) is amended to
9 read as follows:

10 10. a. Upon the written application by a member in service, by
11 one acting in his behalf or by the State, any member may be retired,
12 not less than 1 month next following the date of filing such
13 application, on an accidental disability retirement allowance,
14 provided, that the medical board, after a medical examination of
15 such member, shall certify that the member is permanently and
16 totally disabled as a direct result of a traumatic event occurring
17 during and as a result of the performance of his regular or assigned
18 duties and that such disability was not the result of the member's
19 willful negligence and that such member is mentally or physically
20 incapacitated for the performance of his usual duties in the Division
21 of State Police which the Superintendent of State Police is willing
22 to assign to him.

23 A preexisting and asymptomatic condition of a member that is
24 rendered symptomatic due to a traumatic event occurring during
25 and as a result of the performance of regular or assigned duties shall
26 be deemed a direct result of the traumatic event for the purposes of
27 this subsection.

28 The application to accomplish such retirement must be filed
29 within 5 years of the original traumatic event, but the board of
30 trustees may consider an application filed after the 5-year period if
31 it can be factually demonstrated to the satisfaction of the board of
32 trustees that the disability is due to the accident and the filing was
33 not accomplished within the 5-year period due to a delayed
34 manifestation of the disability or to the member's continued
35 employment in a restricted capacity consistent with the nature of his
36 disability in the Division of the State Police upon and at the written
37 request of the superintendent, with the concurrence of the Attorney
38 General, or to other circumstances beyond the control of the
39 member. Any member who was previously denied accidental
40 disability benefits because they had a preexisting and asymptomatic
41 condition which was rendered symptomatic due to a traumatic event
42 during their regular or assigned duties may have their retirement
43 amended to an accidental disability retirement by filing for
44 reconsideration to the Board of Trustees if their application was
45 denied in the last 10 years. Applications for reconsideration

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.

1 pursuant to this provision will not be subject to the 5-year filing
2 period so long as the initial application was timely filed.

3 b. Upon retirement for accidental disability, a member shall
4 receive an accidental disability retirement allowance which shall
5 consist of:

6 (1) An annuity which shall be the actuarial equivalent of his
7 aggregate contributions and

8 (2) A pension in the amount which, when added to the member's
9 annuity, will provide a total retirement allowance of 2/3 of his final
10 compensation.

11 c. Upon the receipt of proper proofs of the death of a member
12 who has retired on an accidental disability retirement allowance,
13 there shall be paid to the member's beneficiary, an amount equal to
14 3 1/2 times the final compensation received by the member in the
15 last year of creditable service; provided, however, that if such death
16 shall occur after the member shall have attained 55 years of age the
17 amount payable shall equal 1/2 of such compensation instead of 3
18 1/2 times such compensation.

19 d. Permanent and total disability resulting from a
20 cardiovascular, pulmonary or musculoskeletal condition which was
21 not a direct result of a traumatic event occurring in the performance
22 of duty shall be deemed an ordinary disability.

23 e. (1) For purposes of this subsection:

24 "Qualifying condition or impairment of health" includes:

25 diseases of the upper respiratory tract and mucosae, including
26 conditions such as conjunctivitis, rhinitis, sinusitis, pharyngitis,
27 laryngitis, vocal cord disease, upper airway hyper-reactivity and
28 tracheo-bronchitis, or a combination of such conditions;

29 diseases of the lower respiratory tract, including but not limited
30 to bronchitis, asthma, reactive airway dysfunction syndrome, and
31 different types of pneumonitis, such as hypersensitivity,
32 granulomatous, or eosinophilic;

33 diseases of the gastroesophageal tract, including esophagitis and
34 reflux disease, either acute or chronic, caused by exposure or
35 aggravated by exposure;

36 diseases of the psychological axis, including post-traumatic
37 stress disorder, anxiety, depression, or any combination of such
38 conditions;

39 diseases of the skin such as contact dermatitis or burns, either
40 acute or chronic in nature, infectious, irritant, allergic, idiopathic or
41 non-specific reactive in nature, caused by exposure or aggravated
42 by exposure; and

43 new onset diseases resulting from exposure as such diseases
44 occurring in the future including cancer, chronic obstructive
45 pulmonary disease, asbestos-related disease, heavy metal poisoning,
46 musculoskeletal disease and chronic psychological disease.

47 "World Trade Center rescue, recovery, or cleanup operations"
48 means the rescue, recovery, or cleanup operations at the World

1 Trade Center site between September 11, 2001 and October 11,
2 2001.

3 "World Trade Center site" means any location below a line
4 starting from the Hudson River and Canal Street, east on Canal
5 Street to Pike Street, south on Pike Street to the East River, and
6 extending to the lower tip of Manhattan.

7 (2) Notwithstanding any provision of subsection a. of this
8 section or any other law to the contrary, for a member who
9 participated, whether or not under orders or instruction by an
10 employer to so participate, in World Trade Center rescue, recovery,
11 or cleanup operations for a minimum of eight hours, permanent and
12 total disability resulting from a qualifying condition or impairment
13 of health shall be presumed to have occurred during and as a result
14 of the performance of the member's regular or assigned duties and
15 not the result of the member's willful negligence, unless the
16 contrary can be proved by competent evidence.

17 A member who did not participate in such operations for a
18 minimum of eight hours shall be eligible for the presumption
19 provided that:

20 the member participated in the rescue, recovery, or cleanup
21 operations at the World Trade Center site between September 11,
22 2001 and September 12, 2001;

23 the member sustained a documented physical injury at the World
24 Trade Center site between September 11, 2001 and September 12,
25 2001 that is a qualifying condition or impairment of health resulting
26 in a disability to the member that prevented the member from
27 continuing to participate in World Trade Center rescue, recovery, or
28 cleanup operations for a minimum of eight hours; and

29 the documented physical injury that resulted in a disability to the
30 member that prevented the member from continuing to participate
31 in World Trade Center rescue, recovery, or cleanup operations for a
32 minimum of eight hours is the qualifying condition or impairment
33 of health for which the member seeks a presumption under this
34 subsection.

35 In order to be eligible for the presumption provided under this
36 subsection, a member shall have successfully passed a physical
37 examination for entry into public service which failed to disclose
38 evidence of the qualifying condition or impairment of health that
39 formed the basis for the permanent and total disability.

40 (3) A member who participated in the World Trade Center
41 rescue, recovery, or cleanup operations for a minimum of eight
42 hours and subsequently retired on a service retirement or an
43 ordinary disability retirement and thereafter incurred a disability
44 caused by a qualifying condition or impairment of health which the
45 medical board determines to be caused by participation in World
46 Trade Center rescue, recovery, or cleanup operations shall be
47 eligible to apply to the board of trustees to have the retiree's
48 retirement allowance recalculated as an accidental disability

1 retirement allowance for benefit payments on or after the date of the
2 application, provided the retiree filed an application for such
3 recalculation within 30 days of the date that the retiree knew or
4 should have known of the existence of such disability and its
5 relation to the rescue, recovery, or cleanup operations. In order to
6 be eligible for such recalculation, the retiree shall have successfully
7 passed a physical examination for entry into public service which
8 failed to disclose evidence of the qualifying condition or
9 impairment of health that formed the basis for the disability.

10 (4) The board of trustees shall promulgate rules and regulations
11 necessary to implement the provisions of this subsection and shall
12 notify members and retirants in the retirement system of the
13 enactment of this act, P.L.2019, c.157, within 30 days of enactment.

14 A member or retiree shall not be eligible for the presumption or
15 recalculation under this subsection unless within two years of the
16 effective date of this act, P.L.2019, c.157, the member or retiree
17 files a written and sworn statement with the retirement system on a
18 form provided by the board of trustees thereof indicating the dates
19 and locations of service.

20 (5) This subsection shall apply regardless of whether the
21 member or retiree, who is otherwise eligible, was enrolled in the
22 retirement system at the time of participation in World Trade Center
23 rescue, recovery, or cleanup operations as specified herein
24 (cf: P.L.2019, c.157, s.3)

25

26 2. This act shall take effect immediately.

27

28

29

STATEMENT

30

31 This bill provides that a member of the State Police Retirement
32 System (SPRS) may be eligible for an accidental disability
33 retirement allowance if the member becomes permanently and
34 totally disabled because a preexisting and asymptomatic condition
35 that the member had previously that is later rendered symptomatic
36 as a direct result of a traumatic event occurring during and as a
37 result of the performance of regular or assigned duties.

ASSEMBLY STATE AND LOCAL GOVERNMENT
COMMITTEE

STATEMENT TO
ASSEMBLY, No. 1797

with committee amendments

STATE OF NEW JERSEY

DATED: JUNE 9, 2022

The Assembly State and Local Government Committee reports favorably and with committee amendments Assembly Bill No. 1797.

As amended, this bill provides that a member of the State Police Retirement System (SPRS) may be eligible for an accidental disability retirement allowance if the member becomes permanently and totally disabled because a preexisting and asymptomatic condition that the member had previously that is later rendered symptomatic as a direct result of a traumatic event occurring during and as a result of the performance of regular or assigned duties.

This bill was pre-filed for introduction in the 2022-2023 session pending technical review. As reported, the bill includes the changes required by technical review, which has been performed.

COMMITTEE AMENDMENTS:

The committee amended the bill to:

(1) provide for technical changes to make the bill identical to its Senate counterpart, S1906; and

(2) make the provision providing for the reconsideration of certain SPRS members who were previously denied an accidental disability retirement allowance a new section of the bill rather than amending current law.

LEGISLATIVE FISCAL ESTIMATE

[First Reprint]

ASSEMBLY, No. 1797

STATE OF NEW JERSEY 220th LEGISLATURE

DATED: JUNE 24, 2022

SUMMARY

- Synopsis:** Clarifies that member of SPRS may receive accidental disability benefit under certain circumstances
- Type of Impact:** Annual State expenditure increase, General Fund
- Agencies Affected:** Division of Pensions and Benefits, Department of the Treasury

Office of Legislative Services Estimate

Fiscal Impact	<u>Year 1</u>	<u>Year 2</u>	<u>Year 3</u>
State Cost Increase		Indeterminate	

- The Office of Legislative Services (OLS) finds this bill will result in an indeterminate annual increase in State contributions to the State Police Retirement System (SPRS). The OLS cannot estimate the impact because the number of SPRS members who would qualify under this bill is not known.

BILL DESCRIPTION

This bill provides a member of the State Police Retirement System with a preexisting and asymptomatic condition that is rendered symptomatic as a direct result of a traumatic event occurring during and as a result of the performance of the member's regular or assigned duties may be eligible for an accidental disability retirement allowance, provided that the traumatic event is caused by a circumstance external to the member and is the substantial contributing cause of the member's permanent and total disability.

A member who was denied an accidental disability retirement allowance between January 1, 2012 and December 31, 2019 solely on the basis that the Board of Trustees determined that the member had a preexisting and asymptomatic condition may apply to the Board of Trustees for reconsideration. Upon approval of an application for reconsideration, the member will prospectively receive the benefit payments of an accidental disability retirement allowance.

FISCAL ANALYSIS

EXECUTIVE BRANCH

None received.

OFFICE OF LEGISLATIVE SERVICES

The OLS finds this bill will result in an indeterminate annual increase in State contributions to the SPRS. The OLS cannot estimate the impact because the number of members who would qualify under this bill is not known.

Section: State Government

*Analyst: Aggie Szilagy
Section Chief*

*Approved: Thomas Koenig
Legislative Budget and Finance Officer*

This legislative fiscal estimate has been produced by the Office of Legislative Services due to the failure of the Executive Branch to respond to our request for a fiscal note.

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

ASSEMBLY APPROPRIATIONS COMMITTEE

STATEMENT TO

[First Reprint]

ASSEMBLY, No. 1797

STATE OF NEW JERSEY

DATED: JUNE 23, 2022

The Assembly Appropriations Committee reports favorably Assembly Bill No. 1797 (1R).

This bill provides that a member of the State Police Retirement System (SPRS) may be eligible for an accidental disability retirement allowance if the member becomes permanently and totally disabled because a preexisting and asymptomatic condition that the member had previously that is later rendered symptomatic as a direct result of a traumatic event occurring during and as a result of the performance of regular or assigned duties.

FISCAL IMPACT:

The OLS finds this bill will result in an indeterminate annual increase in State contributions to the SPRS. The OLS cannot estimate the impact because the number of members who would qualify under this bill is not known.

SENATE, No. 1906

STATE OF NEW JERSEY 220th LEGISLATURE

INTRODUCED MARCH 3, 2022

Sponsored by:

Senator PATRICK J. DIEGNAN, JR.

District 18 (Middlesex)

Senator LINDA R. GREENSTEIN

District 14 (Mercer and Middlesex)

SYNOPSIS

Clarifies that member of SPRS may receive accidental disability benefit under certain circumstances.

CURRENT VERSION OF TEXT

As introduced.



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

S1906 DIEGNAN, GREENSTEIN

2

1 AN ACT concerning accidental disability benefits from the State-
2 administered retirement systems and amending various parts of
3 the statutory law.

4

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

7

8 1. Section 10 of P.L.1965, c.89 (C.53:5A-10) is amended to read
9 as follows:

10 10. a. Upon the written application by a member in service, by
11 one acting in his behalf or by the State, any member may be retired,
12 not less than 1 month next following the date of filing such
13 application, on an accidental disability retirement allowance,
14 provided, that the medical board, after a medical examination of such
15 member, shall certify that the member is permanently and totally
16 disabled as a direct result of a traumatic event occurring during and
17 as a result of the performance of his regular or assigned duties and
18 that such disability was not the result of the member's willful
19 negligence and that such member is mentally or physically
20 incapacitated for the performance of his usual duties in the Division
21 of State Police which the Superintendent of State Police is willing to
22 assign to him.

23 A member with a preexisting and asymptomatic condition that is
24 rendered symptomatic as a direct result of a traumatic event occurring
25 during and as a results of the performance of the member's regular
26 or assigned duties may be eligible for an accidental disability
27 retirement allowance, provided that the traumatic event is caused by
28 a circumstance external to the member and is the substantial
29 contributing cause of the member's permanent and total disability.

30 The application to accomplish such retirement must be filed within
31 5 years of the original traumatic event, but the board of trustees may
32 consider an application filed after the 5-year period if it can be
33 factually demonstrated to the satisfaction of the board of trustees that
34 the disability is due to the accident and the filing was not
35 accomplished within the 5-year period due to a delayed manifestation
36 of the disability or to the member's continued employment in a
37 restricted capacity consistent with the nature of his disability in the
38 Division of the State Police upon and at the written request of the
39 superintendent, with the concurrence of the Attorney General, or to
40 other circumstances beyond the control of the member.

41 b. Upon retirement for accidental disability, a member shall
42 receive an accidental disability retirement allowance which shall
43 consist of:

44 (1) An annuity which shall be the actuarial equivalent of his
45 aggregate contributions and

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.

- 1 (2) A pension in the amount which, when added to the member's
2 annuity, will provide a total retirement allowance of 2/3 of his final
3 compensation.
- 4 c. Upon the receipt of proper proofs of the death of a member
5 who has retired on an accidental disability retirement allowance,
6 there shall be paid to the member's beneficiary, an amount equal to 3
7 1/2 times the final compensation received by the member in the last
8 year of creditable service; provided, however, that if such death shall
9 occur after the member shall have attained 55 years of age the amount
10 payable shall equal 1/2 of such compensation instead of 3 1/2 times
11 such compensation.
- 12 d. Permanent and total disability resulting from a
13 cardiovascular, pulmonary or musculoskeletal condition which was
14 not a direct result of a traumatic event occurring in the performance
15 of duty shall be deemed an ordinary disability.
- 16 e. (1) For purposes of this subsection:
17 "Qualifying condition or impairment of health" includes:
18 diseases of the upper respiratory tract and mucosae, including
19 conditions such as conjunctivitis, rhinitis, sinusitis, pharyngitis,
20 laryngitis, vocal cord disease, upper airway hyper-reactivity and
21 tracheo-bronchitis, or a combination of such conditions;
22 diseases of the lower respiratory tract, including but not limited to
23 bronchitis, asthma, reactive airway dysfunction syndrome, and
24 different types of pneumonitis, such as hypersensitivity,
25 granulomatous, or eosinophilic;
26 diseases of the gastroesophageal tract, including esophagitis and
27 reflux disease, either acute or chronic, caused by exposure or
28 aggravated by exposure;
29 diseases of the psychological axis, including post-traumatic stress
30 disorder, anxiety, depression, or any combination of such conditions;
31 diseases of the skin such as contact dermatitis or burns, either
32 acute or chronic in nature, infectious, irritant, allergic, idiopathic or
33 non-specific reactive in nature, caused by exposure or aggravated by
34 exposure; and
35 new onset diseases resulting from exposure as such diseases
36 occurring in the future including cancer, chronic obstructive
37 pulmonary disease, asbestos-related disease, heavy metal poisoning,
38 musculoskeletal disease and chronic psychological disease.
- 39 "World Trade Center rescue, recovery, or cleanup operations"
40 means the rescue, recovery, or cleanup operations at the World Trade
41 Center site between September 11, 2001 and October 11, 2001.
- 42 "World Trade Center site" means any location below a line starting
43 from the Hudson River and Canal Street, east on Canal Street to Pike
44 Street, south on Pike Street to the East River, and extending to the
45 lower tip of Manhattan.
- 46 (2) Notwithstanding any provision of subsection a. of this section
47 or any other law to the contrary, for a member who participated,

1 whether or not under orders or instruction by an employer to so
2 participate, in World Trade Center rescue, recovery, or cleanup
3 operations for a minimum of eight hours, permanent and total
4 disability resulting from a qualifying condition or impairment of
5 health shall be presumed to have occurred during and as a result of
6 the performance of the member's regular or assigned duties and not
7 the result of the member's willful negligence, unless the contrary can
8 be proved by competent evidence.

9 A member who did not participate in such operations for a
10 minimum of eight hours shall be eligible for the presumption
11 provided that:

12 the member participated in the rescue, recovery, or cleanup
13 operations at the World Trade Center site between September 11,
14 2001 and September 12, 2001;

15 the member sustained a documented physical injury at the World
16 Trade Center site between September 11, 2001 and September 12,
17 2001 that is a qualifying condition or impairment of health resulting
18 in a disability to the member that prevented the member from
19 continuing to participate in World Trade Center rescue, recovery, or
20 cleanup operations for a minimum of eight hours; and

21 the documented physical injury that resulted in a disability to the
22 member that prevented the member from continuing to participate in
23 World Trade Center rescue, recovery, or cleanup operations for a
24 minimum of eight hours is the qualifying condition or impairment of
25 health for which the member seeks a presumption under this
26 subsection.

27 In order to be eligible for the presumption provided under this
28 subsection, a member shall have successfully passed a physical
29 examination for entry into public service which failed to disclose
30 evidence of the qualifying condition or impairment of health that
31 formed the basis for the permanent and total disability.

32 (3) A member who participated in the World Trade Center rescue,
33 recovery, or cleanup operations for a minimum of eight hours and
34 subsequently retired on a service retirement or an ordinary disability
35 retirement and thereafter incurred a disability caused by a qualifying
36 condition or impairment of health which the medical board
37 determines to be caused by participation in World Trade Center
38 rescue, recovery, or cleanup operations shall be eligible to apply to
39 the board of trustees to have the retiree's retirement allowance
40 recalculated as an accidental disability retirement allowance for
41 benefit payments on or after the date of the application, provided the
42 retiree filed an application for such recalculation within 30 days of
43 the date that the retiree knew or should have known of the existence
44 of such disability and its relation to the rescue, recovery, or cleanup
45 operations. In order to be eligible for such recalculation, the retiree
46 shall have successfully passed a physical examination for entry into
47 public service which failed to disclose evidence of the qualifying

1 condition or impairment of health that formed the basis for the
2 disability.

3 (4) The board of trustees shall promulgate rules and regulations
4 necessary to implement the provisions of this subsection and shall
5 notify members and retirants in the retirement system of the
6 enactment of this act, P.L.2019, c.157, within 30 days of enactment.

7 A member or retiree shall not be eligible for the presumption or
8 recalculation under this subsection unless within two years of the
9 effective date of this act, P.L.2019, c.157, the member or retiree files
10 a written and sworn statement with the retirement system on a form
11 provided by the board of trustees thereof indicating the dates and
12 locations of service.

13 (5) This subsection shall apply regardless of whether the member
14 or retiree, who is otherwise eligible, was enrolled in the retirement
15 system at the time of participation in World Trade Center rescue,
16 recovery, or cleanup operations as specified herein
17 (cf: P.L.2019, c.157, s.3)

18

19 2. (New section) a. A member who was denied an accidental
20 disability retirement allowance between January 1, 2012 and
21 December 31, 2019 solely on the basis that the Board of Trustees
22 determined that the member had a preexisting and asymptomatic
23 condition may apply to the Board of Trustees for reconsideration.
24 Applications for reconsideration pursuant to this section shall be filed
25 within 30 days of the effective date of P.L. , c. (pending before the
26 Legislature as this bill) and such applications shall not be subject to
27 the five-year filing period so long as the initial application for an
28 accidental disability retirement was timely filed.

29 b. Upon approval of an application for reconsideration, the
30 member shall prospectively receive the benefit payments of an
31 accidental disability retirement allowance. The benefit payments
32 shall apply only for payments made after approval of an application
33 for reconsideration by the Board of Trustees pursuant to this section.
34 . No member shall be granted a retroactive payment based upon the
35 difference between the benefit the person would have received if an
36 accidental disability retirement allowance were granted at the time of
37 the member's initial application and the benefit that the member has
38 received from that date to the approval of the application for
39 reconsideration.

40

41 3. This act shall take effect immediately.

42

43

44

STATEMENT

45

46 This bill provides that a member of the State Police Retirement
47 System (SPRS) may be eligible for an accidental disability retirement

S1906 DIEGNAN, GREENSTEIN

6

- 1 allowance if the member becomes permanently and totally disabled
- 2 because a preexisting and asymptomatic condition that the member
- 3 had previously that is later rendered symptomatic as a direct result of
- 4 a traumatic event occurring during and as a result of the performance
- 5 of regular or assigned duties.

SENATE STATE GOVERNMENT, WAGERING, TOURISM &
HISTORIC PRESERVATION COMMITTEE

STATEMENT TO

SENATE, No. 1906

with committee amendments

STATE OF NEW JERSEY

DATED: JUNE 13, 2022

The Senate State Government, Wagering, Tourism and Historic Preservation Committee reports favorably and with committee amendments Senate Bill No. 1906.

As amended by the committee, this bill provides that a member of the State Police Retirement System (SPRS) may be eligible for an accidental disability retirement allowance if the member becomes permanently and totally disabled because a preexisting and asymptomatic condition that the member had previously that is later rendered symptomatic as a direct result of a traumatic event occurring during and as a result of the performance of regular or assigned duties.

COMMITTEE AMENDMENTS:

The amendments make two technical changes to correct a word and remove an extra period.

SENATE BUDGET AND APPROPRIATIONS COMMITTEE

STATEMENT TO

[First Reprint]

SENATE, No. 1906

STATE OF NEW JERSEY

DATED: JUNE 27, 2022

The Senate Budget and Appropriations Committee reports favorably Senate Bill No. 1906 (1R).

This bill provides that a member of the State Police Retirement System (SPRS) may be eligible for an accidental disability retirement allowance if the member becomes permanently and totally disabled because a preexisting and asymptomatic condition that the member had previously that is later rendered symptomatic as a direct result of a traumatic event occurring during and as a result of the performance of regular or assigned duties.

FISCAL IMPACT:

Fiscal information for this bill is currently unavailable.

LEGISLATIVE FISCAL ESTIMATE:

Yes 3/22/2022
7/5/2022

VETO MESSAGE:

No

GOVERNOR'S PRESS RELEASE ON SIGNING:

Yes

FOLLOWING WERE PRINTED:

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REPORTS:

No

HEARINGS:

No

NEWSPAPER ARTICLES:

No

end

P.L. 2022, CHAPTER 78, *approved July 29, 2022*
Assembly, No. 3110 (*Second Reprint*)

1 AN ACT concerning Medicaid reimbursement for brain injury
2 services and supplementing Title 30 of the Revised Statutes.

3

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

6

7 1. The Legislature funds and declares:

8 a. An acquired brain injury is an injury caused by an event,
9 either internal or external to the injured individual, and does not
10 include congenital or degenerative disorders, or those injuries
11 induced by birth trauma. An acquired brain injury can either be
12 categorized as a traumatic brain injury or non-traumatic brain
13 injury. A traumatic brain injury is an alteration in brain function
14 caused by an external force and may be caused by falls, assaults,
15 motor vehicle accidents, or sports injuries. A non-traumatic brain
16 injury is damage to the brain caused by internal factors, such as
17 stroke, aneurysm, tumor, infectious disease, ¹**[and]** or¹ anoxia.

18 b. A severe acquired brain injury can produce an altered or
19 diminished state of consciousness and result in an impairment of
20 cognitive abilities or physical functioning. It can also effect
21 behavioral or emotional functioning. These impairments may be
22 permanent and cause partial or total functional disability, leading to
23 the injured individual requiring long-term care supports.

24 c. The State's Medicaid program provides brain injury services
25 under the Managed Long-Term Supports and Services program,
26 with the goal of providing community alternatives for individuals
27 with brain injuries residing in nursing facilities or who are in the
28 community and at risk for placement in nursing facilities.

29 d. Unlike other Medicaid community-based services,
30 reimbursement rates for brain injury services have remained static
31 in recent years despite growing costs, which threatens the ability of
32 providers to meet the complex health needs of individuals with
33 brain injuries and provide services within a safe and fulfilling
34 community environment.

35 e. Despite the similar model of care, reimbursement rates for
36 services provided to Medicaid beneficiaries with intellectual and
37 developmental disabilities have not only increased, but have been
38 restructured to account for adequate consideration for acuity,

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:

¹Assembly AHU committee amendments adopted May 12, 2022.

²Senate floor amendments adopted June 29, 2022.

1 increased minimum wage requirements, and other inflationary
2 trends that assert pressure on providers' cost structures.

3 f. By failing to receive reimbursement rates that adequately
4 support services, brain injury providers are being forced to return
5 this fragile population to more costly institutional care in nursing
6 home facilities.

7 g. It is imperative that the Legislature take action and increase
8 Medicaid rates for these essential services and ensure that
9 individuals with brain injuries can continue to thrive and reach their
10 optimal recoveries in community settings.

11

12 2. a. Notwithstanding the provisions of any law or regulation to
13 the contrary, the Medicaid per diem or encounter reimbursement rates
14 for eligible brain injury services, when such services are provided by
15 an approved brain injury ¹~~services~~ service¹ provider to a Medicaid
16 beneficiary requiring treatment for a brain injury, shall be, at
17 minimum, as follows:

18 (1) The reimbursement rate for Community Residential Services –
19 Low Supervision provided to a Medicaid beneficiary eligible for brain
20 injury services shall be equal to the reimbursement rate for Individuals
21 Supports Services - ²~~Tier C~~ Tier B² provided to a Medicaid
22 beneficiary eligible for services provided by the Division of
23 Developmental Disabilities ¹in the Department of Human Services¹ ;

24 (2) The reimbursement rate for Community Residential Services –
25 Moderate Supervision provided to a Medicaid beneficiary eligible for
26 brain injury services shall be equal to the reimbursement rate for
27 Individuals Supports Services - ²~~Tier D~~ Tier C² provided to a
28 Medicaid beneficiary eligible for services provided by the Division of
29 Developmental Disabilities ¹in the Department of Human Services¹ ;
30 ²and²

31 (3) The reimbursement rate for Community Residential Services –
32 High Supervision provided to a Medicaid beneficiary eligible for brain
33 injury services shall be equal to the ²average of the² reimbursement
34 ²~~rate~~ rates² for Individuals Supports Services - ²~~Tier E~~ Tiers D
35 and E² provided to a Medicaid beneficiary eligible for services
36 provided by the Division of Developmental Disabilities ¹in the
37 Department of Human Services¹ ²]; and

38 (4) The reimbursement rate for Structured Day Program Services
39 provided to a Medicaid beneficiary eligible for brain injury services
40 shall be equal to the reimbursement rate for Day Habilitation Services
41 - Tier D provided to a Medicaid beneficiary eligible for services
42 provided by the Division of Developmental Disabilities ¹in the
43 Department of Human Services¹ ²].

44 b. As used in this section:

45 ¹~~“Medicaid” means the program established pursuant to~~
46 ~~P.L.1968, c.413 (C.30:4D-1 et seq.).]~~¹

47 “Brain injury service” means community-based services,
48 residential services, day care services, and home care services

1 provided to a Medicaid beneficiary requiring treatment for traumatic
2 or non-traumatic brain injuries, ¹regardless of¹ whether such services
3 are provided through the Medicaid fee-for-service delivery system or
4 the managed care delivery system.

5 “Brain injury service provider” means a facility licensed by the
6 Division of Disability Services in the Department of Human Services
7 to provide traumatic or non-traumatic brain injury services.

8 ¹“Medicaid” means the Medicaid program established pursuant to
9 P.L.1968, c.413 (C.30:4D-1 et seq.).¹

10 “Non-traumatic brain injury” means an injury to the brain caused
11 by internal factors, such as stroke, aneurysm, tumor, infectious disease,
12 ¹**[and]** or¹ anoxia, where continued impairment can be demonstrated.
13 This term does not include brain dysfunction caused by congenital or
14 degenerative disorders, birth trauma, or injuries caused by other
15 circumstances.

16 “Traumatic brain injury” means an injury to the brain caused by a
17 blow or jolt to the head or a penetrating head injury or neuro-trauma
18 that disrupts the normal brain function, where continued impairment
19 can be demonstrated. This term does not include brain dysfunction
20 caused by congenital or degenerative disorders, birth trauma, or
21 injuries caused by other circumstances.

22

23 3. The Commissioner of Human Services shall apply for such
24 State plan amendments or waivers specific to brain injury services,
25 that currently exist or may arise in the future which affect
26 reimbursement rates, as may be necessary to implement the
27 provisions of this act and to secure federal financial participation for
28 State Medicaid expenditures under the federal Medicaid program.

29

30 4. The Commissioner of Human Services, in accordance with the
31 "Administrative Procedure Act," P.L.1968, c.410 (C.52:14B-1 et seq.),
32 shall adopt such rules and regulations as the commissioner deems
33 necessary to carry out the provisions of this act.

34

35 5. This act shall take effect ²**[on July 1 next following]** 30
36 days after² the date of enactment and shall apply to services
37 provided on or after the effective date of this act and to any
38 Medicaid managed care contract executed or renewed on or after
39 the effective date of this act.

40

41

42

43

44 Establishes minimum Medicaid reimbursement rates for brain
45 injury services.

ASSEMBLY, No. 3110

STATE OF NEW JERSEY 220th LEGISLATURE

INTRODUCED MARCH 7, 2022

Sponsored by:

Assemblywoman MILA M. JASEY

District 27 (Essex and Morris)

Assemblyman DANIEL R. BENSON

District 14 (Mercer and Middlesex)

Assemblywoman VERLINA REYNOLDS-JACKSON

District 15 (Hunterdon and Mercer)

Co-Sponsored by:

Assemblywomen Piperno, Eulner, Assemblymen Caputo, Verrelli,

Assemblywomen Jimenez, Dunn and Assemblyman Barranco

SYNOPSIS

Establishes minimum Medicaid reimbursement rates for brain injury services.

CURRENT VERSION OF TEXT

As introduced.



(Sponsorship Updated As Of: 5/12/2022)

1 AN ACT concerning Medicaid reimbursement for brain injury
2 services and supplementing Title 30 of the Revised Statutes.

3

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

6

7 1. The Legislature funds and declares:

8 a. An acquired brain injury is an injury caused by an event,
9 either internal or external to the injured individual, and does not
10 include congenital or degenerative disorders, or those injuries
11 induced by birth trauma. An acquired brain injury can either be
12 categorized as a traumatic brain injury or non-traumatic brain injury.
13 A traumatic brain injury is an alteration in brain function caused by
14 an external force and may be caused by falls, assaults, motor vehicle
15 accidents, or sports injuries. A non-traumatic brain injury is damage
16 to the brain caused by internal factors, such as stroke, aneurysm,
17 tumor, infectious disease, and anoxia.

18 b. A severe acquired brain injury can produce an altered or
19 diminished state of consciousness and result in an impairment of
20 cognitive abilities or physical functioning. It can also effect
21 behavioral or emotional functioning. These impairments may be
22 permanent and cause partial or total functional disability, leading to
23 the injured individual requiring long-term care supports.

24 c. The State's Medicaid program provides brain injury services
25 under the Managed Long-Term Supports and Services program, with
26 the goal of providing community alternatives for individuals with
27 brain injuries residing in nursing facilities or who are in the
28 community and at risk for placement in nursing facilities.

29 d. Unlike other Medicaid community-based services,
30 reimbursement rates for brain injury services have remained static in
31 recent years despite growing costs, which threatens the ability of
32 providers to meet the complex health needs of individuals with brain
33 injuries and provide services within a safe and fulfilling community
34 environment.

35 e. Despite the similar model of care, reimbursement rates for
36 services provided to Medicaid beneficiaries with intellectual and
37 developmental disabilities have not only increased, but have been
38 restructured to account for adequate consideration for acuity,
39 increased minimum wage requirements, and other inflationary trends
40 that assert pressure on providers' cost structures.

41 f. By failing to receive reimbursement rates that adequately
42 support services, brain injury providers are being forced to return this
43 fragile population to more costly institutional care in nursing home
44 facilities.

45 g. It is imperative that the Legislature take action and increase
46 Medicaid rates for these essential services and ensure that individuals
47 with brain injuries can continue to thrive and reach their optimal
48 recoveries in community settings.

1 2. a. Notwithstanding the provisions of any law or regulation to
2 the contrary, the Medicaid per diem or encounter reimbursement
3 rates for eligible brain injury services, when such services are
4 provided by an approved brain injury services provider to a Medicaid
5 beneficiary requiring treatment for a brain injury, shall be, at
6 minimum, as follows:

7 (1) The reimbursement rate for Community Residential Services
8 – Low Supervision provided to a Medicaid beneficiary eligible for
9 brain injury services shall be equal to the reimbursement rate for
10 Individuals Supports Services - Tier C provided to a Medicaid
11 beneficiary eligible for services provided by the Division of
12 Developmental Disabilities;

13 (2) The reimbursement rate for Community Residential Services
14 – Moderate Supervision provided to a Medicaid beneficiary eligible
15 for brain injury services shall be equal to the reimbursement rate for
16 Individuals Supports Services - Tier D provided to a Medicaid
17 beneficiary eligible for services provided by the Division of
18 Developmental Disabilities;

19 (3) The reimbursement rate for Community Residential Services
20 – High Supervision provided to a Medicaid beneficiary eligible for
21 brain injury services shall be equal to the reimbursement rate for
22 Individuals Supports Services - Tier E provided to a Medicaid
23 beneficiary eligible for services provided by the Division of
24 Developmental Disabilities; and

25 (4) The reimbursement rate for Structured Day Program Services
26 provided to a Medicaid beneficiary eligible for brain injury services
27 shall be equal to the reimbursement rate for Day Habilitation Services
28 - Tier D provided to a Medicaid beneficiary eligible for services
29 provided by the Division of Developmental Disabilities.

30 b. As used in this section:

31 “Medicaid” means the program established pursuant to P.L.1968,
32 c.413 (C.30:4D-1 et seq.).

33 “Brain injury service” means community-based services,
34 residential services, day care services, and home care services
35 provided to a Medicaid beneficiary requiring treatment for traumatic
36 or non-traumatic brain injuries, whether such services are provided
37 through the Medicaid fee-for-service delivery system or the managed
38 care delivery system.

39 “Brain injury service provider” means a facility licensed by the
40 Division of Disability Services in the Department of Human Services
41 to provide traumatic or non-traumatic brain injury services.

42 “Non-traumatic brain injury” means an injury to the brain caused
43 by internal factors, such as stroke, aneurysm, tumor, infectious
44 disease, and anoxia, where continued impairment can be
45 demonstrated. This term does not include brain dysfunction caused
46 by congenital or degenerative disorders, birth trauma, or injuries
47 caused by other circumstances.

48 “Traumatic brain injury” means an injury to the brain caused by a
49 blow or jolt to the head or a penetrating head injury or neuro-trauma

1 that disrupts the normal brain function, where continued impairment
2 can be demonstrated. This term does not include brain dysfunction
3 caused by congenital or degenerative disorders, birth trauma, or
4 injuries caused by other circumstances.

5
6 3. The Commissioner of Human Services shall apply for such State
7 plan amendments or waivers specific to brain injury services, that
8 currently exist or may arise in the future which affect reimbursement
9 rates, as may be necessary to implement the provisions of this act and
10 to secure federal financial participation for State Medicaid expenditures
11 under the federal Medicaid program.

12
13 4. The Commissioner of Human Services, in accordance with the
14 "Administrative Procedure Act," P.L.1968, c.410 (C.52:14B-1 et seq.),
15 shall adopt such rules and regulations as the commissioner deems
16 necessary to carry out the provisions of this act.

17
18 5. This act shall take effect on July 1 next following the date of
19 enactment and shall apply to services provided on or after the
20 effective date of this act and to any Medicaid managed care contract
21 executed or renewed on or after the effective date of this act.

22
23
24 STATEMENT
25

26 This bill establishes minimum Medicaid reimbursement rates for
27 brain injury services. Under this bill, the term brain injury includes
28 both a traumatic brain injury and a non-traumatic brain injury.
29 "Traumatic brain injury" means an injury to the brain caused by a
30 blow or jolt to the head or a penetrating head injury or neuro-trauma
31 that disrupts the normal brain function, where continued impairment
32 can be demonstrated. "Non-traumatic brain injury" means an injury
33 to the brain caused by internal factors, such as stroke, aneurysm,
34 tumor, infectious disease, and anoxia, where continued impairment
35 can be demonstrated. Neither term includes brain dysfunction caused
36 by congenital or degenerative disorders, birth trauma, or injuries
37 caused by other circumstances. Brain injury services include
38 community-based services, residential services, day care services,
39 and home care services whether the services are provided through the
40 Medicaid fee-for-service delivery system or the managed care
41 delivery system.

42 Specifically, the bill requires that the Medicaid per diem or
43 encounter reimbursement rates for eligible brain injury services,
44 when such services are provided by an approved brain injury services
45 provider to a Medicaid beneficiary requiring treatment for a brain
46 injury, is to be, at minimum, as follows:

47 (1) The reimbursement rate for Community Residential Services
48 – Low Supervision provided to a Medicaid beneficiary eligible for
49 brain injury services, currently at \$140 a day, is to be equal to the

1 reimbursement rate for Individuals Supports Services Tier - C
2 provided to a Medicaid beneficiary eligible for services provided by
3 the Division of Developmental Disabilities, currently at \$283.20 per
4 day;

5 (2) The reimbursement rate for Community Residential Services
6 – Moderate Supervision provided to a Medicaid beneficiary eligible
7 for brain injury services, currently at \$190 a day, is to be equal to the
8 reimbursement rate for Individuals Supports Services Tier - D
9 provided to a Medicaid beneficiary eligible for services provided by
10 the Division of Developmental Disabilities, currently at \$396.48 a
11 day;

12 (3) The reimbursement rate for Community Residential Services
13 – High Supervision provided to a Medicaid beneficiary eligible for
14 brain injury services, currently at \$220 a day, is to be equal to the
15 reimbursement rate for Individuals Supports Services - Tier E
16 provided to a Medicaid beneficiary eligible for services provided by
17 the Division of Developmental Disabilities, currently at \$509.96 a
18 day; and

19 (4) The reimbursement rate for Structured Day Program Services
20 provided to a Medicaid beneficiary eligible for brain injury services,
21 currently at \$3.65 for every 15 minutes of services, is to be equal to
22 the reimbursement rate for Day Habilitation Services - Tier D
23 provided to a Medicaid beneficiary eligible for services provided by
24 the Division of Developmental Disabilities, currently at \$6.91 for
25 every 15 minutes of service.

26 Currently, the State's Medicaid program provides brain injury
27 services under the Managed Long-Term Supports and Services
28 program, with the goal of providing community alternatives for
29 individuals with brain injuries residing in nursing facilities or who
30 are in the community and at risk for placement in nursing facilities.
31 Unlike other Medicaid community-based services, reimbursement
32 rates for brain injury services have remained static in recent years
33 despite growing costs, which threatens the ability of providers to
34 meet the complex needs of individuals with brain injuries and provide
35 services within a safe and fulfilling community environment.
36 Despite the similar model of care, reimbursement rates for services
37 provided to Medicaid beneficiaries with intellectual and
38 developmental disabilities (I/DD) have not only increased, but have
39 been restructured to account for adequate consideration for acuity,
40 increased minimum wage requirements, and other inflationary trends
41 that assert pressure on providers' cost structures. It is the sponsor's
42 goal to align brain injury service rates with I/DD service rates to
43 ensure that individuals with brain injuries can continue to thrive and
44 reach their optimal recoveries in community settings.

ASSEMBLY HUMAN SERVICES COMMITTEE

STATEMENT TO

ASSEMBLY, No. 3110

with committee amendments

STATE OF NEW JERSEY

DATED: MAY 12, 2022

The Assembly Human Services Committee reports favorably and Assembly Bill No. 3110 with committee amendments

As amended by the committee, this bill establishes minimum Medicaid reimbursement rates for brain injury services. Under this bill, the term “brain injury” includes both a traumatic brain injury and a non-traumatic brain injury. “Traumatic brain injury” means an injury to the brain caused by a blow or jolt to the head or a penetrating head injury or neuro-trauma that disrupts the normal brain function, where continued impairment can be demonstrated. “Non-traumatic brain injury” means an injury to the brain caused by internal factors, such as stroke, aneurysm, tumor, infectious disease, or anoxia, where continued impairment can be demonstrated. Neither term includes brain dysfunction caused by congenital or degenerative disorders, birth trauma, or injuries caused by other circumstances. Brain injury services include community-based services, residential services, day care services, and home care services, regardless of whether the services are provided through the Medicaid fee-for-service delivery system or the managed care delivery system.

Specifically, the bill requires that the Medicaid per diem or encounter reimbursement rates for eligible brain injury services, when such services are provided by an approved brain injury services provider to a Medicaid beneficiary requiring treatment for a brain injury, are to be, at minimum, as follows:

(1) The reimbursement rate for Community Residential Services – Low Supervision provided to a Medicaid beneficiary eligible for brain injury services, currently at \$140 a day, is to be equal to the reimbursement rate for Individuals Supports Services Tier - C provided to a Medicaid beneficiary eligible for services provided by the Division of Developmental Disabilities in the Department of Human Services (DHS), currently at \$283.20 per day;

(2) The reimbursement rate for Community Residential Services – Moderate Supervision provided to a Medicaid beneficiary eligible for brain injury services, currently at \$190 a day, is to be equal to the reimbursement rate for Individuals Supports Services Tier - D provided to a Medicaid beneficiary eligible for services provided by

the Division of Developmental Disabilities in the DHS, currently at \$396.48 a day;

(3) The reimbursement rate for Community Residential Services – High Supervision provided to a Medicaid beneficiary eligible for brain injury services, currently at \$220 a day, is to be equal to the reimbursement rate for Individuals Supports Services - Tier E provided to a Medicaid beneficiary eligible for services provided by the Division of Developmental Disabilities in the DHS, currently at \$509.96 a day; and

(4) The reimbursement rate for Structured Day Program Services provided to a Medicaid beneficiary eligible for brain injury services, currently at \$3.65 for every 15 minutes of services, is to be equal to the reimbursement rate for Day Habilitation Services - Tier D provided to a Medicaid beneficiary eligible for services provided by the Division of Developmental Disabilities in the DHS, currently at \$6.91 for every 15 minutes of service.

As amended and reported by the committee, Assembly Bill No. 3110 is identical to Senate Bill No. 2049 (1R) which is pending in the Senate Budget and Appropriations Committee.

COMMITTEE AMENDMENTS:

The committee amendments make various technical changes to address grammatical, stylistic, and typographical issues.

LEGISLATIVE FISCAL ESTIMATE

[First Reprint]

ASSEMBLY, No. 3110

STATE OF NEW JERSEY 220th LEGISLATURE

DATED: JUNE 1, 2022

SUMMARY

- Synopsis:** Establishes minimum Medicaid reimbursement rates for brain injury services.
- Type of Impact:** Annual Increase in State Costs and Revenue; General Fund.
- Agencies Affected:** Department of Human Services.

Office of Legislative Services Estimate

Fiscal Impact	<u>FY 2023 and Thereafter</u>
State Cost Increase	\$16.8 million to \$20.5 million
State Revenue Increase	\$8.4 million to \$10.3 million

- The Office of Legislative (OLS) concludes that the Department of Human Services (DHS) will incur between \$16.8 million and \$20.5 million in additional annual Medicaid expenditures in order to increase the reimbursement rates for brain injury services. As eligible State Medicaid expenditures are reimbursed 50 percent by federal funds, this bill will also increase annual State revenue between \$8.4 million and \$10.3 million.

BILL DESCRIPTION

This bill requires that the Medicaid per diem or encounter reimbursement rates for eligible brain injury services, when such services are provided by an approved brain injury services provider to a Medicaid beneficiary requiring treatment for a brain injury, are to be, at minimum, as follows:

(1) The reimbursement rate for Community Residential Services – Low Supervision provided to a Medicaid beneficiary eligible for brain injury services, currently at \$140 a day, is to be equal to the reimbursement rate for Individuals Supports Services Tier - C provided to a Medicaid beneficiary eligible for services provided by the Division of Developmental Disabilities in the DHS, currently at \$283.20 per day;

(2) The reimbursement rate for Community Residential Services – Moderate Supervision provided to a Medicaid beneficiary eligible for brain injury services, currently at \$190 a day, is to be equal to the reimbursement rate for Individuals Supports Services Tier - D provided to a Medicaid beneficiary eligible for services provided by the Division of Developmental Disabilities in the DHS, currently at \$396.48 a day;

(3) The reimbursement rate for Community Residential Services – High Supervision provided to a Medicaid beneficiary eligible for brain injury services, currently at \$220 a day, is to be equal to the reimbursement rate for Individuals Supports Services - Tier E provided to a Medicaid beneficiary eligible for services provided by the Division of Developmental Disabilities in the DHS, currently at \$509.96 a day; and

(4) The reimbursement rate for Structured Day Program Services provided to a Medicaid beneficiary eligible for brain injury services, currently at \$3.65 for every 15 minutes of services, is to be equal to the reimbursement rate for Day Habilitation Services - Tier D provided to a Medicaid beneficiary eligible for services provided by the Division of Developmental Disabilities in the DHS, currently at \$6.91 for every 15 minutes of service.

FISCAL ANALYSIS

EXECUTIVE BRANCH

None received.

OFFICE OF LEGISLATIVE SERVICES

The OLS concludes that the DHS will incur between \$16.8 million and \$20.5 million in additional annual Medicaid expenditures in order to increase the reimbursement rates for brain injury services. As eligible State Medicaid expenditures are reimbursed 50 percent by federal funds, this bill will also increase annual State revenue between \$8.4 million and \$10.3 million.

The brain injury services described under the bill are reimbursed as home and community based services (HCBS) under the Medicaid Managed Long Term Services and Supports (MLTSS) Program. Under this program, the DHS pays managed care organizations based on a per beneficiary per month capitation rate to cover costs of services. The existing MLTSS monthly capitation rate for HCBS, assuming beneficiaries are dually eligible for Medicare and Medicaid, is \$4,719.80.

The bill proposes increasing rates for brain injury services, on average, by 208 percent. Further, based upon data provided by the department that 304 individuals in the MLTSS program received brain injury services in CY 2014, a number which has been increased and decreased by 10 percent to provide a range of the impacted population for this analysis, it is estimated that the bill would affect the service rates of between 274 and 335 beneficiaries. Using the MLTSS monthly capitation rate for HCBS and imposing a 208 percent increase to these costs, results in a total cost to the State of between \$32.3 million and \$39.5 million - a difference of between \$16.8 million and \$20.5 million from the current estimated expenditures. Assuming a 50 percent federal Medicaid reimbursement, the State cost would be offset by an annual increase in State revenue of between \$8.4 million and \$10.3 million.

The OLS notes that beneficiaries receiving brain injury services represent a small portion of the MLTSS population of nearly 60,000 individuals. When developing capitation rates, the contracted actuary utilizes encounter claims data from the fiscal year that is two years prior to the rate setting period, managed care organization financial reports, and monthly beneficiary data

collected by the organizations and the department for the entire MLTSS population. It is possible that a variety of factors in the capitation rate setting process, which the OLS cannot determine, would influence State costs incurred under this bill.

Section: Human Services

*Analyst: Sarah Schmidt
Senior Research Analyst*

*Approved: Thomas Koenig
Legislative Budget and Finance Officer*

This legislative fiscal estimate has been produced by the Office of Legislative Services due to the failure of the Executive Branch to respond to our request for a fiscal note.

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

ASSEMBLY APPROPRIATIONS COMMITTEE

STATEMENT TO

[First Reprint]

ASSEMBLY, No. 3110

STATE OF NEW JERSEY

DATED: JUNE 23, 2022

The Assembly Appropriations Committee reports favorably Assembly Bill No. 3110 (1R).

This bill establishes minimum Medicaid reimbursement rates for brain injury services. Under this bill, the term “brain injury” includes both a traumatic brain injury and a non-traumatic brain injury. “Traumatic brain injury” means an injury to the brain caused by a blow or jolt to the head or a penetrating head injury or neuro-trauma that disrupts the normal brain function, where continued impairment can be demonstrated. “Non-traumatic brain injury” means an injury to the brain caused by internal factors, such as stroke, aneurysm, tumor, infectious disease, or anoxia, where continued impairment can be demonstrated. Neither term includes brain dysfunction caused by congenital or degenerative disorders, birth trauma, or injuries caused by other circumstances. Brain injury services include community-based services, residential services, day care services, and home care services, regardless of whether the services are provided through the Medicaid fee-for-service delivery system or the managed care delivery system.

Specifically, the bill requires that the Medicaid per diem or encounter reimbursement rates for eligible brain injury services, when such services are provided by an approved brain injury services provider to a Medicaid beneficiary requiring treatment for a brain injury, are to be, at minimum, as follows:

(1) The reimbursement rate for Community Residential Services – Low Supervision provided to a Medicaid beneficiary eligible for brain injury services, currently at \$140 a day, is to be equal to the reimbursement rate for Individuals Supports Services Tier - C provided to a Medicaid beneficiary eligible for services provided by the Division of Developmental Disabilities in the Department of Human Services (DHS), currently at \$283.20 per day;

(2) The reimbursement rate for Community Residential Services – Moderate Supervision provided to a Medicaid beneficiary eligible for brain injury services, currently at \$190 a day, is to be equal to the reimbursement rate for Individuals Supports Services Tier - D provided to a Medicaid beneficiary eligible for services provided by

the Division of Developmental Disabilities in the DHS, currently at \$396.48 a day;

(3) The reimbursement rate for Community Residential Services – High Supervision provided to a Medicaid beneficiary eligible for brain injury services, currently at \$220 a day, is to be equal to the reimbursement rate for Individuals Supports Services - Tier E provided to a Medicaid beneficiary eligible for services provided by the Division of Developmental Disabilities in the DHS, currently at \$509.96 a day; and

(4) The reimbursement rate for Structured Day Program Services provided to a Medicaid beneficiary eligible for brain injury services, currently at \$3.65 for every 15 minutes of services, is to be equal to the reimbursement rate for Day Habilitation Services - Tier D provided to a Medicaid beneficiary eligible for services provided by the Division of Developmental Disabilities in the DHS, currently at \$6.91 for every 15 minutes of service.

FISCAL IMPACT:

The Office of Legislative Services (OLS) concludes that the DHS will incur between \$16.8 million and \$20.5 million in additional annual Medicaid expenditures in order to increase the reimbursement rates for brain injury services. As eligible Medicaid expenditures are reimbursed 50 percent by federal funds, this bill will also increase annual State revenue between \$8.4 million and \$10.3 million.

STATEMENT TO
[First Reprint]
ASSEMBLY, No. 3110

with Assembly Floor Amendments
(Proposed by Senator CODEY)

ADOPTED: JUNE 29, 2022

These Senate amendments remove a provision of the bill that required the Medicaid reimbursement rate for Structured Day Program Services provided to a Medicaid beneficiary eligible for brain injury services be equal to the reimbursement rate for Day Habilitation Services – Tier D, as provided by the Division of Developmental Disabilities.

The Senate amendments adjust the Division of Developmental Disability Individual Supports Services tiers used to establish the minimum Medicaid reimbursement rates for Community Residential Services provided to a Medicaid beneficiary eligible for brain injury services. In effect, these amendments establish lower minimum reimbursement rates for brain injury services than those established in the bill as introduced.

The Senate amendments revise the effective date to occur 30 days after the date of enactment, rather than on July 1 next following the date of enactment.

SENATE, No. 2049

STATE OF NEW JERSEY 220th LEGISLATURE

INTRODUCED MARCH 3, 2022

Sponsored by:

Senator RICHARD J. CODEY
District 27 (Essex and Morris)
Senator HOLLY T. SCHEPISI
District 39 (Bergen and Passaic)

Co-Sponsored by:

Senators Durr and Singer

SYNOPSIS

Establishes minimum Medicaid reimbursement rates for brain injury services.

CURRENT VERSION OF TEXT

As introduced.



(Sponsorship Updated As Of: 3/10/2022)

1 AN ACT concerning Medicaid reimbursement for brain injury
2 services and supplementing Title 30 of the Revised Statutes.

3

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

6

7 1. The Legislature funds and declares:

8 a. An acquired brain injury is an injury caused by an event,
9 either internal or external to the injured individual, and does not
10 include congenital or degenerative disorders, or those injuries
11 induced by birth trauma. An acquired brain injury can either be
12 categorized as a traumatic brain injury or non-traumatic brain injury.
13 A traumatic brain injury is an alteration in brain function caused by
14 an external force and may be caused by falls, assaults, motor vehicle
15 accidents, or sports injuries. A non-traumatic brain injury is damage
16 to the brain caused by internal factors, such as stroke, aneurysm,
17 tumor, infectious disease, and anoxia.

18 b. A severe acquired brain injury can produce an altered or
19 diminished state of consciousness and result in an impairment of
20 cognitive abilities or physical functioning. It can also effect
21 behavioral or emotional functioning. These impairments may be
22 permanent and cause partial or total functional disability, leading to
23 the injured individual requiring long-term care supports.

24 c. The State's Medicaid program provides brain injury services
25 under the Managed Long-Term Supports and Services program, with
26 the goal of providing community alternatives for individuals with
27 brain injuries residing in nursing facilities or who are in the
28 community and at risk for placement in nursing facilities.

29 d. Unlike other Medicaid community-based services,
30 reimbursement rates for brain injury services have remained static in
31 recent years despite growing costs, which threatens the ability of
32 providers to meet the complex health needs of individuals with brain
33 injuries and provide services within a safe and fulfilling community
34 environment.

35 e. Despite the similar model of care, reimbursement rates for
36 services provided to Medicaid beneficiaries with intellectual and
37 developmental disabilities have not only increased, but have been
38 restructured to account for adequate consideration for acuity,
39 increased minimum wage requirements, and other inflationary trends
40 that assert pressure on providers' cost structures.

41 f. By failing to receive reimbursement rates that adequately
42 support services, brain injury providers are being forced to return this
43 fragile population to more costly institutional care in nursing home
44 facilities.

45 g. It is imperative that the Legislature take action and increase
46 Medicaid rates for these essential services and ensure that individuals
47 with brain injuries can continue to thrive and reach their optimal
48 recoveries in community settings.

1 2. a. Notwithstanding the provisions of any law or regulation to
2 the contrary, the Medicaid per diem or encounter reimbursement
3 rates for eligible brain injury services, when such services are
4 provided by an approved brain injury services provider to a Medicaid
5 beneficiary requiring treatment for a brain injury, shall be, at
6 minimum, as follows:

7 (1) The reimbursement rate for Community Residential Services
8 – Low Supervision provided to a Medicaid beneficiary eligible for
9 brain injury services shall be equal to the reimbursement rate for
10 Individuals Supports Services - Tier C provided to a Medicaid
11 beneficiary eligible for services provided by the Division of
12 Developmental Disabilities;

13 (2) The reimbursement rate for Community Residential Services
14 – Moderate Supervision provided to a Medicaid beneficiary eligible
15 for brain injury services shall be equal to the reimbursement rate for
16 Individuals Supports Services - Tier D provided to a Medicaid
17 beneficiary eligible for services provided by the Division of
18 Developmental Disabilities;

19 (3) The reimbursement rate for Community Residential Services
20 – High Supervision provided to a Medicaid beneficiary eligible for
21 brain injury services shall be equal to the reimbursement rate for
22 Individuals Supports Services - Tier E provided to a Medicaid
23 beneficiary eligible for services provided by the Division of
24 Developmental Disabilities; and

25 (4) The reimbursement rate for Structured Day Program Services
26 provided to a Medicaid beneficiary eligible for brain injury services
27 shall be equal to the reimbursement rate for Day Habilitation Services
28 - Tier D provided to a Medicaid beneficiary eligible for services
29 provided by the Division of Developmental Disabilities.

30 b. As used in this section:

31 “Medicaid” means the program established pursuant to P.L.1968,
32 c.413 (C.30:4D-1 et seq.).

33 “Brain injury service” means community-based services,
34 residential services, day care services, and home care services
35 provided to a Medicaid beneficiary requiring treatment for traumatic
36 or non-traumatic brain injuries, whether such services are provided
37 through the Medicaid fee-for-service delivery system or the managed
38 care delivery system.

39 “Brain injury service provider” means a facility licensed by the
40 Division of Disability Services in the Department of Human Services
41 to provide traumatic or non-traumatic brain injury services.

42 “Non-traumatic brain injury” means an injury to the brain caused
43 by internal factors, such as stroke, aneurysm, tumor, infectious
44 disease, and anoxia, where continued impairment can be
45 demonstrated. This term does not include brain dysfunction caused
46 by congenital or degenerative disorders, birth trauma, or injuries
47 caused by other circumstances.

1 (1) The reimbursement rate for Community Residential Services
2 – Low Supervision provided to a Medicaid beneficiary eligible for
3 brain injury services, currently at \$140 a day, is to be equal to the
4 reimbursement rate for Individuals Supports Services Tier - C
5 provided to a Medicaid beneficiary eligible for services provided by
6 the Division of Developmental Disabilities, currently at \$283.20 per
7 day;

8 (2) The reimbursement rate for Community Residential Services
9 – Moderate Supervision provided to a Medicaid beneficiary eligible
10 for brain injury services, currently at \$190 a day, is to be equal to the
11 reimbursement rate for Individuals Supports Services Tier - D
12 provided to a Medicaid beneficiary eligible for services provided by
13 the Division of Developmental Disabilities, currently at \$396.48 a
14 day;

15 (3) The reimbursement rate for Community Residential Services
16 – High Supervision provided to a Medicaid beneficiary eligible for
17 brain injury services, currently at \$220 a day, is to be equal to the
18 reimbursement rate for Individuals Supports Services - Tier E
19 provided to a Medicaid beneficiary eligible for services provided by
20 the Division of Developmental Disabilities, currently at \$509.96 a
21 day; and

22 (4) The reimbursement rate for Structured Day Program Services
23 provided to a Medicaid beneficiary eligible for brain injury services,
24 currently at \$3.65 for every 15 minutes of services, is to be equal to
25 the reimbursement rate for Day Habilitation Services - Tier D
26 provided to a Medicaid beneficiary eligible for services provided by
27 the Division of Developmental Disabilities, currently at \$6.91 for
28 every 15 minutes of service.

29 Currently, the State's Medicaid program provides brain injury
30 services under the Managed Long-Term Supports and Services
31 program, with the goal of providing community alternatives for
32 individuals with brain injuries residing in nursing facilities or who
33 are in the community and at risk for placement in nursing facilities.
34 Unlike other Medicaid community-based services, reimbursement
35 rates for brain injury services have remained static in recent years
36 despite growing costs, which threatens the ability of providers to
37 meet the complex needs of individuals with brain injuries and provide
38 services within a safe and fulfilling community environment.
39 Despite the similar model of care, reimbursement rates for services
40 provided to Medicaid beneficiaries with intellectual and
41 developmental disabilities (I/DD) have not only increased, but have
42 been restructured to account for adequate consideration for acuity,
43 increased minimum wage requirements, and other inflationary trends
44 that assert pressure on providers' cost structures. It is the sponsor's
45 goal to align brain injury service rates with I/DD service rates to
46 ensure that individuals with brain injuries can continue to thrive and
47 reach their optimal recoveries in community settings.

SENATE HEALTH, HUMAN SERVICES AND SENIOR
CITIZENS COMMITTEE

STATEMENT TO
SENATE, No. 2049

with committee amendments

STATE OF NEW JERSEY

DATED: MARCH 10, 2022

The Senate Health, Human Services and Senior Citizens Committee reports favorably Senate Bill No. 2049, with committee amendments.

As amended by the committee, this bill establishes minimum Medicaid reimbursement rates for brain injury services. Under this bill, the term “brain injury” includes both a traumatic brain injury and a non-traumatic brain injury. “Traumatic brain injury” means an injury to the brain caused by a blow or jolt to the head or a penetrating head injury or neuro-trauma that disrupts the normal brain function, where continued impairment can be demonstrated. “Non-traumatic brain injury” means an injury to the brain caused by internal factors, such as stroke, aneurysm, tumor, infectious disease, or anoxia, where continued impairment can be demonstrated. Neither term includes brain dysfunction caused by congenital or degenerative disorders, birth trauma, or injuries caused by other circumstances. Brain injury services include community-based services, residential services, day care services, and home care services, regardless of whether the services are provided through the Medicaid fee-for-service delivery system or the managed care delivery system.

Specifically, the bill requires that the Medicaid per diem or encounter reimbursement rates for eligible brain injury services, when such services are provided by an approved brain injury services provider to a Medicaid beneficiary requiring treatment for a brain injury, are to be, at minimum, as follows:

(1) The reimbursement rate for Community Residential Services – Low Supervision provided to a Medicaid beneficiary eligible for brain injury services, currently at \$140 a day, is to be equal to the reimbursement rate for Individuals Supports Services Tier - C provided to a Medicaid beneficiary eligible for services provided by the Division of Developmental Disabilities in the Department of Human Services (DHS), currently at \$283.20 per day;

(2) The reimbursement rate for Community Residential Services – Moderate Supervision provided to a Medicaid beneficiary eligible for brain injury services, currently at \$190 a day, is to be equal to the

reimbursement rate for Individuals Supports Services Tier - D provided to a Medicaid beneficiary eligible for services provided by the Division of Developmental Disabilities in the DHS, currently at \$396.48 a day;

(3) The reimbursement rate for Community Residential Services – High Supervision provided to a Medicaid beneficiary eligible for brain injury services, currently at \$220 a day, is to be equal to the reimbursement rate for Individuals Supports Services - Tier E provided to a Medicaid beneficiary eligible for services provided by the Division of Developmental Disabilities in the DHS, currently at \$509.96 a day; and

(4) The reimbursement rate for Structured Day Program Services provided to a Medicaid beneficiary eligible for brain injury services, currently at \$3.65 for every 15 minutes of services, is to be equal to the reimbursement rate for Day Habilitation Services - Tier D provided to a Medicaid beneficiary eligible for services provided by the Division of Developmental Disabilities in the DHS, currently at \$6.91 for every 15 minutes of service.

COMMITTEE AMENDMENTS:

The committee amendments make various technical changes to address grammatical, stylistic, and typographical issues.

LEGISLATIVE FISCAL ESTIMATE

[First Reprint]

SENATE, No. 2049 STATE OF NEW JERSEY 220th LEGISLATURE

DATED: MARCH 22, 2022

SUMMARY

- Synopsis:** Establishes minimum Medicaid reimbursement rates for brain injury services.
- Type of Impact:** Annual Increase in State Costs and Revenue; General Fund.
- Agencies Affected:** Department of Human Services.

Office of Legislative Services Estimate

Fiscal Impact	<u>FY 2023 and Thereafter</u>
State Cost Increase	\$16.8 million to \$20.5 million
State Revenue Increase	\$8.4 million to \$10.3 million

- The Office of Legislative (OLS) concludes that the Department of Human Services (DHS) will incur between \$16.8 million and \$20.5 million in additional annual Medicaid expenditures in order to increase the reimbursement rates for brain injury services. As eligible State Medicaid expenditures are reimbursed 50 percent by federal funds, this bill will also increase annual State revenue between \$8.4 million and \$10.3 million.

BILL DESCRIPTION

This bill requires that the Medicaid per diem or encounter reimbursement rates for eligible brain injury services, when such services are provided by an approved brain injury services provider to a Medicaid beneficiary requiring treatment for a brain injury, are to be, at minimum, as follows:

(1) The reimbursement rate for Community Residential Services – Low Supervision provided to a Medicaid beneficiary eligible for brain injury services, currently at \$140 a day, is to be equal to the reimbursement rate for Individuals Supports Services Tier - C provided to a Medicaid beneficiary eligible for services provided by the Division of Developmental Disabilities in the DHS, currently at \$283.20 per day;

(2) The reimbursement rate for Community Residential Services – Moderate Supervision provided to a Medicaid beneficiary eligible for brain injury services, currently at \$190 a day, is to be equal to the reimbursement rate for Individuals Supports Services Tier - D provided to a Medicaid beneficiary eligible for services provided by the Division of Developmental Disabilities in the DHS, currently at \$396.48 a day;

(3) The reimbursement rate for Community Residential Services – High Supervision provided to a Medicaid beneficiary eligible for brain injury services, currently at \$220 a day, is to be equal to the reimbursement rate for Individuals Supports Services - Tier E provided to a Medicaid beneficiary eligible for services provided by the Division of Developmental Disabilities in the DHS, currently at \$509.96 a day; and

(4) The reimbursement rate for Structured Day Program Services provided to a Medicaid beneficiary eligible for brain injury services, currently at \$3.65 for every 15 minutes of services, is to be equal to the reimbursement rate for Day Habilitation Services - Tier D provided to a Medicaid beneficiary eligible for services provided by the Division of Developmental Disabilities in the DHS, currently at \$6.91 for every 15 minutes of service.

FISCAL ANALYSIS

EXECUTIVE BRANCH

None received:

OFFICE OF LEGISLATIVE SERVICES

The OLS concludes that the DHS will incur between \$16.8 million and \$20.5 million in additional annual Medicaid expenditures in order to increase the reimbursement rates for brain injury services. As eligible State Medicaid expenditures are reimbursed 50 percent by federal funds, this bill will also increase annual State revenue between \$8.4 million and \$10.3 million.

The brain injury services described under the bill are reimbursed as home and community based services (HCBS) under the Medicaid Managed Long Term Services and Supports (MLTSS) Program. Under this program, the DHS pays managed care organizations based on a per beneficiary per month capitation rate to cover costs of services. The existing MLTSS monthly capitation rate for HCBS, assuming beneficiaries are dually eligible for Medicare and Medicaid, is \$4,719.80.

The bill proposes increasing rates for brain injury services, on average, by 208 percent. Further, based upon data provided by the department that 304 individuals in the MLTSS program received brain injury services in CY 2014, a number which has been increased and decreased by 10 percent to provide a range of the impacted population for this analysis, it is estimated that the bill would affect the service rates of between 274 and 335 beneficiaries. Using the MLTSS monthly capitation rate for HCBS and imposing a 208 percent increase to these costs, results in a total cost to the State of between \$32.3 million and \$39.5 million - a difference of between \$16.8 million and \$20.5 million from the current estimated expenditures. Assuming a 50 percent federal Medicaid reimbursement, the State cost would be offset by an annual increase in State revenue of between \$8.4 million and \$10.3 million.

The OLS notes that beneficiaries receiving brain injury services represent a small portion of the MLTSS population of nearly 60,000 individuals. When developing capitation rates, the contracted actuary utilizes encounter claims data from the fiscal year that is two years prior to the rate setting period, managed care organization financial reports, and monthly beneficiary data

collected by the organizations and the department for the entire MLTSS population. It is possible that a variety of factors in the capitation rate setting process, which the OLS cannot determine, would influence State costs incurred under this bill.

Section: Human Services

*Analyst: Sarah Schmidt
Senior Research Analyst*

*Approved: Thomas Koenig
Legislative Budget and Finance Officer*

This legislative fiscal estimate has been produced by the Office of Legislative Services due to the failure of the Executive Branch to respond to our request for a fiscal note.

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

SENATE BUDGET AND APPROPRIATIONS COMMITTEE

STATEMENT TO

[First Reprint]

SENATE, No. 2049

with committee amendments

STATE OF NEW JERSEY

DATED: JUNE 27, 2022

The Senate Budget and Appropriations Committee reports favorably and with committee amendments Senate Bill No. 2049 (1R).

As amended by the committee, this bill establishes minimum Medicaid reimbursement rates for brain injury services. Under this bill, the term “brain injury” includes both a traumatic brain injury and a non-traumatic brain injury. “Traumatic brain injury” means an injury to the brain caused by a blow or jolt to the head or a penetrating head injury or neuro-trauma that disrupts the normal brain function, where continued impairment can be demonstrated. “Non-traumatic brain injury” means an injury to the brain caused by internal factors, such as stroke, aneurysm, tumor, infectious disease, or anoxia, where continued impairment can be demonstrated. Neither term includes brain dysfunction caused by congenital or degenerative disorders, birth trauma, or injuries caused by other circumstances. Brain injury services include community-based services, residential services, day care services, and home care services, regardless of whether the services are provided through the Medicaid fee-for-service delivery system or the managed care delivery system.

Specifically, the bill requires that the Medicaid per diem or encounter reimbursement rates for eligible brain injury services, when such services are provided by an approved brain injury services provider to a Medicaid beneficiary requiring treatment for a brain injury, are to be, at minimum, as follows:

(1) The reimbursement rate for Community Residential Services – Low Supervision provided to a Medicaid beneficiary eligible for brain injury services, currently at \$140 a day, is to be equal to the reimbursement rate for Individuals Supports Services - Tier B provided to a Medicaid beneficiary eligible for services provided by the Division of Developmental Disabilities in the Department of Human Services (DHS), currently at \$169.92 per day;

(2) The reimbursement rate for Community Residential Services – Moderate Supervision provided to a Medicaid beneficiary eligible for brain injury services, currently at \$190 a day, is to be equal to the reimbursement rate for Individuals Supports Services - Tier C

provided to a Medicaid beneficiary eligible for services provided by the Division of Developmental Disabilities in the DHS, currently at \$283.20 a day; and

(3) The reimbursement rate for Community Residential Services – High Supervision provided to a Medicaid beneficiary eligible for brain injury services, currently at \$220 a day, is to be equal to the average of the reimbursement rates for Individuals Supports Services – Tiers D and E provided to a Medicaid beneficiary eligible for services provided by the Division of Developmental Disabilities in the DHS, currently at \$453.12 a day.

The bill will take effect 30 days after the date of enactment and will apply to services provided on or after the effective date of the bill and to any Medicaid managed care contract executed or renewed on or after the effective date of the bill.

COMMITTEE AMENDMENTS:

The committee amendments remove a provision of the bill that required the Medicaid reimbursement rate for Structured Day Program Services provided to a Medicaid beneficiary eligible for brain injury services be equal to the reimbursement rate for Day Habilitation Services – Tier D, as provided by the Division of Developmental Disabilities.

The committee amendments adjust the Division of Developmental Disability Individual Supports Services tiers used to establish the minimum Medicaid reimbursement rates for Community Residential Services provided to a Medicaid beneficiary eligible for brain injury services. In effect, these amendments establish lower minimum reimbursement rates for brain injury services than those established in the bill as introduced.

The committee amendments revise the effective date to occur 30 days after the date of enactment, rather than on July 1 next following the date of enactment.

FISCAL IMPACT:

No fiscal information is available on this bill.

LEGISLATIVE FISCAL ESTIMATE

[Second Reprint]

SENATE, No. 2049 STATE OF NEW JERSEY 220th LEGISLATURE

DATED: JULY 5, 2022

SUMMARY

- Synopsis:** Establishes minimum Medicaid reimbursement rates for brain injury services.
- Type of Impact:** Annual Increase in State Costs and Revenue; General Fund.
- Agencies Affected:** Department of Human Services.

Office of Legislative Services Estimate

Fiscal Impact	FY 2023 and Thereafter
State Cost Increase	\$9.1 million to \$11.2 million
State Revenue Increase	\$4.6 million to \$5.6 million

- The Office of Legislative (OLS) concludes that the Department of Human Services (DHS) will incur between \$9.1 million and \$11.2 million in additional annual Medicaid expenditures in order to increase the reimbursement rates for brain injury services. As eligible State Medicaid expenditures are reimbursed 50 percent by federal funds, this bill will also increase annual State revenue between \$4.6 million and \$5.6 million.

BILL DESCRIPTION

This bill requires that the Medicaid per diem or encounter reimbursement rates for eligible brain injury services, when such services are provided by an approved brain injury services provider to a Medicaid beneficiary requiring treatment for a brain injury, are to be, at minimum, as follows:

(1) The reimbursement rate for Community Residential Services – Low Supervision provided to a Medicaid beneficiary eligible for brain injury services, currently at \$140 a day, is to be equal to the reimbursement rate for Individuals Supports Services - Tier B provided to a Medicaid beneficiary eligible for services provided by the Division of Developmental Disabilities in the DHS, currently at \$169.92 per day;

(2) The reimbursement rate for Community Residential Services – Moderate Supervision provided to a Medicaid beneficiary eligible for brain injury services, currently at \$190 a day, is to be equal to the reimbursement rate for Individuals Supports Services - Tier C provided to a Medicaid beneficiary eligible for services provided by the Division of Developmental Disabilities in the DHS, currently at \$283.20 a day; and

(3) The reimbursement rate for Community Residential Services – High Supervision provided to a Medicaid beneficiary eligible for brain injury services, currently at \$220 a day, is to be equal to the average of the reimbursement rates for Individuals Supports Services – Tiers D and E provided to a Medicaid beneficiary eligible for services provided by the Division of Developmental Disabilities in the DHS, currently at \$453.12 a day.

FISCAL ANALYSIS

EXECUTIVE BRANCH

None received:

OFFICE OF LEGISLATIVE SERVICES

The OLS concludes that the DHS will incur between \$9.1 million and \$11.2 million in additional annual Medicaid expenditures in order to increase the reimbursement rates for brain injury services. As eligible State Medicaid expenditures are reimbursed 50 percent by federal funds, this bill will also increase annual State revenue between \$4.6 million and \$5.6 million.

The brain injury services described under the bill are reimbursed as home and community based services (HCBS) under the Medicaid Managed Long Term Services and Supports (MLTSS) Program. Under this program, the DHS pays managed care organizations based on a per beneficiary per month capitation rate to cover costs of services. The existing MLTSS monthly capitation rate for HCBS, assuming beneficiaries are dually eligible for Medicare and Medicaid, is \$4,719.80.

The bill proposes increasing rates for brain injury services, on average, by 159 percent. Further, based upon data provided by the department that 304 individuals in the MLTSS program received brain injury services in CY 2014, a number which has been increased and decreased by 10 percent to provide a range of the impacted population for this analysis, it is estimated that the bill would affect the service rates of between 274 and 335 beneficiaries. Using the MLTSS monthly capitation rate for HCBS and imposing a 159 percent increase to these costs, results in a total cost to the State of between \$24.6 million and \$30.1 million - a difference of between \$9.1 million and \$11.2 million from the current estimated expenditures. Assuming a 50 percent federal Medicaid reimbursement, the State cost would be offset by an annual increase in State revenue of between \$4.6 million and \$5.6 million.

The OLS notes that beneficiaries receiving brain injury services represent a small portion of the MLTSS population of nearly 60,000 individuals. When developing capitation rates, the contracted actuary utilizes encounter claims data from the fiscal year that is two years prior to the rate setting period, managed care organization financial reports, and monthly beneficiary data collected by the organizations and the department for the entire MLTSS population. It is possible that a variety of factors in the capitation rate setting process, which the OLS cannot determine, would influence State costs incurred under this bill.

Section: Human Services

*Analyst: Sarah Schmidt
Senior Research Analyst*

*Approved: Thomas Koenig
Legislative Budget and Finance Officer*

This legislative fiscal estimate has been produced by the Office of Legislative Services due to the failure of the Executive Branch to respond to our request for a fiscal note.

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

VETO MESSAGE: No

GOVERNOR'S PRESS RELEASE ON SIGNING: Yes

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: No

HEARINGS: Yes

Committee meeting of Senate Environment and Energy Committee : the Committee will meet to hear testimony from invited guests on business and industry efforts to mitigate climate change and their perspectives on New Jersey's climate change mitigation policies [June 9, 2022]

Library call number: 974.90 P777, 2022f

Available online at <https://dspace.njstatelib.org/handle/10929/101247>

NEWSPAPER ARTICLES: No

end

P.L. 2022, CHAPTER 79, *approved July 29, 2022*
Assembly, No. 3898

1 **A SUPPLEMENT** to the annual appropriations act for the fiscal year
2 ending June 30, 2022, P.L.2021, c.133.

3
4 **BE IT ENACTED** *by the Senate and the General Assembly of the*
5 *State of New Jersey:*

6
7 1. In addition to the amounts appropriated under P.L.2021,
8 c.133, the annual appropriations act for the fiscal year ending June
9 30, 2022, there is appropriated from the General Fund the following
10 amount for the purpose specified:

11
12 **42 DEPARTMENT OF ENVIRONMENTAL**
13 **PROTECTION**
14 *40 Community Development and Environmental Management*
15 *46 Environmental Planning and Administration*
16 *4800 Administrative Operations*

17	
18	<u>STATE AID</u>
19	99-4800 Mosquito Control, Research, Administration and
20	Operations \$3,000,000
21	State Aid:
22	99 Mosquito Control, Research,
23	Administration and Operations.....(\$3,000,000)
24	

25 2. This act shall take effect immediately.

26
27
28 **STATEMENT**

29
30 This bill supplements the Fiscal Year 2022 appropriations act to
31 make an additional appropriation of \$3 million from the General
32 Fund for State aid to local governments for mosquito control,
33 research, administration, and operations.

34
35
36 _____
37
38 Makes FY2022 supplemental appropriation of \$3 million for
39 mosquito control.

ASSEMBLY, No. 3898

STATE OF NEW JERSEY 220th LEGISLATURE

INTRODUCED MAY 9, 2022

Sponsored by:

Assemblywoman ELIANA PINTOR MARIN

District 29 (Essex)

Assemblyman PARKER SPACE

District 24 (Morris, Sussex and Warren)

Senator M. TERESA RUIZ

District 29 (Essex)

SYNOPSIS

Makes FY2022 supplemental appropriation of \$3 million for mosquito control.

CURRENT VERSION OF TEXT

As introduced.



(Sponsorship Updated As Of: 6/29/2022)

1 A SUPPLEMENT to the annual appropriations act for the fiscal year
2 ending June 30, 2022, P.L.2021, c.133.

3

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

6

7 1. In addition to the amounts appropriated under P.L.2021,
8 c.133, the annual appropriations act for the fiscal year ending June
9 30, 2022, there is appropriated from the General Fund the following
10 amount for the purpose specified:

11

12 **42 DEPARTMENT OF ENVIRONMENTAL**
13 **PROTECTION**

14 *40 Community Development and Environmental Management*

15 *46 Environmental Planning and Administration*

16 *4800 Administrative Operations*

17

18 **STATE AID**

19 99-4800 Mosquito Control, Research, Administration and
20 Operations \$3,000,000

21

22 ***State Aid:***

23 99 Mosquito Control, Research,
24 Administration and Operations.....(\$3,000,000)

25

26

27 2. This act shall take effect immediately.

28

29

30 STATEMENT

31

32 This bill supplements the Fiscal Year 2022 appropriations act to
33 make an additional appropriation of \$3 million from the General
34 Fund for State aid to local governments for mosquito control,
35 research, administration, and operations.

ASSEMBLY AGRICULTURE AND FOOD SECURITY
COMMITTEE

STATEMENT TO

ASSEMBLY, No. 3898

STATE OF NEW JERSEY

DATED: MAY 19, 2022

The Assembly Agriculture and Food Security Committee reports favorably Assembly Bill No. 3898.

This bill supplements the Fiscal Year 2022 appropriations act to make an additional appropriation of \$3 million from the General Fund for State aid to local governments for mosquito control, research, administration, and operations.

ASSEMBLY APPROPRIATIONS COMMITTEE

STATEMENT TO

ASSEMBLY, No. 3898

STATE OF NEW JERSEY

DATED: JUNE 14, 2022

The Assembly Appropriations Committee reports favorably Assembly Bill No. 3898.

This bill supplements the Fiscal Year 2022 appropriations act to make an additional appropriation of \$3 million from the General Fund for State aid to local governments for mosquito control, research, administration, and operations.

FISCAL IMPACT:

This bill is not certified as requiring a fiscal note.

SENATE, No. 2522

STATE OF NEW JERSEY
220th LEGISLATURE

INTRODUCED MAY 12, 2022

Sponsored by:
Senator M. TERESA RUIZ
District 29 (Essex)

SYNOPSIS

Makes FY2022 supplemental appropriation of \$3 million for mosquito control.

CURRENT VERSION OF TEXT

As introduced.



1 A SUPPLEMENT to the annual appropriations act for the fiscal year
2 ending June 30, 2022, P.L.2021, c.133.

3

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

6

7 1. In addition to the amounts appropriated under P.L.2021,
8 c.133, the annual appropriations act for the fiscal year ending June
9 30, 2022, there is appropriated from the General Fund the following
10 amount for the purpose specified:

11

12 **42 DEPARTMENT OF ENVIRONMENTAL**
13 **PROTECTION**

14 *40 Community Development and Environmental Management*

15 *46 Environmental Planning and Administration*

16 *4800 Administrative Operations*

17

18 **STATE AID**

19 99-4800 Mosquito Control, Research, Administration and
20 Operations \$3,000,000

21

22 ***State Aid:***

23 99 Mosquito Control, Research,
24 Administration and Operations.....(\$3,000,000)

25

26

27 2. This act shall take effect immediately.

28

29

30 STATEMENT

31

32 This bill supplements the Fiscal Year 2022 appropriations act to
33 make an additional appropriation of \$3 million from the General
34 Fund for State aid to local governments for mosquito control,
35 research, administration, and operations.

SENATE ENVIRONMENT AND ENERGY COMMITTEE

STATEMENT TO

SENATE, No. 2522

STATE OF NEW JERSEY

DATED: JUNE 9, 2022

The Senate Environment and Energy Committee favorably reports Senate Bill No. 2522.

This bill supplements the Fiscal Year 2022 appropriations act to make an additional appropriation of \$3 million from the General Fund for State aid to local governments for mosquito control, research, administration, and operations.

Governor Murphy Takes Action on Legislation

07/29/2022

TRENTON – Today, Governor Phil Murphy signed the following bills into law:

S-144/A-2159 (Diegnan, Beach/Egan, Danielsen, Park) - Establishes “COVID-19 Frontline Healthcare Worker Memorial Commission.”

S-1177/A-4032 (Lagana, Gopal/Coughlin) - Revises out-of-network arbitration process

S-2677/A-4068 (Pou/Wimberly, Sumter, Reynolds-Jackson) - Amends requirements for certain mixed use parking projects undertaken by municipal redevelopers under Economic Redevelopment and Growth Grant program; increases total available tax credits by \$25 million

A-1797/S-1906 (DeAngelo, Dancer, Dunn/Diegnan, Greenstein) - Clarifies that member of SPRS may receive accidental disability benefit under certain circumstances.

A3110/S2049 (Jasey, Benson, Reynolds-Jackson/Codey, Schepisi) - Establishes minimum Medicaid reimbursement rates for brain injury services.

A-3898/S-2522 (Pintor Marin, Space/Ruiz) - Makes FY2022 supplemental appropriation of \$3 million for mosquito control.

A-4193/S-2759 (Greenwald/Singleton) - Adjusts municipal ballot question for amusement games for future elections and repeals section of law creating office of Amusement Games Control Commissioner