34:1B-207

LEGISLATIVE HISTORY CHECKLIST

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LAWS OF: 2007 **CHAPTER:** 346

NJSA: 34:1B-207 ("Urban Transit Hub Tax Credit Act;" allows tax credits to certain businesses for certain capital investments in urban transit hubs)

BILL NO: S3043 (Substituted for A4666)

SPONSOR(S) Codey and Others

DATE INTRODUCED: December 17, 2007

COMMITTEE: **ASSEMBLY:**

SENATE: Budget and Appropriations

AMENDED DURING PASSAGE: Yes

DATE OF PASSAGE: **ASSEMBLY:** January 7, 2008

SENATE: January 7, 2008

DATE OF APPROVAL: January 13, 2008

FOLLOWING ARE ATTACHED IF AVAILABLE:

FINAL TEXT OF BILL (First reprint enacted)

S3043

SPONSOR'S STATEMENT: (Begins on page 6 of original bill) 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: Yes 1-2-08
1-10-08

A4666

SPONSOR'S STATEMENT: (Begins on page 6 of original bill) Yes

COMMITTEE STATEMENT: **ASSEMBLY**: Yes

SENATE: No

FLOOR AMENDMENT STATEMENT: No

LEGISLATIVE FISCAL ESTIMATE: Yes

VETO MESSAGE: No

GOVERNOR'S PRESS RELEASE ON SIGNING: Yes

FOLLOWING WERE PRINTED:

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REPORTS: No

HEARINGS: No

NEWSPAPER ARTICLES: No

LAW/RWH 6/20/08

Title 34.
Chapter 1B.
Part XI. (New)
Urban Transit
Hub Tax Credit
§§1-3 -
C.34:1B-207 to
34:1B-209

(CORRECTED COPY)

P.L. 2007, CHAPTER 346, ***approved January 13, 2008***

Senate No. 3043 ***(First Reprint)***

AN ACT allowing tax credits to certain businesses for certain capital investments in urban transit hubs, supplementing Title 34 of the Revised Statutes.

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

1. This act shall be known and may be cited as the "Urban Transit Hub Tax Credit Act."

2. As used in this act:

"Business" means a corporation that is subject to the tax imposed pursuant to section 5 of P.L.1945, c.162 (C.54:10A-5), a corporation that is subject to the tax imposed pursuant to sections 2 and 3 of P.L.1945, c.132 (C.54:18A-2 and 54:18A-3), section 1 of P.L.1950, c.231 (C.17:32-15) or N.J.S.17B:23-5 , or is a partnership.

"Capital investment" in a qualified business facility means expenses incurred after, but before the end of the eighth year after, the effective date of P.L. , c. (C.)(pending before the Legislature as this bill) for: (i) the site preparation and construction, repair, renovation, improvement, equipping, or furnishing of a building, structure, facility or improvement to real property; and (ii) obtaining and installing furnishings and machinery, apparatus or equipment for the operation of a business in a building, structure, facility or improvement to real property.

"Commission" means the New Jersey Commerce Commission.

"Eligible municipality" means a municipality: (1) which qualifies for State aid pursuant to P.L.1978, c.14 (C.52:27D-178 et. seq.) [1]<u>or which was continued to be a qualified municipality thereunder pursuant to P.L.2007, c.111; and</u>[1] (2) in which 30 percent or more of the value of real property is exempt from local property taxation [1]**[**; and (3) in which the equalized valuation per capita is under $100,000**]**[1]. The percentage of exempt property shall be calculated by dividing the total exempt value by the sum of the net valuation which is taxable and that which is tax exempt.

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 <u>thus</u> is new matter.
Matter enclosed in superscript numerals has been adopted as follows:
[1]Senate SBA committee amendments adopted January 3, 2008.

[1]**[**“Equalized valuation" has the meaning provided by section 1 of P.L.1978, c.14 (C.52:27D-178).

"Equalized valuation per capita” means a municipality's equalized valuation divided by the population of the municipality.**]**[1]

“Full-time employee” means a person employed by the business for consideration for at least 35 hours a week, or who renders any other standard of service generally accepted by custom or practice as full-time employment and whose wages are subject to withholding as provided in the “New Jersey Gross Income Tax Act,” N.J.S.54A:1-1 et seq. or who is a partner of a business who works for the partnership for at least 35 hours a week, or who renders any other standard of service generally accepted by custom or practice as fulltime employment, and whose distributive share of income, gain, loss, or deduction, or whose guaranteed payments, or any combination thereof, is subject to the payment of estimated taxes, as provided in the “New Jersey Gross Income Tax Act,” N.J.S.54A:1-1 et seq. “Full-time employee” shall not include any person who works as an independent contractor or on a consulting basis for the business.

“Partnership” means an entity classified as a partnership for federal income tax purposes.

"Qualified business facility" means any building, complex of buildings or structural components of buildings, and all machinery and equipment located within a designated urban transit hub in an eligible municipality, used in connection with the operation of a business.

“Urban transit hub” means property located within a 1/2 mile radius surrounding the mid point of a New Jersey Transit Corporation, Port Authority Transit Corporation or Port Authority Trans-Hudson Corporation rail station platform area, delineated by the commission pursuant to subsection e. of section 3 of P.L. , c. (C.) (pending before the Legislature as this bill). A property which is partially included within the radius shall only be considered part of the hub if over 50 percent of its land area falls within the radius. “Rail station” shall not include any rail station located at an international airport.

3. a. (1) A business, upon application to and approval from the New Jersey Commerce Commission, shall be allowed a credit of 100 percent of its capital investment, made after the effective date of P.L. , c. (C.) (pending before the Legislature as this bill) but prior to its submission of documentation pursuant to subsection c. of this section, in a qualified business facility within an eligible municipality, pursuant to the restrictions and requirements of this section.

(2) A business, other than a tenant eligible pursuant to paragraph (3) of this subsection, shall make or acquire capital investments totaling not less than $75,000,000 in a qualified

business facility, at which the business shall employ not fewer than 250 full-time employees to be eligible for a credit under this section. A business that acquires a qualified business facility shall also be deemed to have acquired the capital investment made or acquired by the seller.

(3) A business that is a tenant in a qualified business facility, the owner of which has made or acquired capital investments in the facility totaling not less than $75,000,000, shall occupy a leased area of the qualified business facility that represents at least $25,000,000 of the capital investment in the facility at which the tenant business shall employ not fewer than 250 full-time employees to be eligible for a credit under this section. The amount of capital investment in a facility that a leased area represents shall be equal to that percentage of the owner's total capital investment in the facility that the percentage of net leasable area leased by the tenant is of the total net leasable area of the qualified business facility.

(4) A business shall not be allowed tax credits under this section if the business participates in a business employment incentive grant relating to the same capital and employees that qualify the business for this credit, or if the business receives assistance pursuant to P.L.1996, c.25 (C.34:1B-112 et seq.), or if the business is a licensee as defined pursuant to section 33 of P.L.1977, c.110 (C.5:12-33). A business that is allowed a tax credit under this section shall not be eligible for incentives authorized pursuant to P.L.2002, c.43 (C.52:27BBB-1 et seq.).

(5) Full-time employment for an accounting or privilege period shall be determined as the average of the monthly full-time employment for the period.

(6) The capital investment of the owner of a qualified business facility is that percentage of the capital investment made or acquired by the owner of the building that the percentage of net leasable area of the qualified business facility not leased to tenants is of the total net leasable area of the qualified business facility.

b. (1) A business shall apply for the credit within five years after the effective date of P.L. , c. (C.) (pending before the Legislature as this bill), and a business shall submit its documentation for approval of its credit amount within eight years after the effective date of P.L. , c. (C.) (pending before the Legislature as this bill).

c. (1) The amount of credit allowed shall, except as otherwise provided, be equal to the capital investment made by the business, or the capital investment represented by the business' leased area, and shall be taken over a 10-year period, at the rate of one-tenth of the total amount of the business' credit for each tax accounting or privilege period of the business, beginning with the tax period in which the business is first approved by the commission as having met the investment capital and employment qualifications, subject to any reduction or disqualification as provided by subsection d. of this section as determined by annual review by the commission. In conducting its annual review, the commission may require a business to submit any information determined by the commission to be necessary and relevant to its review.

The credit amount for any tax period ending after the date eight years after the effective date of P.L. , c. (C.) (pending before the Legislature as this bill) during which the documentation of a business' credit amount remains unapproved shall be forfeited, although credit amounts for the remainder of the years of the 10-year credit period shall remain available to it.

The amount of credit allowed for a tax period to a business that is a tenant in a qualified business facility shall not exceed the business' total lease payments for occupancy of the qualified business facility for the tax period.

(2) A business that is a partnership shall not be allowed a credit under this section directly, but the amount of credit of an owner of a business shall be determined by allocating to each owner of the partnership that proportion of the credit of the business that is equal to the owner of the partnership's share, whether or not distributed, of the total distributive income or gain of the partnership for its tax period ending within or with the owner's tax period, or that proportion that is allocated by an agreement, if any, among the owners of the partnership that has been provided to the Director of the Division of Taxation in the Department of the Treasury by such time and accompanied by such additional information as the director may require.

(3) The amount of credit allowed may be applied against the tax liability otherwise due pursuant to section 5 of P.L.1945, c.162 (C.54:10A-5), pursuant to sections 2 and 3 of P.L.1945, c.132 (C.54:18A-2 and 54:18A-3), pursuant to section 1 of P.L.1950, c.231 (C.17:32-15), pursuant to N.J.S.17B:23-5, or pursuant to the "New Jersey Gross Income Tax Act," N.J.S.54A:1-1 et seq.

d. (1) If, in any tax period, fewer than 200 full-time employees of the business at the qualified business facility are employed in new full-time positions, the amount of the credit otherwise determined pursuant to final calculation of the award of tax credits pursuant to subsection c. of this section shall be reduced by 20 percent for that tax period and each subsequent tax period until the first period for which documentation demonstrating the restoration of the 200 full-time employees employed in new full-time positions at the qualified business facility has been reviewed and approved by the commission, for which tax period and each subsequent tax period the full amount of the credit shall be allowed; provided, however, that there shall be no reduction if a business relocates to an urban transit hub from another location or locations in the same municipality. For the purposes of this paragraph, a "new full-time position” means a position created by the business at the qualified business facility that did not previously exist in this State.

(2) If, in any tax period, the business reduces the total number of full-time employees in its Statewide workforce by more than 10 percent from the number of full-time employees in its Statewide workforce in the last tax accounting or privilege period prior to the effective date of P.L. , c. (C.) (pending before the Legislature as this bill), or in the last tax accounting or privilege period prior to the credit amount approval under this section, whichever is greater, then the business shall forfeit its credit amount for that tax period and each subsequent tax period, until the first tax period for which documentation demonstrating the restoration of the business’ Statewide workforce to the threshold levels required by this paragraph has been reviewed and approved by the commission, for which tax period and each subsequent tax period the full amount of the credit shall be allowed.

(3) If, in any tax period, the number of full-time employees employed by the business at the qualified business facility located in an urban transit hub within an eligible municipality drops below 250 then the business shall forfeit its credit amount for that tax period and each subsequent tax period, until the first tax period for which documentation demonstrating the restoration of the number of full-time employees employed by the business at the qualified business facility to 250 has been reviewed and approved by the commission, for which tax period and each subsequent tax period the full amount of the credit shall be allowed.

(4) (i) If the qualified business facility is sold in whole or in part during the 10-year eligibility period the new owner shall not acquire the capital investment of the seller and the seller shall forfeit all credits for the tax period in which the sale occurs and all subsequent tax periods, provided however that any credits of tenants shall remain unaffected.

(ii) If a tenant subleases its tenancy in whole or in part during the 10-year eligibility period the new tenant shall not acquire the credit of the sublessor, and the sublessor tenant shall forfeit all credits for the tax period of its sublease and all subsequent tax periods.

e. The Executive Director of the New Jersey Commerce Commission, in consultation with the Director of the Division of Taxation in the Department of the Treasury, shall adopt rules in accordance with the "Administrative Procedure Act," P.L.1968, c.410 (C.52:14B-1 et seq.) as are necessary to implement this act, including but not limited to: examples of and the determination of capital investment; the enumeration of eligible municipalities; specific delineation of urban transit hubs; the determination of the limits, if any, on the expense or type of furnishings that may constitute capital improvements; the promulgation of procedures and forms necessary to apply for a credit; and provisions for credit applicants to be charged an initial application fee, and ongoing service fees, to cover the administrative costs related to the credit**.**

4. This act shall take effect immediately.

"Urban Transit Hub Tax Credit Act;" allows tax credits to certain businesses for certain capital investments in urban transit hubs.

SENATE, No. 3043

STATE OF NEW JERSEY

212th LEGISLATURE

INTRODUCED DECEMBER 17, 2007

Sponsored by:
Senator RICHARD J. CODEY
District 27 (Essex)
Senator RONALD L. RICE
District 28 (Essex)

Co-Sponsored by:
Senator B.Smith

SYNOPSIS

"Urban Transit Hub Tax Credit Act;" allows tax credits to certain businesses for certain capital investments in urban transit hubs.

CURRENT VERSION OF TEXT

As introduced.

AN ACT allowing tax credits to certain businesses for certain capital investments in urban transit hubs, supplementing Title 34 of the Revised Statutes.

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

1. This act shall be known and may be cited as the "Urban Transit Hub Tax Credit Act."

2. As used in this act:

"Business" means a corporation that is subject to the tax imposed pursuant to section 5 of P.L.1945, c.162 (C.54:10A-5), a corporation that is subject to the tax imposed pursuant to sections 2 and 3 of P.L.1945, c.132 (C.54:18A-2 and 54:18A-3), section 1 of P.L.1950, c.231 (C.17:32-15) or N.J.S.17B:23-5 , or is a partnership.

"Capital investment" in a qualified business facility means expenses incurred after, but before the end of the eighth year after, the effective date of P.L. , c. (C.)(pending before the Legislature as this bill) for: (i) the site preparation and construction, repair, renovation, improvement, equipping, or furnishing of a building, structure, facility or improvement to real property; and (ii) obtaining and installing furnishings and machinery, apparatus or equipment for the operation of a business in a building, structure, facility or improvement to real property.

"Commission" means the New Jersey Commerce Commission.

"Eligible municipality" means a municipality: (1) which qualifies for State aid pursuant to P.L.1978, c.14 (C.52:27D-178 et. seq.); (2) in which 30 percent or more of the value of real property is exempt from local property taxation; and (3) in which the equalized valuation per capita is under $100,000. The percentage of exempt property shall be calculated by dividing the total exempt value by the sum of the net valuation which is taxable and that which is tax exempt.

"Equalized valuation" has the meaning provided by section 1 of P.L.1978, c.14 (C.52:27D-178).

"Equalized valuation per capita" means a municipality's equalized valuation divided by the population of the municipality.

"Full-time employee" means a person employed by the business for consideration for at least 35 hours a week, or who renders any other standard of service generally accepted by custom or practice as full-time employment and whose wages are subject to withholding as provided in the "New Jersey Gross Income Tax Act," N.J.S.54A:1-1 et seq. or who is a partner of a business who works for the partnership for at least 35 hours a week, or who renders any other standard of service generally accepted by custom or practice as fulltime employment, and whose distributive share of income, gain, loss, or deduction, or whose guaranteed payments, or any combination thereof, is subject to the payment of estimated taxes, as provided in the "New Jersey Gross Income Tax Act," N.J.S.54A:1-1 et seq. "Full-time employee" shall not include any person who works as an independent contractor or on a consulting basis for the business.

"Partnership" means an entity classified as a partnership for federal income tax purposes.

"Qualified business facility" means any building, complex of buildings or structural components of buildings, and all machinery and equipment located within a designated urban transit hub in an eligible municipality, used in connection with the operation of a business.

"Urban transit hub" means property located within a 1/2 mile radius surrounding the mid point of a New Jersey Transit Corporation, Port Authority Transit Corporation or Port Authority Trans-Hudson Corporation rail station platform area, delineated by the commission pursuant to subsection e. of section 3 of P.L. , c. (C.) (pending before the Legislature as this bill). A property which is partially included within the radius shall only be considered part of the hub if over 50 percent of its land area falls within the radius. "Rail station" shall not include any rail station located at an international airport.

3. a. (1) A business, upon application to and approval from the New Jersey Commerce Commission, shall be allowed a credit of 100 percent of its capital investment, made after the effective date of P.L. , c. (C.) (pending before the Legislature as this bill) but prior to its submission of documentation pursuant to subsection c. of this section, in a qualified business facility within an eligible municipality, pursuant to the restrictions and requirements of this section.

(2) A business, other than a tenant eligible pursuant to paragraph (3) of this subsection, shall make or acquire capital investments totaling not less than $75,000,000 in a qualified business facility, at which the business shall employ not fewer than 250 full-time employees to be eligible for a credit under this section. A business that acquires a qualified business facility shall also be deemed to have acquired the capital investment made or acquired by the seller.

(3) A business that is a tenant in a qualified business facility, the owner of which has made or acquired capital investments in the facility totaling not less than $75,000,000, shall occupy a leased area of the qualified business facility that represents at least $25,000,000 of the capital investment in the facility at which the tenant business shall employ not fewer than 250 full-time employees to be eligible for a credit under this section. The amount of capital investment in a facility that a leased area represents shall

be equal to that percentage of the owner's total capital investment in the facility that the percentage of net leasable area leased by the tenant is of the total net leasable area of the qualified business facility.

(4) A business shall not be allowed tax credits under this section if the business participates in a business employment incentive grant relating to the same capital and employees that qualify the business for this credit, or if the business receives assistance pursuant to P.L.1996, c.25 (C.34:1B-112 et seq.), or if the business is a licensee as defined pursuant to section 33 of P.L.1977, c.110 (C.5:12-33). A business that is allowed a tax credit under this section shall not be eligible for incentives authorized pursuant to P.L.2002, c.43 (C.52:27BBB-1 et seq.).

(5) Full-time employment for an accounting or privilege period shall be determined as the average of the monthly full-time employment for the period.

(6) The capital investment of the owner of a qualified business facility is that percentage of the capital investment made or acquired by the owner of the building that the percentage of net leasable area of the qualified business facility not leased to tenants is of the total net leasable area of the qualified business facility.

b. (1) A business shall apply for the credit within five years after the effective date of P.L. , c. (C.) (pending before the Legislature as this bill), and a business shall submit its documentation for approval of its credit amount within eight years after the effective date of P.L. , c. (C.) (pending before the Legislature as this bill).

c. (1) The amount of credit allowed shall, except as otherwise provided, be equal to the capital investment made by the business, or the capital investment represented by the business' leased area, and shall be taken over a 10-year period, at the rate of one-tenth of the total amount of the business' credit for each tax accounting or privilege period of the business, beginning with the tax period in which the business is first approved by the commission as having met the investment capital and employment qualifications, subject to any reduction or disqualification as provided by subsection d. of this section as determined by annual review by the commission. In conducting its annual review, the commission may require a business to submit any information determined by the commission to be necessary and relevant to its review.

The credit amount for any tax period ending after the date eight years after the effective date of P.L. , c. (C.) (pending before the Legislature as this bill) during which the documentation of a business' credit amount remains unapproved shall be forfeited, although credit amounts for the remainder of the years of the 10-year credit period shall remain available to it.

The amount of credit allowed for a tax period to a business that is a tenant in a qualified business facility shall not exceed the business' total lease payments for occupancy of the qualified business facility for the tax period.

(2) A business that is a partnership shall not be allowed a credit under this section directly, but the amount of credit of an owner of a business shall be determined by allocating to each owner of the partnership that proportion of the credit of the business that is equal to the owner of the partnership's share, whether or not distributed, of the total distributive income or gain of the partnership for its tax period ending within or with the owner's tax period, or that proportion that is allocated by an agreement, if any, among the owners of the partnership that has been provided to the Director of the Division of Taxation in the Department of the Treasury by such time and accompanied by such additional information as the director may require.

(3) The amount of credit allowed may be applied against the tax liability otherwise due pursuant to section 5 of P.L.1945, c.162 (C.54:10A-5), pursuant to sections 2 and 3 of P.L.1945, c.132 (C.54:18A-2 and 54:18A-3), pursuant to section 1 of P.L.1950, c.231 (C.17:32-15), pursuant to N.J.S.17B:23-5, or pursuant to the "New Jersey Gross Income Tax Act," N.J.S.54A:1-1 et seq.

d. (1) If, in any tax period, fewer than 200 full-time employees of the business at the qualified business facility are employed in new full-time positions, the amount of the credit otherwise determined pursuant to final calculation of the award of tax credits pursuant to subsection c. of this section shall be reduced by 20 percent for that tax period and each subsequent tax period until the first period for which documentation demonstrating the restoration of the 200 full-time employees employed in new full-time positions at the qualified business facility has been reviewed and approved by the commission, for which tax period and each subsequent tax period the full amount of the credit shall be allowed; provided, however, that there shall be no reduction if a business relocates to an urban transit hub from another location or locations in the same municipality. For the purposes of this paragraph, a "new full-time position" means a position created by the business at the qualified business facility that did not previously exist in this State.

(2) If, in any tax period, the business reduces the total number of full-time employees in its Statewide workforce by more than 10 percent from the number of full-time employees in its Statewide workforce in the last tax accounting or privilege period prior to the effective date of P.L. , c. (C.) (pending before the Legislature as this bill), or in the last tax accounting or privilege period prior to the credit amount approval under this section, whichever is greater, then the business shall forfeit its credit amount for that tax period and each subsequent tax period, until the first tax period for which documentation demonstrating the restoration of the business' Statewide workforce to the threshold levels required by this paragraph has been reviewed and approved by the commission, for

which tax period and each subsequent tax period the full amount of the credit shall be allowed.

(3) If, in any tax period, the number of full-time employees employed by the business at the qualified business facility located in an urban transit hub within an eligible municipality drops below 250 then the business shall forfeit its credit amount for that tax period and each subsequent tax period, until the first tax period for which documentation demonstrating the restoration of the number of full-time employees employed by the business at the qualified business facility to 250 has been reviewed and approved by the commission, for which tax period and each subsequent tax period the full amount of the credit shall be allowed.

(4) (i) If the qualified business facility is sold in whole or in part during the 10-year eligibility period the new owner shall not acquire the capital investment of the seller and the seller shall forfeit all credits for the tax period in which the sale occurs and all subsequent tax periods, provided however that any credits of tenants shall remain unaffected.

(ii) If a tenant subleases its tenancy in whole or in part during the 10-year eligibility period the new tenant shall not acquire the credit of the sublessor, and the sublessor tenant shall forfeit all credits for the tax period of its sublease and all subsequent tax periods.

e. The Executive Director of the New Jersey Commerce Commission, in consultation with the Director of the Division of Taxation in the Department of the Treasury, shall adopt rules in accordance with the "Administrative Procedure Act," P.L.1968, c.410 (C.52:14B-1 et seq.) as are necessary to implement this act, including but not limited to: examples of and the determination of capital investment; the enumeration of eligible municipalities; specific delineation of urban transit hubs; the determination of the limits, if any, on the expense or type of furnishings that may constitute capital improvements; the promulgation of procedures and forms necessary to apply for a credit; and provisions for credit applicants to be charged an initial application fee, and ongoing service fees, to cover the administrative costs related to the credit**.**

4. This act shall take effect immediately.

STATEMENT

This bill establishes a tax credit program for capital investment and increased employment in targeted urban rail transit hubs to catalyze economic development in those transit hubs.

The program is limited to municipalities that are eligible for urban aid, that have at least 30 percent of their real property value exempt from property taxes, whose “property base wealth” measured as equalized valuation per capita is under $100,000 per capita, and that have a specified commuter rail station. The bill directs the New Jersey Commerce Commission to designate areas in a one-half mile radius around the rail stations (not including rail stations at international airports) as an “urban transit hub” qualifying for investment incentives.

A business that makes $75,000,000 of qualified capital investment in a business facility in an urban transit hub and employs at least 250 persons at that facility (subject to some standards that assure these are increases in Statewide employment) may qualify for tax credits equal to 100 percent of the qualified capital investment that may be applied against corporation business tax, insurance premiums tax or gross income tax liability. Annually for ten years the taxpayer may utilize a credit equal to 10 percent of the qualified capital investment.

A tenant in these qualified business facilities may also be allowed credits, if the tenant occupies space in a qualified business facility that proportionally represents at least $25,000,000 of the capital investment in the facility and employs at least 250 persons in that facility.

SENATE BUDGET AND APPROPRIATIONS COMMITTEE

STATEMENT TO

SENATE, No. 3043

with committee amendments

STATE OF NEW JERSEY

DATED: JANUARY 3, 2008

The Senate Budget and Appropriations Committee reports favorably Senate Bill No. 3043 with committee amendments.

This bill, with committee amendments, establishes a tax credit program for capital investment and increased employment in targeted urban rail transit hubs to catalyze economic development in those transit hubs.

The program is limited to investment and employment in municipalities that are eligible for urban aid and that have at least 30 percent of their real property value exempt from property taxes, and that have a specified commuter rail station. According to the New Jersey Office of Economic Growth, eight municipalities would qualify for the credit: Camden, East Orange, Elizabeth, Jersey City, Newark, New Brunswick, Paterson, and Trenton, and a ninth municipality, Hoboken would qualify under the bill as amended.

The bill directs the New Jersey Commerce Commission to designate areas in a one-half mile radius around the rail stations (not including rail stations at international airports) as an "urban transit hub" in which qualifying business facility investment and employment must be located.

A business that makes $75,000,000 of qualified capital investment in a business facility in an urban transit hub and employs at least 250 persons at that facility (subject to some standards that assure these are increases in Statewide employment) may qualify for tax credits equal to 100 percent of the qualified capital investment that may be applied against corporation business tax, insurance premiums tax or gross income tax liability. Annually for ten years the taxpayer may utilize a credit equal to 10 percent of the qualified capital investment.

A tenant in these qualified business facilities may also be allowed credits, if the tenant occupies space in a qualified business facility that proportionally represents at least $25,000,000 of the capital investment in the facility and employs at least 250 persons in that facility.

COMMITTEE AMENDMENTS:

The committee amendments amend the definition of "eligible municipality" to delete the equalized valuation per capita limit of under $100,000 and more accurately describe the State aid eligible municipality qualification. This amendment would allow Hoboken to be an "eligible municipality."

FISCAL IMPACT:

The Office of Legislative Services (OLS) cannot gauge the fiscal impact of the bill, as the number of future credit applications, the amount of creditable expenditures, and the tax liability against which the credits could be applied are not known. Nonetheless, the OLS notes that there may be a small number of claimants, but that each claimant may each receive a significant tax credit. This is based upon the stringent eligibility criteria for the credit. It is also based upon the limited number of taxpayers that may be able to qualify for the $60 million minimum credit amount (required $75 million investment x 80% (due to fewer than 200 full-time employees of the business at the qualified business facility employed in new full-time positions)). There may also be a small number of claimants that are able to maximize their tax savings under the credit by having a sufficient tax liability over each of ten years against which to apply the credits.

LEGISLATIVE FISCAL ESTIMATE

SENATE, No. 3043

STATE OF NEW JERSEY
212th LEGISLATURE

DATED: JANUARY 2, 2008

SUMMARY

Synopsis: "Urban Transit Hub Tax Credit Act;" allows tax credits to certain businesses for certain capital investments in urban transit hubs.

Type of Impact: Annual Foregone General Fund and Property Tax Relief Fund Revenue through Fiscal Year 2026 and Indeterminate Annual State Revenue Gain.

Agencies Affected: Department of the Treasury;
New Jersey Commerce Commission.

Office of Legislative Services Estimate

Fiscal Impact	Fiscal Years 2008 through 2010	Fiscal Years 2011 through 2026	Fiscal Year 2027
Direct State Revenue Loss	$0	Indeterminate - See comments below	$0
Indirect State Revenue Gain	Indeterminate - See comments below		

- The Office of Legislative Services (OLS) cannot gauge the bill's fiscal impact, as the number of future credit applications, the amount of creditable expenditures, and the tax liability against which the credits could be applied remain unknown. Nonetheless, the OLS anticipates that a small number of claimants would each receive a significant tax credit.

- The OLS cannot project the value of positive secondary economic and fiscal activity that would offset, in whole or in part, any direct revenue loss and opportunity cost the State would incur in granting urban transit hub tax credits.

BILL DESCRIPTION

Senate Bill No. 3043 of 2007 establishes a tax credit program for businesses making at least $75 million in qualified capital investments in a single business facility in an "urban transit hub" and employing at least 250 persons at that facility. Tax credits equal 100 percent of claimants' qualified capital investments made within eight years from the bill's effective date. For ten years

Office of Legislative Services
State House Annex
P.O. Box 068
Trenton, New Jersey 08625

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Legislative Budget and Finance Office
Phone (609) 292-8030
Fax (609) 777-2442
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following credit approval, taxpayers may apply ten percent of the total credit amount per year against their corporation business tax, insurance premiums tax or gross income tax liabilities.

Tenants in qualified business facilities may also receive tax credits, if they occupy space in a qualified business facility that proportionally represents at least $25 million of the capital investment in the facility and employ at least 250 persons in that facility.

The tax credit decreases to 80 percent of qualified capital investments if fewer than 200 of the jobs at the facility are not new to New Jersey. In addition, employers eliminating more than ten percent of their New Jersey jobs forfeit their outstanding tax credit amounts.

The program is limited to municipalities that are eligible for urban aid, that have at least 30 percent of their real property value exempt from property taxes, whose "property base wealth" measured as equalized valuation per capita is under $100,000 per capita, and that have a specified commuter rail station. The bill directs the New Jersey Commerce Commission to designate areas in a one-half mile radius around the rail stations (not including rail stations at international airports) as an "urban transit hub". According to the New Jersey Office of Economic Growth, eight municipalities would qualify for the credit: Camden, East Orange, Elizabeth, Jersey City, Newark, New Brunswick, Paterson, and Trenton.

FISCAL ANALYSIS

EXECUTIVE BRANCH

None received.

OFFICE OF LEGISLATIVE SERVICES

The OLS cannot gauge the bill's impact on the State General Fund and the State Property Tax Relief Fund, as the number of future credit applications, the amount of creditable expenditures, and the tax liability against which the credit could be applied remain unknown. Nevertheless, it anticipates that a small number of claimants would each receive a significant tax credit. In addition, the agency notes that positive economic and fiscal activity would offset, in whole or in part, any direct revenue loss and opportunity cost the State would incur in granting urban transit hub tax credits.

<u>Direct Fiscal Impact:</u>

The OLS expects only a few claimants to each receive a significant tax credit, a scenario that is conducive to considerable forecasting errors, as explained below. Consequently, the agency cannot reliably forecast the cumulative value of urban transit hub tax credits, or the bill's direct cost to the State.

Stringent eligibility requirements underpin the OLS assessment that few businesses would seek tax credits. First, only eight urban transit hubs would be designated. Second, businesses would have to invest at least $75 million in a single facility within eight years of the bill's enactment. Third, they would have to employ at least 250 full-time individuals in the new facility.

Given the tax credit's order of magnitude, however, inaccurately projecting the number of credit approvals by just one recipient would cause sizeable forecasting errors. The minimal credit would be $60 million per project over ten years (80 percent of $75 million investment minimum when fewer than 200 of the 250 employees at the new facility represent a job gain to New Jersey). When at least 200 of the 250 employees at the new facility represent a job gain to

New Jersey, the minimal tax credit would amount to $75 million over ten years. If three businesses qualified for $75 million credits, the cost to the State would be $225 million, or $22.5 million per fiscal year. If four businesses qualified for $75 million credits, the cost would be $300 million, or $30 million per fiscal year (or $7.5 million more per fiscal year for the additional project). This error potential precludes a credible OLS estimate.

Notwithstanding, the OLS projects that the bill would not accrue any cost to the State before fiscal year 2011 and after fiscal year 2026. Since qualified capital investments must be incurred after the effective date of the law and since tax credits are contingent upon project completion, the OLS surmises that no credit would be claimed until at least fiscal year 2011. Businesses also have ten years in which to apply a tenth of the credit's total value per year. If a credit was approved at the end of the eight-year window for creditable expenditures (assuming enactment in January 2008, the cut-off date would be January 2016), the last credit could be claimed in the tax year including January 2025, which would be in fiscal year 2026.

By means of four hypothetical projects totaling $390 million in capital investments, Example 1 provides an overview of the bill's fiscal mechanics. It assumes that all four businesses have accounting periods ending on December 31 of each year and sufficient tax liabilities against which to apply the tax credits.

Example 1

Tax Credit Cost to State of Four Projects Accruing Full Credit Amounts to Businesses whose Accounting Periods End on December 31
(in $ Million per Fiscal Year)

Project	**Pre-2013**	**2013**	**2014**	**2015**	**2016**	**2017**	**2018**	**2019**	**2020**	**2021**	**2022**	**2023**	**2024**	**2025**	**2026**	**Total**
A	$0	$8	$8	$8	$8	$8	$8	$8	$8	$8	$8	$0	$0	$0	$0	**$80**
B	$0	$0	$0	$10	$10	$10	$10	$10	$10	$10	$10	$10	$10	$0	$0	**$100**
C	$0	$0	$0	$0	$0	$9	$9	$9	$9	$9	$9	$9	$9	$9	$9	**$90**
D	$0	$0	$0	$0	$0	$12	$12	$12	$12	$12	$12	$12	$12	$12	$12	**$120**
Total	**$0**	**$8**	**$8**	**$18**	**$18**	**$39**	**$39**	**$39**	**$39**	**$39**	**$39**	**$31**	**$31**	**$21**	**$21**	**$390**

Project A: $80,000,000 in qualified capital investments, project completed in forth year after enactment, first credit installment in FY 2013
Project B: $100,000,000 in qualified capital investments, project completed in sixth year after enactment, first credit installment in FY 2015
Project C: $90,000,000 in qualified capital investments, project completed in eighth year after enactment, first credit installment in FY 2017
Project D: $120,000,000 in qualified capital investments, project completed in eighth year after enactment, first credit installment in FY 2017

Example 2 illustrates the effect of bill provisions designed to safeguard creditable jobs. Project A involves $80 million in eligible capital investments, which under standard provisions would result in a $80 million tax credit. Because 100 of the 280 employees in the facility had been transferred from within New Jersey, however, the credit is limited to 80 percent of its potential value, or $64 million ($16 million less). To qualify for a 100 percent credit, at least 200 of the 250 employees in the new facility must represent net job gains to New Jersey.

Project B illustrates the forfeiture of the tax credit if a business breaks the job maintenance requirement within the ten-year period after credit approval. Approved for a $90 million credit on $90 million in capital investments, the business employs 350 people at its new facility, of which 310 are new jobs to New Jersey. In fiscal year 2020, however, the business reduces its New Jersey workforce by 20 percent while maintaining the 350 jobs at the new facility. Consequently, the remaining credit amount is disallowed, for the business failed to maintain at least 90 percent of its New Jersey jobs over the credit's duration. Instead of $90 million in tax credits, the business thus receives only $45 million.

Example 2

Tax Credit Cost to State of Two Projects Not Accruing Full Credit Amounts to Businesses whose Accounting Periods End on December 31
(in $ Million per Fiscal Year)

Project	Pre-2013	2013	2014	2015	2016	2017	2018	2019	2020	2021	2022	2023	2024	2025	2026	Total
A	$0	$6.4	$6.4	$6.4	$6.4	$6.4	$6.4	$6.4	$6.4	$6.4	$6.4	$0	$0	$0	$0	**$64**
B	$0	$0	$0	$9	$9	$9	$9	$9	$0	$0	$0	$0	$0	$0	$0	**$45**
Total	**$0**	**$6.4**	**$6.4**	**$15.4**	**$15.4**	**$15.4**	**$15.4**	**$15.4**	**$6.4**	**$6.4**	**$6.4**	**$0**	**$0**	**$0**	**$0**	**$109**

Project A: $80,000,000 in qualified capital investments, 280 jobs in new facility of which 180 are new to New Jersey, project completed in forth year after enactment, first credit installment in FY 2013

Project B: $90,000,000 in qualified capital investments, 350 jobs in new facility of which 310 are new to New Jersey, project completed in sixth year after enactment, first credit installment in FY 2015, business permanently reduces New Jersey jobs by 20 Percent in FY 2020

Indirect Fiscal Impact:

The OLS estimates that the bill would accrue an indeterminate indirect revenue gain to the State that would offset, in whole or in part, the direct cost of awarding urban transit hub tax credits. Since the OLS cannot reliable estimate the amount of creditable capital investments and the number of future jobs created at creditable facilities, however, it cannot quantify the tax credit's secondary effects.

In general, any indirect revenue gain would result from the economic ramifications of tax credit-induced behavior changes. As these ramifications flow through the economy, they affect State revenue collections. Indirect fiscal effects encompass tax credit-induced input purchases by credit claimants from their suppliers and tax credit-induced spending by employees of all impacted firms.

Nonetheless, the OLS cautions that not all of the tax credit's economic and fiscal feedback effects may represent a gain. Only the ripple effects caused by credit-induced spending shifts should enter the fiscal estimate, while those from creditable spending that would have occurred absent the tax credit must be excluded. The exclusion takes into account that tax credits have no economic impact whenever they are awarded to businesses that would have made the capital investment and would have created or relocated the jobs anyway. At best, credits given in these circumstances would yield a marginal additional benefit to the State if the recipient spent the credit amount in New Jersey. The State, however, would only incur the cost of subsidizing a project that the employer would have pursued in New Jersey regardless of the credit award.

The OLS also notes that new jobs created have larger ripple effects than jobs relocated to the new facility from within New Jersey. Whereas indirect effects for intrastate job relocations are limited to those tied to the one-time cost of relocating the jobs, indirect effects from new jobs include the permanent indirect effects of spending on the added positions.

Any estimate of the tax credits' New Jersey feedback effects must also exclude from the total feedback effects the portion of the tax credit-induced spending that would leak into other jurisdictions. A New York resident holding a job created in the Jersey City urban transit hub, for example, would have a New Jersey income tax liability, but most of the New Yorker's private spending might not occur in this State.

The OLS observes that the bill would likely produce secondary fiscal effects beyond the timeframe in which tax credits would be claimed. Once planning on a new facility commences, professionals such as architects begin to receive payments that newly enter into New Jersey's economy. In addition, if recipients maintain their credit-induced jobs beyond the credit's duration, the State will continue to reap the concomitant economic and fiscal benefits.

<u>Net Fiscal Impact:</u>

Even if the OLS was able to estimate the bill's indirect fiscal impact, doing so would ignore that the decision to subsidize capital investment and job creation in urban rail transit hubs would divert resources from the policy alternatives to which they would have been applied absent the tax credit. The OLS, however, cannot gauge this opportunity cost, which constitutes a crucial component of the bill's *net* fiscal impact.

The bill's opportunity cost would only be zero if the State's investment in urban rail transit hubs did not displace or forestall other spending (thereby setting the bill's fiscal feedback effects equal to its *net* fiscal feedback effects). In actuality, given the State's finite resources and its balanced budget requirement, the bill's *net* fiscal impact would be the bill's fiscal feedback effects minus its opportunity cost (or the total of the bill's direct and indirect effects *less* the equivalent effects of the alternative uses of monies the legislation would preempt). For example, if, instead of this legislation, the State invested $25 million annually in road construction, the bill would produce a *net* fiscal effect equal to the difference between the total fiscal impact of the amount spent on urban rail transit hubs and that of the foregone road construction investment.

Section:	*Revenue, Finance and Appropriations*
Analyst:	*Thomas Koenig* *Associate Fiscal Analyst*
Approved:	*David J. Rosen* *Legislative Budget and Finance Officer*

This fiscal estimate has been prepared pursuant to P.L. 1980, c.67 (C. 52:13B-1 et seq.).

LEGISLATIVE FISCAL ESTIMATE

[First Reprint]

SENATE, No. 3043

STATE OF NEW JERSEY
212th LEGISLATURE

DATED: JANUARY 10, 2008

SUMMARY

Synopsis: "Urban Transit Hub Tax Credit Act;" allows tax credits to certain businesses for certain capital investments in urban transit hubs.

Type of Impact: Annual Foregone General Fund and Property Tax Relief Fund Revenue through Fiscal Year 2026 and Indeterminate Annual State Revenue Gain.

Agencies Affected: Department of the Treasury;
New Jersey Commerce Commission.

Office of Legislative Services Estimate

Fiscal Impact	Fiscal Years 2008 through 2010	Fiscal Years 2011 through 2026	Fiscal Year 2027
Direct State Revenue Loss	$0	Indeterminate - See comments below	$0
Indirect State Revenue Gain	Indeterminate - See comments below		

- The Office of Legislative Services (OLS) cannot gauge the bill's fiscal impact, as the number of future credit applications, the amount of creditable expenditures, and the tax liability against which the credits could be applied remain unknown. Nonetheless, the OLS anticipates that a small number of claimants would each receive a significant tax credit.

- The OLS cannot project the value of positive secondary economic and fiscal activity that would offset, in whole or in part, any direct revenue loss and opportunity cost the State would incur in urban transit hub tax granting credits.

BILL DESCRIPTION

Senate Bill No. 3043 (1R) of 2007 establishes a tax credit program for businesses making at least $75 million in qualified capital investments in a single business facility in an "urban transit hub" and employing at least 250 persons at that facility. Tax credits equal 100 percent of

Office of Legislative Services
State House Annex
P.O. Box 068
Trenton, New Jersey 08625

Legislative Budget and Finance Office
Phone (609) 292-8030
Fax (609) 777-2442
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claimants' qualified capital investments made within eight years from the bill's effective date. For ten years following credit approval, taxpayers may apply ten percent of the total credit amount per year against their corporation business tax, insurance premiums tax or gross income tax liabilities.

Tenants in qualified business facilities may also receive tax credits, if they occupy space in a qualified business facility that proportionally represents at least $25 million of the capital investment in the facility and employ at least 250 persons in that facility.

The tax credit decreases to 80 percent of qualified capital investments if fewer than 200 of the jobs at the facility are not new to New Jersey. In addition, employers eliminating more than ten percent of their New Jersey jobs forfeit their outstanding tax credit amounts.

The program is limited to municipalities that are eligible for urban aid, that have at least 30 percent of their real property value exempt from property taxes, and that have a specified commuter rail station. The bill directs the New Jersey Commerce Commission to designate areas in a one-half mile radius around the rail stations (not including rail stations at international airports) as an "urban transit hub". According to the New Jersey Office of Economic Growth, nine municipalities would qualify for the credit: Camden, East Orange, Elizabeth, Hoboken, Jersey City, Newark, New Brunswick, Paterson, and Trenton.

FISCAL ANALYSIS

EXECUTIVE BRANCH

None received.

OFFICE OF LEGISLATIVE SERVICES

The OLS cannot gauge the bill's impact on the State General Fund and the State Property Tax Relief Fund, as the number of future credit applications, the amount of creditable expenditures, and the tax liability against which the credit could be applied remain unknown. Nevertheless, it anticipates that a small number of claimants would each receive a significant tax credit. In addition, the agency notes that positive economic and fiscal activity would offset, in whole or in part, any direct revenue loss and opportunity cost the State would incur in granting urban transit hub tax credits.

Direct Fiscal Impact:

The OLS expects only a few claimants to each receive a significant tax credit, a scenario that is conducive to considerable forecasting errors, as explained below. Consequently, the agency cannot reliably forecast the cumulative value of urban transit hub tax credits, or the bill's direct cost to the State.

Stringent eligibility requirements underpin the OLS assessment that few businesses would seek tax credits. First, only nine urban transit hubs would be designated. Second, businesses would have to invest at least $75 million in a single facility within eight years of the bill's enactment. Third, they would have to employ at least 250 full-time individuals in the new facility.

Given the tax credit's order of magnitude, however, inaccurately projecting the number of credit approvals by just one recipient would cause sizeable forecasting errors. The minimal credit would be $60 million per project over ten years (80 percent of $75 million investment minimum when fewer than 200 of the 250 employees at the new facility represent a job gain to

New Jersey). When at least 200 of the 250 employees at the new facility represent a job gain to New Jersey, the minimal tax credit would amount to $75 million over ten years. If three businesses qualified for $75 million credits, the cost to the State would be $225 million, or $22.5 million per fiscal year. If four businesses qualified for $75 million credits, the cost would be $300 million, or $30 million per fiscal year (or $7.5 million more per fiscal year for the additional project). This error potential precludes a credible OLS estimate.

Notwithstanding, the OLS projects that the bill would not accrue any cost to the State before fiscal year 2011 and after fiscal year 2026. Since qualified capital investments must be incurred after the effective date of the law and since tax credits are contingent upon project completion, the OLS surmises that no credit would be claimed until at least fiscal year 2011. Businesses also have ten years in which to apply a tenth of the credit's total value per year. If a credit was approved at the end of the eight-year window for creditable expenditures (assuming enactment in January 2008, the cut-off date would be January 2016), the last credit could be claimed in the tax year including January 2025, which would be in fiscal year 2026.

By means of four hypothetical projects totaling $390 million in capital investments, Example 1 provides an overview of the bill's fiscal mechanics. It assumes that all four businesses have accounting periods ending on December 31 of each year and sufficient tax liabilities against which to apply the tax credits.

<u>Example 1</u>

Tax Credit Cost to State of Four Projects Accruing Full Credit Amounts to Businesses whose Accounting Periods End on December 31
(in $ Million per Fiscal Year)

Project	**Pre-2013**	**2013**	**2014**	**2015**	**2016**	**2017**	**2018**	**2019**	**2020**	**2021**	**2022**	**2023**	**2024**	**2025**	**2026**	**Total**
A	$0	$8	$8	$8	$8	$8	$8	$8	$8	$8	$8	$0	$0	$0	$0	**$80**
B	$0	$0	$0	$10	$10	$10	$10	$10	$10	$10	$10	$10	$10	$0	$0	**$100**
C	$0	$0	$0	$0	$0	$9	$9	$9	$9	$9	$9	$9	$9	$9	$9	**$90**
D	<u>$0</u>	<u>$0</u>	<u>$0</u>	<u>$0</u>	<u>$0</u>	<u>$12</u>	<u>$12</u>	<u>$12</u>	<u>$12</u>	<u>$12</u>	<u>$12</u>	<u>$12</u>	<u>$12</u>	<u>$12</u>	<u>$12</u>	**<u>$120</u>**
Total	**$0**	**$8**	**$8**	**$18**	**$18**	**$39**	**$39**	**$39**	**$39**	**$39**	**$39**	**$31**	**$31**	**$21**	**$21**	**$390**

Project A: $80,000,000 in qualified capital investments, project completed in forth year after enactment, first credit installment in FY 2013
Project B: $100,000,000 in qualified capital investments, project completed in sixth year after enactment, first credit installment in FY 2015
Project C: $90,000,000 in qualified capital investments, project completed in eighth year after enactment, first credit installment in FY 2017
Project D: $120,000,000 in qualified capital investments, project completed in eighth year after enactment, first credit installment in FY 2017

Example 2 illustrates the effect of bill provisions designed to safeguard creditable jobs. Project A involves $80 million in eligible capital investments, which under standard provisions would result in a $80 million tax credit. Because 100 of the 280 employees in the facility had been transferred from within New Jersey, however, the credit is limited to 80 percent of its potential value, or $64 million ($16 million less). To qualify for a 100 percent credit, at least 200 of the 250 employees in the new facility must represent net job gains to New Jersey.

Project B illustrates the forfeiture of the tax credit if a business breaks the job maintenance requirement within the ten-year period after credit approval. Approved for a $90 million credit on $90 million in capital investments, the business employs 350 people at its new facility, of which 310 are new jobs to New Jersey. In fiscal year 2020, however, the business reduces its New Jersey workforce by 20 percent while maintaining the 350 jobs at the new facility. Consequently, the remaining credit amount is disallowed, for the business failed to maintain at least 90 percent of its New Jersey jobs over the credit's duration. Instead of $90 million in tax credits, the business thus receives only $45 million.

Example 2

Tax Credit Cost to State of Two Projects Not Accruing Full Credit Amounts to Businesses whose Accounting Periods End on December 31
(in $ Million per Fiscal Year)

Project	Pre-2013	2013	2014	2015	2016	2017	2018	2019	2020	2021	2022	2023	2024	2025	2026	Total
A	$0	$6.4	$6.4	$6.4	$6.4	$6.4	$6.4	$6.4	$6.4	$6.4	$6.4	$0	$0	$0	$0	**$64**
B	$0	$0	$0	$9	$9	$9	$9	$9	$0	$0	$0	$0	$0	$0	$0	**$45**
Total	**$0**	**$6.4**	**$6.4**	**$15.4**	**$15.4**	**$15.4**	**$15.4**	**$15.4**	**$6.4**	**$6.4**	**$6.4**	**$0**	**$0**	**$0**	**$0**	**$109**

Project A: $80,000,000 in qualified capital investments, 280 jobs in new facility of which 180 are new to New Jersey, project completed in forth year after enactment, first credit installment in FY 2013

Project B: $90,000,000 in qualified capital investments, 350 jobs in new facility of which 310 are new to New Jersey, project completed in sixth year after enactment, first credit installment in FY 2015, business permanently reduces New Jersey jobs by 20 percent in FY 2020

Indirect Fiscal Impact:

The OLS estimates that the bill would accrue an indeterminate indirect revenue gain to the State that would offset, in whole or in part, the direct cost of awarding urban transit hub tax credits. Since the OLS cannot reliable estimate the amount of creditable capital investments and the number of future jobs created at creditable facilities, however, it cannot quantify the tax credit's secondary effects.

In general, any indirect revenue gain would result from the economic ramifications of tax credit-induced behavior changes. As these ramifications flow through the economy, they affect State revenue collections. Indirect fiscal effects encompass tax credit-induced input purchases by credit claimants from their suppliers and tax credit-induced spending by employees of all impacted firms.

Nonetheless, the OLS cautions that not all of the tax credit's economic and fiscal feedback effects may represent a gain. Only the ripple effects caused by credit-induced spending shifts should enter the fiscal estimate, while those from creditable spending that would have occurred absent the tax credit must be excluded. The exclusion takes into account that tax credits have no economic impact whenever they are awarded to businesses that would have made the capital investment and would have created or relocated the jobs anyway. At best, credits given in these circumstances would yield a marginal additional benefit to the State if the recipient spent the credit amount in New Jersey. The State, however, would only incur the cost of subsidizing a project that the employer would have pursued in New Jersey regardless of the credit award.

The OLS also notes that new jobs created have larger ripple effects than jobs relocated to the new facility from within New Jersey. Whereas indirect effects for intrastate job relocations are limited to those tied to the one-time cost of relocating the jobs, indirect effects from new jobs include the permanent indirect effects of spending on the added positions.

Any estimate of the tax credits' New Jersey feedback effects must also exclude from the total feedback effects the portion of the tax credit-induced spending that would leak into other jurisdictions. A New York resident holding a job created in the Jersey City urban transit hub, for example, would have a New Jersey income tax liability, but most of the New Yorker's private spending might not occur in this State.

The OLS observes that the bill would likely produce secondary fiscal effects beyond the timeframe in which tax credits would be claimed. Once planning on a new facility commences, professionals such as architects begin to receive payments that newly enter into New Jersey's economy. In addition, if recipients maintain their credit-induced jobs beyond the credit's duration, the State will continue to reap the concomitant economic and fiscal benefits.

Net Fiscal Impact:

Even if the OLS was able to estimate the bill's indirect fiscal impact, doing so would ignore that the decision to subsidize capital investment and job creation in urban rail transit hubs would divert resources from the policy alternatives to which they would have been applied absent the tax credit. The OLS, however, cannot gauge this opportunity cost, which constitutes a crucial component of the bill's *net* fiscal impact.

The bill's opportunity cost would only be zero if the State's investment in urban rail transit hubs did not displace or forestall other spending (thereby setting the bill's fiscal feedback effects equal to its *net* fiscal feedback effects). In actuality, given the State's finite resources and its balanced budget requirement, the bill's *net* fiscal impact would be the bill's fiscal feedback effects minus its opportunity cost (or the total of the bill's direct and indirect effects *less* the equivalent effects of the alternative uses of monies the legislation would preempt). For example, if, instead of this legislation, the State invested $25 million annually in road construction, the bill would produce a *net* fiscal effect equal to the difference between the total fiscal impact of the amount spent on urban rail transit hubs and that of the foregone road construction investment.

Section:	*Revenue, Finance and Appropriations*
Analyst:	*Thomas Koenig* *Associate Fiscal Analyst*
Approved:	*David J. Rosen* *Legislative Budget and Finance Officer*

This fiscal estimate has been prepared pursuant to P.L. 1980, c.67 (C. 52:13B-1 et seq.).

ASSEMBLY, No. 4666

STATE OF NEW JERSEY

212th LEGISLATURE

INTRODUCED JANUARY 3, 2008

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

SYNOPSIS

"Urban Transit Hub Tax Credit Act;" allows tax credits to certain businesses for certain capital investments in urban transit hubs.

CURRENT VERSION OF TEXT

As introduced.

AN ACT allowing tax credits to certain businesses for certain capital investments in urban transit hubs, supplementing Title 34 of the Revised Statutes.

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

1. This act shall be known and may be cited as the "Urban Transit Hub Tax Credit Act."

2. As used in this act:

"Business" means a corporation that is subject to the tax imposed pursuant to section 5 of P.L.1945, c.162 (C.54:10A-5), a corporation that is subject to the tax imposed pursuant to sections 2 and 3 of P.L.1945, c.132 (C.54:18A-2 and 54:18A-3), section 1 of P.L.1950, c.231 (C.17:32-15) or N.J.S.17B:23-5 , or is a partnership.

"Capital investment" in a qualified business facility means expenses incurred after, but before the end of the eighth year after, the effective date of P.L. , c. (C.)(pending before the Legislature as this bill) for: (i) the site preparation and construction, repair, renovation, improvement, equipping, or furnishing of a building, structure, facility or improvement to real property; and (ii) obtaining and installing furnishings and machinery, apparatus or equipment for the operation of a business in a building, structure, facility or improvement to real property.

"Commission" means the New Jersey Commerce Commission.

"Eligible municipality" means a municipality: (1) which qualifies for State aid pursuant to P.L.1978, c.14 (C.52:27D-178 et. seq.); (2) in which 30 percent or more of the value of real property is exempt from local property taxation; and (3) in which the equalized valuation per capita is under $100,000. The percentage of exempt property shall be calculated by dividing the total exempt value by the sum of the net valuation which is taxable and that which is tax exempt.

"Equalized valuation" has the meaning provided by section 1 of P.L.1978, c.14 (C.52:27D-178).

"Equalized valuation per capita" means a municipality's equalized valuation divided by the population of the municipality.

"Full-time employee" means a person employed by the business for consideration for at least 35 hours a week, or who renders any other standard of service generally accepted by custom or practice as full-time employment and whose wages are subject to withholding as provided in the "New Jersey Gross Income Tax Act," N.J.S.54A:1-1 et seq. or who is a partner of a business who works for the partnership for at least 35 hours a week, or who renders any other standard of service generally accepted by custom or practice as fulltime employment, and whose distributive share of income, gain, loss, or deduction, or whose guaranteed payments, or any combination thereof, is subject to the payment of estimated taxes, as provided in the "New Jersey Gross Income Tax Act," N.J.S.54A:1-1 et seq. "Full-time employee" shall not include any person who works as an independent contractor or on a consulting basis for the business.

"Partnership" means an entity classified as a partnership for federal income tax purposes.

"Qualified business facility" means any building, complex of buildings or structural components of buildings, and all machinery and equipment located within a designated urban transit hub in an eligible municipality, used in connection with the operation of a business.

"Urban transit hub" means property located within a 1/2 mile radius surrounding the mid point of a New Jersey Transit Corporation, Port Authority Transit Corporation or Port Authority Trans-Hudson Corporation rail station platform area, delineated by the commission pursuant to subsection e. of section 3 of P.L. , c. (C.)(pending before the Legislature as this bill). A property which is partially included within the radius shall only be considered part of the hub if over 50 percent of its land area falls within the radius. "Rail station" shall not include any rail station located at an international airport.

3. a. (1) A business, upon application to and approval from the New Jersey Commerce Commission, shall be allowed a credit of 100 percent of its capital investment, made after the effective date of P.L. , c. (C.)(pending before the Legislature as this bill) but prior to its submission of documentation pursuant to subsection c. of this section, in a qualified business facility within an eligible municipality, pursuant to the restrictions and requirements of this section.

(2) A business, other than a tenant eligible pursuant to paragraph (3) of this subsection, shall make or acquire capital investments totaling not less than $75,000,000 in a qualified business facility, at which the business shall employ not fewer than 250 full-time employees to be eligible for a credit under this section. A business that acquires a qualified business facility shall also be deemed to have acquired the capital investment made or acquired by the seller.

(3) A business that is a tenant in a qualified business facility, the owner of which has made or acquired capital investments in the facility totaling not less than $75,000,000, shall occupy a leased area of the qualified business facility that represents at least $25,000,000 of the capital investment in the facility at which the tenant business shall employ not fewer than 250 full-time employees to be eligible for a credit under this section. The amount of capital investment in a facility that a leased area represents shall be equal to that percentage of the owner's total capital investment

in the facility that the percentage of net leasable area leased by the tenant is of the total net leasable area of the qualified business facility.

(4) A business shall not be allowed tax credits under this section if the business participates in a business employment incentive grant relating to the same capital and employees that qualify the business for this credit, or if the business receives assistance pursuant to P.L.1996, c.25 (C.34:1B-112 et seq.), or if the business is a licensee as defined pursuant to section 33 of P.L.1977, c.110 (C.5:12-33). A business that is allowed a tax credit under this section shall not be eligible for incentives authorized pursuant to P.L.2002, c.43 (C.52:27BBB-1 et seq.).

(5) Full-time employment for an accounting or privilege period shall be determined as the average of the monthly full-time employment for the period.

(6) The capital investment of the owner of a qualified business facility is that percentage of the capital investment made or acquired by the owner of the building that the percentage of net leasable area of the qualified business facility not leased to tenants is of the total net leasable area of the qualified business facility.

b. (1) A business shall apply for the credit within five years after the effective date of P.L. , c. (C.) (pending before the Legislature as this bill), and a business shall submit its documentation for approval of its credit amount within eight years after the effective date of P.L. , c. (C.) (pending before the Legislature as this bill).

c. (1) The amount of credit allowed shall, except as otherwise provided, be equal to the capital investment made by the business, or the capital investment represented by the business' leased area, and shall be taken over a 10-year period, at the rate of one-tenth of the total amount of the business' credit for each tax accounting or privilege period of the business, beginning with the tax period in which the business is first approved by the commission as having met the investment capital and employment qualifications, subject to any reduction or disqualification as provided by subsection d. of this section as determined by annual review by the commission. In conducting its annual review, the commission may require a business to submit any information determined by the commission to be necessary and relevant to its review.

The credit amount for any tax period ending after the date eight years after the effective date of P.L. , c. (C.) (pending before the Legislature as this bill) during which the documentation of a business' credit amount remains unapproved shall be forfeited, although credit amounts for the remainder of the years of the 10-year credit period shall remain available to it.

The amount of credit allowed for a tax period to a business that is a tenant in a qualified business facility shall not exceed the business' total lease payments for occupancy of the qualified business facility for the tax period.

(2) A business that is a partnership shall not be allowed a credit under this section directly, but the amount of credit of an owner of a business shall be determined by allocating to each owner of the partnership that proportion of the credit of the business that is equal to the owner of the partnership's share, whether or not distributed, of the total distributive income or gain of the partnership for its tax period ending within or with the owner's tax period, or that proportion that is allocated by an agreement, if any, among the owners of the partnership that has been provided to the Director of the Division of Taxation in the Department of the Treasury by such time and accompanied by such additional information as the director may require.

(3) The amount of credit allowed may be applied against the tax liability otherwise due pursuant to section 5 of P.L.1945, c.162 (C.54:10A-5), pursuant to sections 2 and 3 of P.L.1945, c.132 (C.54:18A-2 and 54:18A-3), pursuant to section 1 of P.L.1950, c.231 (C.17:32-15), pursuant to N.J.S.17B:23-5, or pursuant to the "New Jersey Gross Income Tax Act," N.J.S.54A:1-1 et seq.

d. (1) If, in any tax period, fewer than 200 full-time employees of the business at the qualified business facility are employed in new full-time positions, the amount of the credit otherwise determined pursuant to final calculation of the award of tax credits pursuant to subsection c. of this section shall be reduced by 20 percent for that tax period and each subsequent tax period until the first period for which documentation demonstrating the restoration of the 200 full-time employees employed in new full-time positions at the qualified business facility has been reviewed and approved by the commission, for which tax period and each subsequent tax period the full amount of the credit shall be allowed; provided, however, that there shall be no reduction if a business relocates to an urban transit hub from another location or locations in the same municipality. For the purposes of this paragraph, a "new full-time position" means a position created by the business at the qualified business facility that did not previously exist in this State.

(2) If, in any tax period, the business reduces the total number of full-time employees in its Statewide workforce by more than 10 percent from the number of full-time employees in its Statewide workforce in the last tax accounting or privilege period prior to the effective date of P.L. , c. (C.) (pending before the Legislature as this bill), or in the last tax accounting or privilege period prior to the credit amount approval under this section, whichever is greater, then the business shall forfeit its credit amount for that tax period and each subsequent tax period, until the first tax period for which documentation demonstrating the restoration of the business' Statewide workforce to the threshold levels required by this paragraph has been reviewed and approved by the commission, for

which tax period and each subsequent tax period the full amount of the credit shall be allowed.

(3) If, in any tax period, the number of full-time employees employed by the business at the qualified business facility located in an urban transit hub within an eligible municipality drops below 250 then the business shall forfeit its credit amount for that tax period and each subsequent tax period, until the first tax period for which documentation demonstrating the restoration of the number of full-time employees employed by the business at the qualified business facility to 250 has been reviewed and approved by the commission, for which tax period and each subsequent tax period the full amount of the credit shall be allowed.

(4) (i) If the qualified business facility is sold in whole or in part during the 10-year eligibility period the new owner shall not acquire the capital investment of the seller and the seller shall forfeit all credits for the tax period in which the sale occurs and all subsequent tax periods, provided however that any credits of tenants shall remain unaffected.

(ii) If a tenant subleases its tenancy in whole or in part during the 10-year eligibility period the new tenant shall not acquire the credit of the sublessor, and the sublessor tenant shall forfeit all credits for the tax period of its sublease and all subsequent tax periods.

e. The Executive Director of the New Jersey Commerce Commission, in consultation with the Director of the Division of Taxation in the Department of the Treasury, shall adopt rules in accordance with the "Administrative Procedure Act," P.L.1968, c.410 (C.52:14B-1 et seq.) as are necessary to implement this act, including but not limited to: examples of and the determination of capital investment; the enumeration of eligible municipalities; specific delineation of urban transit hubs; the determination of the limits, if any, on the expense or type of furnishings that may constitute capital improvements; the promulgation of procedures and forms necessary to apply for a credit; and provisions for credit applicants to be charged an initial application fee, and ongoing service fees, to cover the administrative costs related to the credit**.**

4. This act shall take effect immediately.

STATEMENT

This bill establishes a tax credit program for capital investment and increased employment in targeted urban rail transit hubs to catalyze economic development in those transit hubs.

The program is limited to municipalities that are eligible for urban aid, that have at least 30 percent of their real property value exempt from property taxes, whose “property base wealth” measured as equalized valuation per capita is under $100,000 per capita, and that have a specified commuter rail station. The bill directs the New Jersey Commerce Commission to designate areas in a one-half mile radius around the rail stations (not including rail stations at international airports) as an "urban transit hub" qualifying for investment incentives.

A business that makes $75,000,000 of qualified capital investment in a business facility in an urban transit hub and employs at least 250 persons at that facility (subject to some standards that assure these are increases in Statewide employment) may qualify for tax credits equal to 100 percent of the qualified capital investment that may be applied against corporation business tax, insurance premiums tax or gross income tax liability. Annually for ten years the taxpayer may utilize a credit equal to 10 percent of the qualified capital investment.

A tenant in these qualified business facilities may also be allowed credits, if the tenant occupies space in a qualified business facility that proportionally represents at least $25,000,000 of the capital investment in the facility and employs at least 250 persons in that facility

ASSEMBLY APPROPRIATIONS COMMITTEE

STATEMENT TO

ASSEMBLY, No. 4666

with committee amendments

STATE OF NEW JERSEY

DATED: JANUARY 3, 2008

The Assembly Appropriations Committee reports favorably Assembly Bill No. 4666, with committee amendments.

Assembly Bill No. 4666, as amended, establishes a tax credit program for capital investment and increased employment in targeted urban rail transit hubs to catalyze economic development in those transit hubs.

The program is limited to investment and employment in municipalities that are eligible for urban aid, that have at least 30 percent of their real property value exempt from property taxes, whose "property base wealth" measured as equalized valuation per capita is under $100,000 per capita, and that have a specified commuter rail station. The bill directs the New Jersey Commerce Commission to designate areas in a one-half mile radius around the rail stations (not including rail stations at international airports) as an "urban transit hub" in which qualifying business facility investment and employment must be located. According to the New Jersey Office of Economic Growth, nine municipalities would qualify for the credit: Camden, East Orange, Elizabeth, Jersey City, Newark, New Brunswick, Paterson, Trenton and Hoboken.

A business that makes $75,000,000 of qualified capital investment in a business facility in an urban transit hub and employs at least 250 persons at that facility (subject to some standards that assure these are increases in Statewide employment) may qualify for tax credits equal to 100 percent of the qualified capital investment that may be applied against corporation business tax, insurance premiums tax or gross income tax liability. Annually for ten years the taxpayer may utilize a credit equal to 10 percent of the qualified capital investment.

A tenant in these qualified business facilities may also be allowed credits, if the tenant occupies space in a qualified business facility that proportionally represents at least $25,000,000 of the capital investment in the facility and employs at least 250 persons in that facility

FISCAL IMPACT:

The Office of Legislative Services (OLS) cannot gauge the fiscal impact of the bill, as the number of future credit applications, the amount of creditable expenditures, and the tax liability against which the credits could be applied are not known. Nonetheless, the OLS notes that there may be a small number of claimants, but that each claimant may each receive a significant tax credit. This is based upon the stringent eligibility criteria for the credit. It is also based upon the limited number of taxpayers that may be able to qualify for the $60 million minimum credit amount (required $75 million investment x 80% (due to fewer than 200 full-time employees of the business at the qualified business facility employed in new full-time positions). There may also be a small number of claimants that are able to maximize their tax savings under the credit by having a sufficient tax liability over each of ten years against which to apply the credits.

COMMITTEE AMENDMENTS:

The amendments change the criteria that define an "eligible municipality" to delete the requirement that equalized valuation per capita be under $100,000 and to more accurately describe the State aid-eligible municipality criterion. These amendments allow Hoboken to qualify as an "eligible municipality."

LEGISLATIVE FISCAL ESTIMATE

[First Reprint]

ASSEMBLY, No. 4666

STATE OF NEW JERSEY
212th LEGISLATURE

DATED: JANUARY 10, 2008

SUMMARY

Synopsis: "Urban Transit Hub Tax Credit Act;" allows tax credits to certain businesses for certain capital investments in urban transit hubs.

Type of Impact: Annual Foregone General Fund and Property Tax Relief Fund Revenue through Fiscal Year 2026 and Indeterminate Annual State Revenue Gain.

Agencies Affected: Department of the Treasury;
New Jersey Commerce Commission.

Office of Legislative Services Estimate

Fiscal Impact	Fiscal Years 2008 through 2010	Fiscal Years 2011 through 2026	Fiscal Year 2027
Direct State Revenue Loss	$0	Indeterminate - See comments below	$0
Indirect State Revenue Gain	Indeterminate - See comments below		

- The Office of Legislative Services (OLS) cannot gauge the bill's fiscal impact, as the number of future credit applications, the amount of creditable expenditures, and the tax liability against which the credits could be applied remain unknown. Nonetheless, the OLS anticipates that a small number of claimants would each receive a significant tax credit.

- The OLS cannot project the value of positive secondary economic and fiscal activity that would offset, in whole or in part, any direct revenue loss and opportunity cost the State would incur in urban transit hub tax granting credits.

BILL DESCRIPTION

Assembly Bill No. 4666 (1R) of 2007 establishes a tax credit program for businesses making at least $75 million in qualified capital investments in a single business facility in an "urban transit hub" and employing at least 250 persons at that facility. Tax credits equal 100 percent of

Office of Legislative Services
State House Annex
P.O. Box 068
Trenton, New Jersey 08625

– OLS –

Legislative Budget and Finance Office
Phone (609) 292-8030
Fax (609) 777-2442
www.njleg.state.nj.us

claimants' qualified capital investments made within eight years from the bill's effective date. For ten years following credit approval, taxpayers may apply ten percent of the total credit amount per year against their corporation business tax, insurance premiums tax or gross income tax liabilities.

Tenants in qualified business facilities may also receive tax credits, if they occupy space in a qualified business facility that proportionally represents at least $25 million of the capital investment in the facility and employ at least 250 persons in that facility.

The tax credit decreases to 80 percent of qualified capital investments if fewer than 200 of the jobs at the facility are not new to New Jersey. In addition, employers eliminating more than ten percent of their New Jersey jobs forfeit their outstanding tax credit amounts.

The program is limited to municipalities that are eligible for urban aid, that have at least 30 percent of their real property value exempt from property taxes, and that have a specified commuter rail station. The bill directs the New Jersey Commerce Commission to designate areas in a one-half mile radius around the rail stations (not including rail stations at international airports) as an "urban transit hub". According to the New Jersey Office of Economic Growth, nine municipalities would qualify for the credit: Camden, East Orange, Elizabeth, Hoboken, Jersey City, Newark, New Brunswick, Paterson, and Trenton.

FISCAL ANALYSIS

EXECUTIVE BRANCH

None received.

OFFICE OF LEGISLATIVE SERVICES

The OLS cannot gauge the bill's impact on the State General Fund and the State Property Tax Relief Fund, as the number of future credit applications, the amount of creditable expenditures, and the tax liability against which the credit could be applied remain unknown. Nevertheless, it anticipates that a small number of claimants would each receive a significant tax credit. In addition, the agency notes that positive economic and fiscal activity would offset, in whole or in part, any direct revenue loss and opportunity cost the State would incur in granting urban transit hub tax credits.

Direct Fiscal Impact:

The OLS expects only a few claimants to each receive a significant tax credit, a scenario that is conducive to considerable forecasting errors, as explained below. Consequently, the agency cannot reliably forecast the cumulative value of urban transit hub tax credits, or the bill's direct cost to the State.

Stringent eligibility requirements underpin the OLS assessment that few businesses would seek tax credits. First, only nine urban transit hubs would be designated. Second, businesses would have to invest at least $75 million in a single facility within eight years of the bill's enactment. Third, they would have to employ at least 250 full-time individuals in the new facility.

Given the tax credit's order of magnitude, however, inaccurately projecting the number of credit approvals by just one recipient would cause sizeable forecasting errors. The minimal credit would be $60 million per project over ten years (80 percent of $75 million investment minimum when fewer than 200 of the 250 employees at the new facility represent a job gain to

New Jersey). When at least 200 of the 250 employees at the new facility represent a job gain to New Jersey, the minimal tax credit would amount to $75 million over ten years. If three businesses qualified for $75 million credits, the cost to the State would be $225 million, or $22.5 million per fiscal year. If four businesses qualified for $75 million credits, the cost would be $300 million, or $30 million per fiscal year (or $7.5 million more per fiscal year for the additional project). This error potential precludes a credible OLS estimate.

Notwithstanding, the OLS projects that the bill would not accrue any cost to the State before fiscal year 2011 and after fiscal year 2026. Since qualified capital investments must be incurred after the effective date of the law and since tax credits are contingent upon project completion, the OLS surmises that no credit would be claimed until at least fiscal year 2011. Businesses also have ten years in which to apply a tenth of the credit's total value per year. If a credit was approved at the end of the eight-year window for creditable expenditures (assuming enactment in January 2008, the cut-off date would be January 2016), the last credit could be claimed in the tax year including January 2025, which would be in fiscal year 2026.

By means of four hypothetical projects totaling $390 million in capital investments, Example 1 provides an overview of the bill's fiscal mechanics. It assumes that all four businesses have accounting periods ending on December 31 of each year and sufficient tax liabilities against which to apply the tax credits.

Example 1

Tax Credit Cost to State of Four Projects Accruing Full Credit Amounts to Businesses whose Accounting Periods End on December 31
(in $ Million per Fiscal Year)

Project	Pre-2013	2013	2014	2015	2016	2017	2018	2019	2020	2021	2022	2023	2024	2025	2026	Total
A	$0	$8	$8	$8	$8	$8	$8	$8	$8	$8	$8	$0	$0	$0	$0	**$80**
B	$0	$0	$0	$10	$10	$10	$10	$10	$10	$10	$10	$10	$10	$0	$0	**$100**
C	$0	$0	$0	$0	$0	$9	$9	$9	$9	$9	$9	$9	$9	$9	$9	**$90**
D	$0	$0	$0	$0	$0	$12	$12	$12	$12	$12	$12	$12	$12	$12	$12	**$120**
Total	**$0**	**$8**	**$8**	**$18**	**$18**	**$39**	**$39**	**$39**	**$39**	**$39**	**$39**	**$31**	**$31**	**$21**	**$21**	**$390**

Project A: $80,000,000 in qualified capital investments, project completed in forth year after enactment, first credit installment in FY 2013
Project B: $100,000,000 in qualified capital investments, project completed in sixth year after enactment, first credit installment in FY 2015
Project C: $90,000,000 in qualified capital investments, project completed in eighth year after enactment, first credit installment in FY 2017
Project D: $120,000,000 in qualified capital investments, project completed in eighth year after enactment, first credit installment in FY 2017

Example 2 illustrates the effect of bill provisions designed to safeguard creditable jobs. Project A involves $80 million in eligible capital investments, which under standard provisions would result in a $80 million tax credit. Because 100 of the 280 employees in the facility had been transferred from within New Jersey, however, the credit is limited to 80 percent of its potential value, or $64 million ($16 million less). To qualify for a 100 percent credit, at least 200 of the 250 employees in the new facility must represent net job gains to New Jersey.

Project B illustrates the forfeiture of the tax credit if a business breaks the job maintenance requirement within the ten-year period after credit approval. Approved for a $90 million credit on $90 million in capital investments, the business employs 350 people at its new facility, of which 310 are new jobs to New Jersey. In fiscal year 2020, however, the business reduces its New Jersey workforce by 20 percent while maintaining the 350 jobs at the new facility. Consequently, the remaining credit amount is disallowed, for the business failed to maintain at least 90 percent of its New Jersey jobs over the credit's duration. Instead of $90 million in tax credits, the business thus receives only $45 million.

Example 2

Tax Credit Cost to State of Two Projects Not Accruing Full Credit Amounts to Businesses whose Accounting Periods End on December 31
(in $ Million per Fiscal Year)

Project	Pre-2013	2013	2014	2015	2016	2017	2018	2019	2020	2021	2022	2023	2024	2025	2026	Total
A	$0	$6.4	$6.4	$6.4	$6.4	$6.4	$6.4	$6.4	$6.4	$6.4	$6.4	$0	$0	$0	$0	**$64**
B	$0	$0	$0	$9	$9	$9	$9	$9	$0	$0	$0	$0	$0	$0	$0	**$45**
Total	**$0**	**$6.4**	**$6.4**	**$15.4**	**$15.4**	**$15.4**	**$15.4**	**$15.4**	**$6.4**	**$6.4**	**$6.4**	**$0**	**$0**	**$0**	**$0**	**$109**

Project A: $80,000,000 in qualified capital investments, 280 jobs in new facility of which 180 are new to New Jersey, project completed in forth year after enactment, first credit installment in FY 2013

Project B: $90,000,000 in qualified capital investments, 350 jobs in new facility of which 310 are new to New Jersey, project completed in sixth year after enactment, first credit installment in FY 2015, business permanently reduces New Jersey jobs by 20 percent in FY 2020

Indirect Fiscal Impact:

The OLS estimates that the bill would accrue an indeterminate indirect revenue gain to the State that would offset, in whole or in part, the direct cost of awarding urban transit hub tax credits. Since the OLS cannot reliable estimate the amount of creditable capital investments and the number of future jobs created at creditable facilities, however, it cannot quantify the tax credit's secondary effects.

In general, any indirect revenue gain would result from the economic ramifications of tax credit-induced behavior changes. As these ramifications flow through the economy, they affect State revenue collections. Indirect fiscal effects encompass tax credit-induced input purchases by credit claimants from their suppliers and tax credit-induced spending by employees of all impacted firms.

Nonetheless, the OLS cautions that not all of the tax credit's economic and fiscal feedback effects may represent a gain. Only the ripple effects caused by credit-induced spending shifts should enter the fiscal estimate, while those from creditable spending that would have occurred absent the tax credit must be excluded. The exclusion takes into account that tax credits have no economic impact whenever they are awarded to businesses that would have made the capital investment and would have created or relocated the jobs anyway. At best, credits given in these circumstances would yield a marginal additional benefit to the State if the recipient spent the credit amount in New Jersey. The State, however, would only incur the cost of subsidizing a project that the employer would have pursued in New Jersey regardless of the credit award.

The OLS also notes that new jobs created have larger ripple effects than jobs relocated to the new facility from within New Jersey. Whereas indirect effects for intrastate job relocations are limited to those tied to the one-time cost of relocating the jobs, indirect effects from new jobs include the permanent indirect effects of spending on the added positions.

Any estimate of the tax credits' New Jersey feedback effects must also exclude from the total feedback effects the portion of the tax credit-induced spending that would leak into other jurisdictions. A New York resident holding a job created in the Jersey City urban transit hub, for example, would have a New Jersey income tax liability, but most of the New Yorker's private spending might not occur in this State.

The OLS observes that the bill would likely produce secondary fiscal effects beyond the timeframe in which tax credits would be claimed. Once planning on a new facility commences, professionals such as architects begin to receive payments that newly enter into New Jersey's economy. In addition, if recipients maintain their credit-induced jobs beyond the credit's duration, the State will continue to reap the concomitant economic and fiscal benefits.

Net Fiscal Impact:

Even if the OLS was able to estimate the bill's indirect fiscal impact, doing so would ignore that the decision to subsidize capital investment and job creation in urban rail transit hubs would divert resources from the policy alternatives to which they would have been applied absent the tax credit. The OLS, however, cannot gauge this opportunity cost, which constitutes a crucial component of the bill's *net* fiscal impact.

The bill's opportunity cost would only be zero if the State's investment in urban rail transit hubs did not displace or forestall other spending (thereby setting the bill's fiscal feedback effects equal to its *net* fiscal feedback effects). In actuality, given the State's finite resources and its balanced budget requirement, the bill's *net* fiscal impact would be the bill's fiscal feedback effects minus its opportunity cost (or the total of the bill's direct and indirect effects *less* the equivalent effects of the alternative uses of monies the legislation would preempt). For example, if, instead of this legislation, the State invested $25 million annually in road construction, the bill would produce a *net* fiscal effect equal to the difference between the total fiscal impact of the amount spent on urban rail transit hubs and that of the foregone road construction investment.

Section:	*Revenue, Finance and Appropriations*
Analyst:	*Thomas Koenig* *Associate Fiscal Analyst*
Approved:	*David J. Rosen* *Legislative Budget and Finance Officer*

This fiscal estimate has been prepared pursuant to P.L. 1980, c.67 (C. 52:13B-1 et seq.).

Jan-15-08 Governor Corzine Takes Action on Legislation

NEWS RELEASE
Governor Jon S. Corzine
January 15, 2008

FOR MORE INFORMATION:
Press Office
609-777-2600

GOVERNOR CORZINE TAKES ACTION ON LEGISLATION

TRENTON- Governor Jon S. Corzine signed the following bills into law on Sunday, January 13, with related statements:

S-502/A-1011 w/Statement (Gill/Prieto, Stack, Cohen, Panter) - Requires health benefits coverage by health insurers and SHBP for orthotic and prosthetic appliances and provides reimbursement therefore.

"I commend the sponsors of Senate Bill No. 502 (First Reprint), which I signed today, for recognizing the importance of making sure that persons in need of orthotic or prosthetic appliances obtain them.

"While I have signed this measure in light of the critical nature of the issue for persons who need these appliances, I do have several concerns about elements of the bill which would have led me to conditionally veto the bill had it been presented to me in other circumstances. First, I have a general concern with bills that mandate specific insurance coverage. These bills deal piecemeal with issues of cost and coverage that might better be addressed more comprehensively. In that regard, I commend the work of the New Jersey Mandated Health Insurance Advisory Commission, and I will continue to read its reports with interest.

"In addition, I am concerned that the bill will be read as deviating from standard practice in the health care delivery system by precluding utilization review, which is designed to ensure the medical necessity for such appliances and thereby prevent unnecessary costs. Accordingly, I have asked the Departments of Health and Senior Services and Human Services to periodically review the utilization of orthotic or prosthetic appliances statewide to ensure that those who need such devices obtain them and that the public is bearing no unnecessary costs.

"Finally, I am concerned that the bill sets the reimbursement level for these services at that set by Medicare. While I appreciate the importance of assuring that these appliances are readily available for those who require them, I am

concerned that this aspect of the bill will limit insurers' ability to negotiate price reductions under circumstances that will not reduce access. Accordingly, I am requesting the Departments of Health and Senior Services and Human Services, consulting with the Department of Banking and Insurance, to monitor the effects of this aspect of the bill and report periodically to me."

S-3043/A-4666 w/Statement (Codey, Rice/Pou) - "Urban Transit Hub Tax Credit Act"; allows tax credits to certain businesses for certain capital investments in urban transit hubs.

"Senate Bill No. 3043 (First Reprint), which I approved today, establishes a new tax credit program to spur new capital investment and increased employment in targeted urban rail transit hubs and to catalyze economic development in those areas. The bill supports the revitalization of New Jersey's urban centers by leveraging valuable transit assets that provide a strong foundation for economic growth, while encouraging increased transit ridership.

"This bill provides one more tool to promote economic development in the State. I intend that the bill will serve as a model for our economic development efforts by focusing our resources on targeted, well-defined areas with express job-creation requirements. Because I believe this approach can work in other areas as well, I am asking the Office of Economic Growth to work with the Legislature and craft similar approaches for other appropriate areas in the State."

ACS for A-3572/SCS for SCS for SS for S-554 w/Statement (Gusciora, Barnes, McKeon, Chivukula, Gordon/B.Smith) - "Electronic Waste Recycling Act."

"Assembly Committee Substitute for Assembly Bill No. 3572, which I signed today, establishes a new program for the disposal of electronic devices, including televisions, computers, and related components and subcomponents in New Jersey.

"I commend the sponsors of this bill for putting forward legislation that is designed to address a significant and growing problem, both in New Jersey and nationally. The type of waste generated by televisions and computers, while relatively small in volume, accounts for a significant percentage of this nation's toxic waste. The electronic waste stream that will be required to be recycled

under this bill can contain significant and dangerous levels of a wide variety of materials, including lead, mercury, cadmium, and PCBs.

"In signing this bill, I am cognizant of its impact on a variety of manufacturers, both situated in New Jersey and located elsewhere. It is my understanding and expectation that technical concerns with this legislation, which I would have addressed through a conditional veto had that option been available, will be addressed in the coming session. Notwithstanding these concerns, I know the sponsors share with me a desire not only to move forward on this difficult issue but also to ensure fairness and equity in the application and administration of this important environmental initiative. In this connection, I have asked the Department of Environmental Protection to work with this bill's sponsors in order to further craft and refine this measure."

A-4314/S-2123 w/Statement (Wisniewski, Stack, Vas/Coniglio) - Establishes pilot program for traffic control signal monitoring system.

"Assembly Bill No. 4314 (Second Reprint), which I approved today, establishes a pilot program for traffic control signal monitoring systems. Supporters of this measure point to research showing that traffic control monitoring systems have been successfully employed in numerous other jurisdictions around the country. Many local officials in New Jersey, particularly mayors of our largest municipalities, believe these systems will help reduce traffic accidents at dangerous intersections.

"In light of this support, I believe that it is appropriate to initiate this pilot program to determine the extent to which these systems advance public safety. In doing so, however, I believe that it is important that this be done in a fashion that allows us to assess its value. In particular, I believe that the test should be whether these systems reduce traffic accidents rather than whether they generate local revenue from fines and penalties.

"To that end, I have asked the Commissioner of Transportation to implement the program in a careful and deliberate manner. It is appropriate that implementation be undertaken in a staged fashion so that the number of jurisdictions that utilize these systems may be limited at the outset until we have further information to assess their utility. In addition, I expect that that the

Commissioner of Transportation will evaluate the effectiveness of these systems on a periodic basis and include the status of such evaluations in the annual reports he will be submitting. Finally, I have asked the Commissioner to develop the program so that appropriate action can be taken in the event that operation of the system no longer serves to promote public safety."

Governor Corzine signed the following bills into law on Monday, January 14, with statements:

S-507/A-2730 w/Statement (Gill/Gusciora) - Requires mandatory audit of election results in randomly selected election districts.

"Today, I am signing into law this measure because it furthers the public confidence in the accuracy and conduct of our election process. There is no more important element in our democratic system than the integrity of our elections, and I wholeheartedly support the establishment of an audit team to review the accuracy and conduct of elections in the state. This law contains many critical elements, including (a) that the audit team include independent individuals and professionals capable of ensuring an appropriate statistical approach, (b) that the audits cover federal and statewide elections as well as a selected number of county and municipal elections, and (c) that the audits not prevent or compromise the ability of candidates or other applicant from requesting a recount.

"While I firmly believe that this measure is intended to and will further the integrity of our election system, I do have a number of concerns which I will work with the legislative leadership and sponsors to address, and which would have led me to conditionally veto the bill had it been presented to me in other circumstances. Most significantly, I believe it is important to review the most appropriate method of sampling and selection of election districts to best realize the purposes of election auditing. While cost is not a determinative factor here, it is important that we expend our resources in those races where there is the greatest need to review the integrity of the electoral process. To this end, it will be important to assess whether the approach undertaken by this measure requires sampling at a level that exceeds what is necessary to provide confidence in the electoral result. Finally, it appears that further refinement may

be appropriate to ensure that the audit process can be completed in a timely fashion and not cause problems related to the certification of election results.

"In raising these concerns, I note that no other state has provided an independent audit team with the level of responsibilities and expectations set forth in this legislation. Given that New Jersey will be the first to do so, it is particularly appropriate that we commit to reexamining the approach taken in this legislation, and I will work with the Legislature to do so after we have had an opportunity to learn from the experience of the audit team in at least one statewide primary and general election. In this regard, I also observe that in light of my recent signing of Senate Bill No. 2949 (First Reprint) the deadline for the State to provide voting machines that shall produce an individual permanent paper record for each vote cast has been extended until June 3, 2008, and thus the application of this measure is unlikely to be possible at least until that date.

"Again, I applaud the sponsors and the Legislature for their commitment to ensuring public confidence in the integrity of the electoral process and look forward to working with them to ensure that New Jersey is a leader in this area."

A-2135/S-2748 w/Statement (Cohen/Scutari, Gill) - Increases judicial salaries and prosecutors' salaries.

"Assembly Bill No. 2135 (First Reprint), which I signed today, represents the completion of a three-step increase in judicial salaries that first began with provisions of the FY 2008 Appropriations Act, which was approved last year. Under the legislation I signed today, judicial salaries would increase by five percent effective January 1, 2008, and five percent effective January 1, 2009.

"The bill also would have the effect of increasing the salaries of Administrative Law Judges, Workers' Compensation Judges, and County Sheriffs, Clerks, Surrogates, and Registers of Deeds and Mortgages because the salaries of these officials are statutorily set at a percentage of the salary of a Judge of the Superior Court. This bill also would increase the annual salaries of County Prosecutors. Those salaries would increase from $141,000 to $153,000 effective January 1, 2008, and to $165,000 effective January 1, 2009.

"I support increasing judicial salaries and commend the Legislature for approving an increase in those salaries. As noted in the recent report of the Public Officers Salary Review Commission, which is the statutory body created to study these issues every four years and which recommended an increase in judicial salaries, this increase is vital to ensuring the continued exceptional quality of our Judiciary and the retention of our experienced judges.

"I also recognize that we need to attract and retain high quality professionals to serve as County Prosecutors. Though the additional cost of the salary increase for County Prosecutors is relatively modest, I am concerned that this salary increase will create greater unfairness in the overall compensation structure for State and local government. I note that County Prosecutors now will have salaries that exceed those of State government cabinet officers, including the Attorney General, who is charged under statute with oversight of County Prosecutor offices. This salary differential has the potential over time of making it more difficult to attract and retain high quality prosecutors to serve in the Division of Criminal Justice. I would have tried to address this problem through a conditional veto had circumstances permitted that approach.

"Along with the problem of salary differential among similarly situated officials is the problem created by the fact that salaries of cabinet-level and sub-cabinet officials have remained unchanged for five years. This issue is undermining the stability of leadership of the cabinet departments of State government. We should be addressing this problem, and we would be addressing it now were it not for the financial emergency now confronting State government.

"In the interim, with regard to the specific issues facing the Department of Law and Public Safety, I have asked the Attorney General to work with the Department of the Treasury to develop appropriate recommendations to address those issues."

Governor Corzine signed the following bill on Tuesday, January 15:

S-2040/A-3280 (Sarlo, Sweeney/Cryan, Gregg) - Provides for special licenses to serve alcoholic beverages to smart growth development projects; allows for sale of certain plenary retail consumption licenses for use in such projects.

In addition, Governor Corzine decided not to sign the following bills, which are therefore pocket vetoed, and issued related statements:

SCS for S-176 / AS for A-1511 (Doria, Scutari/Oliver, Greenstein, Cruz-Perez, Bramnick) - **POCKET VETO** - Expands wrongful death act to allow recovery for mental anguish, emotional pain and suffering, loss of society and loss of companionship.

"I am filing Senate Committee Substitute for Senate Bill No. 176 in the Division of Archives and Records Management without my approval.

"Under the provisions of Article V, Section I, Paragraph 14 of the Constitution, this bill, which was passed within 10 days preceding the expiration of the second legislative year, does not become law because it was not signed prior to the seventh day following such expiration. In this circumstance, there is no provision for the return of a bill to the Legislature for reconsideration, but I deem it to be in the public interest to state my reasons for deciding not to sign this bill.

"Senate Committee Substitute for Senate Bill No. 176 would expand the types of damages allowed in wrongful death actions beyond "pecuniary" losses to include injuries resulting from 'mental anguish, emotional pain and suffering, loss of society and loss of companionship.'"

"I commend the sponsors for recognizing the need to ensure that the lives of minors, parents who do not work outside the home, and the elderly are not significantly undervalued by a system that limits an individual's worth to his or her financial contribution to the family. On the other hand, unlimited damages based on emotional anguish or pain and suffering could have a significant impact on state and local budgets, since government entities are not infrequently named as defendants in wrongful death suits, and there are similar concerns as the State undertakes efforts to attract and grow businesses here.

"Unfortunately, I do not believe that this bill in its current form strikes a fair balance that would avoid using a strict monetary valuation of a person's life while also addressing the adverse effect of allowing unlimited and unpredictable damages.

"I encourage the Legislature to promptly revisit this important issue. Further, I recommend that the Legislature consider alternative means of striking an appropriate balance, especially by granting more flexibility for courts to reduce excessive non-pecuniary damage awards and defining non-pecuniary damages less expansively.

"Accordingly, I must file Senate Committee Substitute for Senate Bill No. 176 without my approval."

A-3153/S-2209 (Schaer, Scalera/Sarlo) - **POCKET VETO** - Provides certain law enforcement officers cannot be suspended without pay for more than 120 calendar days.

"I am filing Assembly Bill No. 3153 (Third Reprint) in the Division of Archives and Records Management without my approval.

Under the provisions of Article V, Section I, Paragraph 14 of the Constitution, this bill, which was passed within 10 days preceding the expiration of the second legislative year, does not become law because it was not signed prior to the seventh day following such expiration. In this circumstance, there is no provision for the return of a bill to the Legislature for reconsideration, but I deem it to be in the public interest to state my reasons for deciding not to sign this bill.

"This bill would require State and local government agencies to pay salary to certain law enforcement officers and paid firefighters in their employ who have been suspended pending a determination of disciplinary charges against them after certain time periods have passed. Specifically, the bill would require such payment of salary to begin 181 days after the charge resulting in suspension. It further would require repayment from an employee against whom a charge was sustained. Moreover, the 180-day time period would be tolled during any period of postponement that occurs at the request of an employee covered by the bill.

"I certainly understand and agree with the intent of the sponsors of this bill, which is to ensure that law enforcement officers and paid firefighters do not suffer severe financial hardship or dire economic consequences due to the loss of their regular salary during the sometimes lengthy period of time required to determine disciplinary charges that ultimately were dismissed. I also agree that

the procedures currently in place for resolving these cases must be changed to reduce median processing times that in some cases now total nearly two years, and I am committed to working to bring about those changes.

"However, I also understand that cases in which a law enforcement officer or firefighter has been suspended without pay generally involve serious matters with serious implications for the employer and the career of the officer or firefighter. For these reasons, these cases legitimately require sufficient time in order for the appropriate outcome to be reached. I believe that imposition of the 180-day deadline called for in this bill would make it far more difficult to arrive at an appropriate resolution given the complexity of these matters and the stakes involved. I would support legislation that creates a more workable and realistic deadline, such as 365 days."

A-4393/S-2878 (Wisniewski, Cohen/Adler) - **POCKET VETO** - Requires certain public contract bid advertisements to contain certified cost estimates or estimate ranges of projected contract costs and specifies grounds for rejection of all bids.

"I am filing Assembly Bill No. 4393 (Second Reprint) in the Division of Archives and Records Management without my approval.

"Under the provisions of Article V, Section I, Paragraph 14 of the Constitution, this bill, which was passed within 10 days preceding the expiration of the second legislative year, does not become law because it was not signed prior to the seventh day following such expiration. In this circumstance, there is no provision for the return of a bill to the Legislature for reconsideration, but I deem it to be in the public interest to state my reasons for deciding not to sign this bill.

"Assembly Bill No. 4393 would make significant changes to the current statutes governing the contracting process for public construction projects. While the bill has many strong proponents, it has generated a significant volume of passionate opposition from a broad spectrum of State and local government officials, entities, and organizations. These include, but are by no means limited to, the State Comptroller, the Attorney General, the League of Municipalities, the Association of Counties, the Governmental Purchasing Association of New Jersey, and many dozens of counties, municipalities, colleges, universities, school

districts, and other entities that passed resolutions or contacted my office to express serious concerns about this bill.

"While I generally support the sponsors' goals of making our public contracting processes more efficient and transparent, I am advised that this bill, as currently drafted, includes apparent technical errors and other flaws that I have no opportunity to address by way of a conditional veto because the bill was not passed by either House of the 212th Legislature until the last voting session. It is my hope that the proponents of similar future legislation will be willing to work in coordination with the Office of State Comptroller and the Division of Local Government Services in the Department of Community Affairs, as well as with affected public entities and their representatives, to craft an appropriate bill that addresses the concerns that motivated this bill while avoiding the problems associated with this bill.

"Accordingly, I must file Assembly Bill No. 4393 (Second Reprint) without my approval."