

49:2A-1

LEGISLATIVE HISTORY CHECKLIST

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LAWS OF: 2009 CHAPTER: 76

NJSA: 49:2A-1 (Provides for the allocation of the State's annual bond volume limits on certain bonds in accordance with the federal American Recovery and Reinvestment Act of 2009.)

BILL NO: S2020 (Substituted for S4109)

SPONSOR(S) Codey and Others

DATE INTRODUCED: June 11, 2009

COMMITTEE: ASSEMBLY: ---

SENATE: Budget and Appropriations

AMENDED DURING PASSAGE: Yes

DATE OF PASSAGE: ASSEMBLY: June 25, 2009

SENATE: June 18, 2009

DATE OF APPROVAL: June 29, 2009

FOLLOWING ARE ATTACHED IF AVAILABLE:

FINAL TEXT OF BILL (First reprint enacted)

S2020

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: No

A4109

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

COMMITTEE STATEMENT: ASSEMBLY: Yes

SENATE: No

FLOOR AMENDMENT STATEMENT: No

LEGISLATIVE FISCAL NOTE: No

(continued)

VETO MESSAGE:

No

GOVERNOR'S PRESS RELEASE ON SIGNING:

Yes 6-29-09

FOLLOWING WERE PRINTED:

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No

LAW/RWH 12-0-09

[First Reprint]

SENATE, No. 2020

STATE OF NEW JERSEY

213th LEGISLATURE

INTRODUCED JUNE 11, 2009

Sponsored by:

Senator RICHARD J. CODEY

District 27 (Essex)

Assemblyman JOHN F. MCKEON

District 27 (Essex)

Assemblyman UPENDRA J. CHIVUKULA

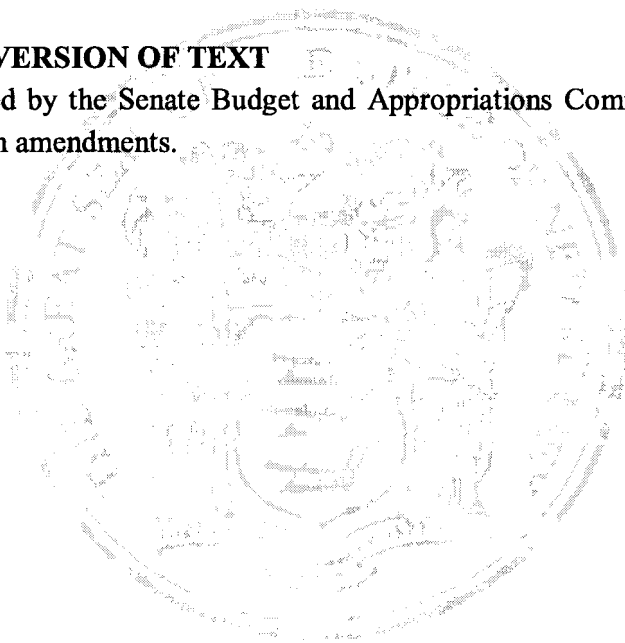
District 17 (Middlesex and Somerset)

SYNOPSIS

Provides for the allocation of the State's annual bond volume limits on certain bonds in accordance with the federal American Recovery and Reinvestment Act of 2009.

CURRENT VERSION OF TEXT

As reported by the Senate Budget and Appropriations Committee on June 15, 2009, with amendments.



(Sponsorship Updated As Of: 6/26/2009)

1 AN ACT providing for the allocation of the State's annual bond
2 volume limits on certain bonds in accordance with the federal
3 American Recovery and Reinvestment Act of 2009, and
4 amending the title and body of P.L.1987, c.393.

5

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

8

9 1 Section 1 of P.L.1987, c.393 (C.49:2A-1) is amended to read
10 as follows:

11 1. This act shall be known and may be cited as the "New Jersey
12 **[Private Activity]** Bond Volume Cap Allocation Act."
13 (cf: P.L.1987, c.393, s.1)

14

15 2. The Title of P.L.1987, c.393 is amended to read as follows:
16 AN ACT to provide for the allocation of the State's volume cap on
17 **[private activity bonds and the private activity portion of**
18 **governmental]** certain bonds established under provisions of the
19 federal Internal Revenue Code.

20 (cf: P.L.1987, c.393, Title)

21

22 3. Section 2 of P.L.1987, c.393 (C.49:2A-2) is amended to read
23 as follows:

24 2. The Legislature finds and determines that:

25 a. The Internal Revenue Code of 1986, 26 U.S.C. **[s.145]**
26 s.146 et seq., as amended, by the "Tax Reform Act of 1986," Pub.L.
27 99-514, and as thereafter amended, hereinafter referred to as the
28 "Code," imposes an annual limitation on the volume of tax-exempt
29 private activity bonds and the private activity portion of
30 governmental bonds issued after August 15, 1986.

31 b. The Code limits the annual volume of tax-exempt private
32 activity bonds and the private activity portion of governmental
33 bonds for the State of New Jersey to \$75.00 per resident for
34 calendar year 1987 and \$50.00 per resident for calendar years,
35 thereafter, based on the most recent population estimate provided
36 by the Bureau of the Census before the beginning of the calendar
37 year to which the limitation applies.

38 c. The use of tax-exempt bonds is an effective and necessary
39 method of financing programs for housing, water supply, sewerage
40 treatment, hazardous waste treatment, storage and disposal, solid
41 waste disposal, resource recovery and economic development, and
42 such financing promotes and improves the health, safety, welfare
43 and quality of life of the residents of the State.

EXPLANATION – Matter enclosed in bold-faced brackets **[thus]** in the above bill is not enacted and is intended to be omitted in the law.

Matter underlined thus is new matter.

Matter enclosed in superscript numerals has been adopted as follows:

¹Senate SBA committee amendments adopted June 15, 2009.

1 d. The Code establishes a formula for allocation of the volume
2 cap which, pursuant to subsection (e) of section 146 of the Code,
3 was subject to temporary modification by gubernatorial executive
4 order until December 31, 1987. The Code also permits the State to
5 establish by law an alternative formula for allocating the volume
6 cap.

7 e. In accordance with the Code, the Governor by Executive
8 **[Order] Orders No.147 of 1986 and No.185 of 1988**, has heretofore
9 established procedures for the allocation of the State's volume cap
10 on private activity bonds and the private activity portion of
11 governmental bonds within the State under the interim authority
12 provided by the Code.

13 f. There is a Statewide need to assure that the limited amount
14 of tax-exempt private activity bond financing available is used in
15 the most effective manner by issuers of bonds in the State in order
16 to provide the greatest benefits to the State, and that need can best
17 be met by authorizing the Governor to continue to allocate portions
18 of the State's volume cap among issuers.

19 g. The Code as amended further provides for annual limitations
20 on the volume of other types of tax-exempt bonds or taxable bonds
21 issued by governmental entities which may have the benefit of
22 certain tax credits or tax subsidies. Specifically, the American
23 Recovery and Reinvestment Act of 2009, Pub.L. No.111-5, further
24 amended and supplemented the Code to provide for the issuance of
25 certain tax-exempt, tax-credit and tax subsidy types of bonds,
26 including "Recovery Zone Facility Bonds," "Recovery Zone
27 Economic Development Bonds," "Qualified School Construction
28 Bonds," "Qualified Zone Academy Bonds" and "Qualified Energy
29 Conservation Bonds." These types of bonds are intended to finance
30 programs to facilitate the economic recovery of the nation, contain
31 limitations on the amount which can be issued throughout the
32 nation and therefore require an allocation of such national limitation
33 among the several states, including the State of New Jersey.

34 h. There is a Statewide need to assure that the limited amount
35 of tax-exempt private activity bond financing and other types of
36 tax-exempt, tax-credit or tax subsidy bond financing which are now
37 authorized under the Code or may be authorized under the Code in
38 the future, is used in the most effective manner by issuers of bonds
39 in the State in order to provide the greatest benefits to the State, and
40 that need can best be met by authorizing the Governor to continue
41 to allocate portions of the State's volume cap among issuers.

42 (cf: P.L.1987, c.393, s.2)

43
44 4. Section 3 of P.L.1987, c.393 (C.49:2A-3) is amended to read
45 as follows:

46 3. As used in this act:

47 a. "Bond" means a revenue obligation, security, bond, note,
48 debenture, certificate or other evidence of indebtedness of an issuer.

1 b. "Carryforward" means that portion of the State volume cap
2 for any calendar year which is unused during that calendar year and
3 which is available to be carried forward to be used in later years
4 pursuant to the Code.

5 c. "Federal formula" means the formula or formulas for
6 allocation of the State volume cap now or hereafter established
7 pursuant to the Code.

8 d. "Governmental bond" means any tax-exempt bond which is
9 not a private activity bond.

10 e. "Issuer" means the State or any political subdivision of the
11 State or any entity issuing bonds on behalf of the State or any
12 political subdivision of the State.

13 f. "Private activity bond" and "private activity portion of
14 governmental bonds" means a bond or portion thereof subject to
15 any allocation of State volume cap pursuant to the Code.

16 g. "Tax-exempt bond" means a bond, note or other obligation
17 the interest on which is not includible in federal gross income
18 pursuant to section 103 of the Code.

19 h. "Tax-credit bond" or "tax subsidy bond" is a bond the
20 interest on which is included in gross income for federal income tax
21 purposes, but in respect of which the holder receives a tax credit or,
22 in the alternative, the issuer receives an interest subsidy payment,
23 which tax credit or interest subsidy payment are predicated on the
24 bond qualifying for such amounts under applicable provisions of the
25 American Recovery and Reinvestment Act of 2009, Pub.L. No.111-
26 5 or such other provision of federal law as may amend or
27 supplement the Code from time to time.

28 i. "Volume cap" means the annual dollar limitation on the
29 issuance of tax-exempt private activity bonds and the private
30 activity portion of governmental bonds now or hereafter imposed on
31 issuers by the Code or any other annual dollar limitation on the
32 issuance of tax-credit bonds or tax-subsidy bonds under the Code.

33 (cf: P.L.1987, c.393, s.3)

34

35 5. Section 4 of P.L.1987, c.393 (C.49:2A-4) is amended to read
36 as follows:

37 a. In order to ensure that the limited [amount] amounts of
38 available tax-exempt private activity bond financing [is] , tax-
39 credit bond financing, and tax-subsidy bond financing are used in
40 the most effective manner by issuers, the Governor is authorized to
41 establish a procedure for allocation of the State volume cap which
42 procedure may provide for a reallocation formula that differs from
43 the federal formula.

44 b. Any allocation procedure established by the Governor shall
45 provide, by executive order or otherwise, that:

46 (1) The entire State volume cap be allocated to the Department
47 of Treasury for reallocation by the State Treasurer;

1 (2) Any allocations made pursuant to this act be reviewed
2 periodically and that unused allocations may be utilized for
3 carryforward or rescinded for reallocation and carryforward, for
4 reallocation, or for carryforward, as the case may be; and

5 (3) Any department of State Government or issuer receiving an
6 allocation may establish guidelines and procedures with respect to
7 that allocation and, if permitted, with respect to the reallocation and
8 carryforward of that allocation or the reallocation, or carryforward
9 of that allocation, as the case may be.

10 c. The allocation procedure and formula, if any, established by
11 the Governor pursuant to this section shall be applicable to the
12 allocation of the State volume cap for the 1988 calendar year, and,
13 unless modified or revoked by further action of the Governor, shall
14 be applicable to each calendar year thereafter.

15 (cf: P.L.1987, c.393, s.4)

16
17 6. Section 5 of P.L.1987, c.393 (C.49:2A-5) is amended to read
18 as follows:

19 5. The Governor shall submit to the Legislature, after January
20 1, 1988 and on or before January 20, 1988, and after January 1 and
21 on or before January 20 annually thereafter, a written report
22 providing a review of the allocation of the **[State's private activity**
23 **bond volume ceiling]** State volume cap during the preceding
24 calendar year and the preliminary allocation anticipated for the
25 current calendar year. If the information concerning the preliminary
26 allocation is not available on each January 20, the Governor shall
27 submit that information to the Legislature as soon as the
28 information is available. The annual report shall include for the year
29 being reviewed and for the current calendar year, as may be
30 applicable:

31 a. A statement of the annual **[Statewide private activity bond**
32 **volume ceiling]** State volume cap;

33 b. An explanation of any formula used or to be used for the
34 allocation among issuers;

35 c. The name of issuers granted any portion of the annual State
36 volume [ceiling] cap, the amount of the State volume [ceiling] cap
37 allocated to each issuer, the amount of bonds issued under the
38 classifications of qualified private activity bonds set forth in section
39 **[141(d)(1)] 146** of the Code and tax-credit bonds and tax-subsidy
40 bonds under any other applicable section of the Code, a description
41 of the nature of each bond issuance under the State volume cap and
42 the private business use 'if any' applicable to the bonds, and any
43 elective carryforward and reallocation and the use and purposes
44 thereof; and

45 d. A statement of guidelines, terms and conditions, and
46 procedures established by any department of State Government or
47 issuer promulgated under the authority of section 4 of this act and

S2020 [1R] CODEY

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1 under the authority of any executive action taken thereunder, and
2 any action concerning the allocation of the [annual] State volume
3 cap or any carryforward that is an exception or deviation from the
4 standard guidelines, terms and conditions, and procedures.

5 The Governor shall also submit to the Legislature in writing, as
6 soon as is possible, any modification or revocation of an allocation
7 procedure or formula established pursuant to section 4 of this act.

8 (cf: P.L.1987, c.393, s.5)

9

10 7. This act shall take effect immediately.

1 cap or any carryforward that is an exception or deviation from the
2 standard guidelines, terms and conditions, and procedures.

3 The Governor shall also submit to the Legislature in writing, as
4 soon as is possible, any modification or revocation of an allocation
5 procedure or formula established pursuant to section 4 of this act.

6 (cf: P.L.1987, c.393, s.5)

7

8 7. This act shall take effect immediately.

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SPONSOR'S STATEMENT

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This bill provides authority for the Department of the Treasury to allocate the State's annual bond volume limits on certain bonds in accordance with the federal American Recovery and Reinvestment Act of 2009 (the "ARRA"). This is the same method established by State law in 1987 for allocating the State's volume cap on private activity bonds and the private activity portion of governmental bonds within the State in accordance with provisions of the federal Internal Revenue Code.

The federal ARRA provides new and expanded bonding authority for State and local governments including "Build America Bonds," "Recovery Zone Facility Bonds," "Recovery Zone Economic Development Bonds," "Qualified School Construction Bonds," "Qualified Zone Academy Bonds" and "Qualified Energy Conservation Bonds." The federal Internal Revenue Service has recently issued guidance on the procedures for issuance of these bonds and the state-by-state amounts allowed to be issued under the national limits established for specific years under the ARRA. Because several issuing State agencies and local governments and school districts are able to issue bonds under the State limits, the New Jersey Department of the Treasury is provided the authority to coordinate the allocation of the State's bond volume cap under the various bond provisions of the federal Internal Revenue Code affecting government issued bonds as modified by the ARRA.

SENATE BUDGET AND APPROPRIATIONS COMMITTEE

STATEMENT TO

SENATE, No. 2020

with committee amendments

STATE OF NEW JERSEY

DATED: JUNE 15, 2009

The Senate Budget and Appropriations Committee reports favorably Senate Bill No. 2020, with committee amendments.

This bill, as amended by the committee, provides authority for the Department of the Treasury to allocate the State's annual bond volume limits on certain bonds in accordance with the federal American Recovery and Reinvestment Act of 2009 (the "ARRA"). This is the same method established by State law in 1987 for allocating the State's volume cap on private activity bonds and the private activity portion of governmental bonds within the State in accordance with provisions of the federal Internal Revenue Code.

The federal ARRA provides new and expanded bonding authority for State and local governments including "Build America Bonds," "Recovery Zone Facility Bonds," "Recovery Zone Economic Development Bonds," "Qualified School Construction Bonds," "Qualified Zone Academy Bonds" and "Qualified Energy Conservation Bonds." The federal Internal Revenue Service has recently issued guidance on the procedures for issuance of these bonds and the state-by-state amounts allowed to be issued under the national limits established for specific years under the ARRA. Because several issuing State agencies and local governments and school districts are able to issue bonds under the State limits, the New Jersey Department of the Treasury is provided the authority to coordinate the allocation of the State's bond volume cap under the various bond provisions of the federal Internal Revenue Code affecting government issued bonds as modified by the ARRA.

COMMITTEE AMENDMENTS:

The committee amendment clarifies the annual reporting required for the private business uses of bonds that are issued under the annual State volume cap allocation.

FISCAL IMPACT:

This bill was not certified as requiring a fiscal note.

1 any action concerning the allocation of the [annual] State volume
2 cap or any carryforward that is an exception or deviation from the
3 standard guidelines, terms and conditions, and procedures.

4 The Governor shall also submit to the Legislature in writing, as
5 soon as is possible, any modification or revocation of an allocation
6 procedure or formula established pursuant to section 4 of this act.

7 (cf: P.L.1987, c.393, s.5)

8

9 7. This act shall take effect immediately.

10

11

12 *SPONSOR'S* STATEMENT

13

14 This bill provides authority for the Department of the Treasury to
15 allocate the State's annual bond volume limits on certain bonds in
16 accordance with the federal American Recovery and Reinvestment
17 Act of 2009 (the "ARRA"). This is the same method established by
18 State law in 1987 for allocating the State's volume cap on private
19 activity bonds and the private activity portion of governmental
20 bonds within the State in accordance with provisions of the federal
21 Internal Revenue Code.

22 The federal ARRA provides new and expanded bonding
23 authority for State and local governments including "Build America
24 Bonds," "Recovery Zone Facility Bonds," "Recovery Zone
25 Economic Development Bonds," "Qualified School Construction
26 Bonds," "Qualified Zone Academy Bonds" and "Qualified Energy
27 Conservation Bonds." The federal Internal Revenue Service has
28 recently issued guidance on the procedures for issuance of these
29 bonds and the state-by-state amounts allowed to be issued under the
30 national limits established for specific years under the ARRA.
31 Because several issuing State agencies and local governments and
32 school districts are able to issue bonds under the State limits, the
33 New Jersey Department of the Treasury is provided the authority to
34 coordinate the allocation of the State's bond volume cap under the
35 various bond provisions of the federal Internal Revenue Code
36 affecting government issued bonds as modified by the ARRA.

ASSEMBLY BUDGET COMMITTEE

STATEMENT TO

ASSEMBLY, No. 4109

with Assembly committee amendments

STATE OF NEW JERSEY

DATED: JUNE 15, 2009

The Assembly Budget Committee reports favorably Assembly Bill No. 4109, with committee amendments.

The bill, as amended, provides authority for the Department of the Treasury to allocate the State's annual bond volume limits on certain bonds in accordance with the federal American Recovery and Reinvestment Act of 2009 (the "ARRA"). This is the same method established by State law in 1987 for allocating the State's volume cap on private activity bonds and the private activity portion of governmental bonds within the State in accordance with provisions of the federal Internal Revenue Code.

The federal ARRA provides new and expanded bonding authority for State and local governments including "Build America Bonds," "Recovery Zone Facility Bonds," "Recovery Zone Economic Development Bonds," "Qualified School Construction Bonds," "Qualified Zone Academy Bonds" and "Qualified Energy Conservation Bonds." The federal Internal Revenue Service has recently issued guidance on the procedures for issuance of these bonds and the state-by-state amounts allowed to be issued under the national limits established for specific years under the ARRA. Because several issuing State agencies and local governments and school districts are able to issue bonds under the State limits, the New Jersey Department of the Treasury is provided the authority to coordinate the allocation of the State's bond volume cap under the various bond provisions of the federal Internal Revenue Code affecting government issued bonds as modified by the ARRA.

FISCAL IMPACT:

This bill is not certified as requiring a fiscal note.

COMMITTEE AMENDMENTS:

The committee amendment clarifies the annual reporting required for the private business uses of bonds that are issued under the annual State volume cap allocation.



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JON S. CORZINE
Governor

For Immediate Release:
Date: June 29, 2009

For More Information:
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Governor Corzine Signs \$29 Billion State Budget That Reflects Ethic of Shared Responsibility

Amid deep national recession, FY2010 budget makes the right choices: It prioritizes education, health care and seniors at the same time it provides unprecedented relief from property taxes to all New Jerseyans and direct tax rebates to 1 million working families.

TRENTON – Governor Jon S. Corzine today signed legislation adopting a \$29 billion budget for FY2010 that is \$1.8 billion less than the first budget he signed four years ago.

"For over six decades, New Jersey Governors and Legislators have talked about the need to make state government leaner," Governor Corzine said. "But for over six decades, the size and cost have government have continued to grow – until now. The budget I signed is \$1.8 billion smaller than the first budget I signed in 2006 and is \$4 billion smaller than last year's budget, yet we have expanded my administration's unequalled investment in direct property tax relief for working families – \$7 billion in four years. We have proven that government can do more with less."

The bare-bones appropriations act (A-4100/S-2010) is an unprecedented reduction in the size of State government. Every department, agency and authority was ordered to make cuts. There were more than 850 line items eliminated or reduced – everything from \$300 million saved by renegotiating state worker union contracts to cutting up gas cards to consolidating office space and reducing the number of cars in the state motor pool.

Scarce resources presented tough choices, but the governor and Democratic lawmakers prioritized funding for education, health care and senior citizens. The budget also provides much-needed property tax relief for homeowners, including 1 million who will receive direct relief through rebate checks of as much as \$900 per household.

"Today, we can be proud of a budget that honors our commitment to our children, seniors, and the most vulnerable," Governor Corzine said. "It's a budget that protects the working-class taxpayer and one which asks a little more of those who can afford it. This budget reflects an ethic of shared responsibility."

The Governor thanked Democratic leaders in the Senate and the General Assembly for their efforts in holding public hearings and securing passage of the final spending plan.

"Everyone involved in crafting this year's budget should be commended for the level of civility and cooperation employed in a year that could have easily devolved into chaos," said Senate President Richard J. Codey (D-Essex). "Instead, what we have is a budget that is \$4 billion leaner, yet still provides vital services to our residents, and is being signed into law well before our deadline."

"We have always said that we would seek to provide as much property tax relief as possible, and this budget honors that commitment to put property taxpayers first," said Assembly Speaker Joseph J. Roberts, Jr. (D-Camden).

"Even with historic cuts, this budget focuses on our core mission as a state – educating our children, improving public health, keeping residents safe and providing vital property tax relief to middle-class families," said Assemblyman Louis Greenwald (D-Camden), chairman of the Assembly Budget Committee. "As other states continue to make unconscionable cuts to their residents' core values, we continue to strengthen ours."

More Information

Ten Good Things in the FY2010 Budget

Video: What's in the FY2010 Budget?

FY2010 Budget Documents

Governor Recommends Restoration of Property Tax Relief

The Governor earlier signed other budget related measures including:

- A-4101/S-2011 (Greenwald/Buono) – Makes FY 2009 supplemental appropriations totaling \$20,768,000 reduces FY 2009 appropriations by \$27,500,000 and amends and supplements various language provisions affecting appropriations in FY 2009
- A-4102/S-2015 (Watson Coleman/Buono) – Temporarily increases income tax rates for taxpayers with income exceeding \$400,000, temporarily adjusts property tax deduction for certain taxpayers with income exceeding \$150,000 and taxes New Jersey Lottery Prizes exceeding \$10,000
- A-4103/S-2012 (Diegnan/Codey) – Raises cigarette tax rate from \$2.575 to \$2.70 per pack and dedicates additional revenue to the Health Care Subsidy Fund
- A-4104/S-2013 (Wisniewski/Weinberg) – Increase tax rates on liquor and wines, vermouth, sparkling wines and hard cider and dedicates additional revenue to the Health Care Subsidy Fund
- A-4105/S-2014 (Pou, Evans/Sweeney) – Provides one year extension of 4% surcharge on corporation business tax liability and decouples corporation business tax from federal Internal Revenue Code deferral of certain discharge of indebtedness income
- A-4106/S-2018 (Green, Jasey/Sweeney) – Directs NJHMFA to transfer up to \$12 million in unencumbered reserves to the State for rental assistance program and makes appropriation
- A-4107/S-2017 (Quigley, Chivukula, Coutinho/Sweeney) – Directs EDA to transfer up to \$22 million in unencumbered reserves to qualifying capital investment grant component of InvestNJ Business Grant Program
- A-4108/S-2016 (Cryan, Coutinho/Sweeney) – Concerns taxation of certain lines of insurance and dedicates certain additional revenues to the Health Care Subsidy Fund
- S-2020/S-A-4109 (Codey/McKeon, Chivukula) – Provides for the allocation of the State's annual bond volume limits on certain bonds in accordance with the federal American Recovery and Reinvestment Act of 2009
- A-3973/S-2797 (McKeon, Gusciora/Beach, O'Toole) – Appropriates funds to DEP for clean water environmental infrastructure projects

Budget charts can be viewed on the New Jersey State Treasury web page,
<http://www.state.nj.us/treasury/omb/publications/10budget/index.shtml>

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