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RWH/JA

P.L.2016, CHAPTER 51, *approved September 7, 2016*
Senate Committee Substitute for
Senate, No. 2041

1 **AN ACT** concerning tax credits under the Economic Redevelopment
2 and Growth Grant program, and amending P.L.2009, c.90.

3
4 **BE IT ENACTED** *by the Senate and General Assembly of the State*
5 *of New Jersey:*

6
7 1. Section 6 of P.L.2009, c.90 (C.52:27D-489f) is amended to
8 read as follows:

9 6. a. Up to the limits established in subsection b. of this section
10 and in accordance with a redevelopment incentive grant agreement,
11 beginning upon the receipt of occupancy permits for any portion of
12 the redevelopment project, or upon any other event evidencing
13 project completion as set forth in the incentive grant agreement, the
14 State Treasurer shall pay to the developer incremental State
15 revenues directly realized from businesses operating at the site of
16 the redevelopment project from the following taxes: the Corporation
17 Business Tax Act (1945), P.L.1945, c.162 (C.54:10A-1 et seq.), the
18 tax imposed on marine insurance companies pursuant to R.S.54:16-
19 1 et seq., the tax imposed on insurers generally, pursuant to
20 P.L.1945, c.132 (C.54:18A-1 et seq.), the public utility franchise
21 tax, public utilities gross receipts tax and public utility excise tax
22 imposed on sewerage and water corporations pursuant to P.L.1940,
23 c.5 (C.54:30A-49 et seq.), those tariffs and charges imposed by
24 electric, natural gas, telecommunications, water and sewage
25 utilities, and cable television companies under the jurisdiction of
26 the New Jersey Board of Public Utilities, or comparable entity,
27 except for those tariffs, fees, or taxes related to societal benefits
28 charges assessed pursuant to section 12 of P.L.1999, c.23 (C.48:3-
29 60), any charges paid for compliance with the "Global Warming
30 Response Act," P.L.2007, c.112 (C.26:2C-37 et seq.), transitional
31 energy facility assessment unit taxes paid pursuant to section 67 of
32 P.L.1997, c.162 (C.48:2-21.34), and the sales and use taxes on
33 public utility and cable television services and commodities, the tax
34 derived from net profits from business, a distributive share of
35 partnership income, or a pro rata share of S corporation income
36 under the "New Jersey Gross Income Tax Act," N.J.S.54A:1-1 et
37 seq., the tax derived from a business at the site of a redevelopment
38 project that is required to collect the tax pursuant to the "Sales and
39 Use Tax Act," P.L.1966, c.30 (C.54:32B-1 et seq.), the tax imposed
40 pursuant to P.L.1966, c.30 (C.54:32B-1 et seq.) from the purchase
41 of furniture, fixtures and equipment, or materials for the
42 remediation, the construction of new structures at the site of a

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

Matter underlined thus is new matter.

1 redevelopment project, the hotel and motel occupancy fee imposed
2 pursuant to section 1 of P.L.2003, c.114 (C.54:32D-1), or the
3 portion of the fee imposed pursuant to section 3 of P.L.1968, c.49
4 (C.46:15-7) derived from the sale of real property at the site of the
5 redevelopment project and paid to the State Treasurer for use by the
6 State, that is not credited to the "Shore Protection Fund" or the
7 "Neighborhood Preservation Nonlapsing Revolving Fund" ("New
8 Jersey Affordable Housing Trust Fund") pursuant to section 4 of
9 P.L.1968, c.49 (C.46:15-8). Any developer shall be allowed to
10 assign their ability to apply for the tax credit under this subsection
11 to a non-profit organization with a mission dedicated to attracting
12 investment and completing development and redevelopment
13 projects in a Garden State Growth Zone. The non-profit
14 organization may make an application on behalf of a developer
15 which meets the requirements for the tax credit, or a group of non-
16 qualifying developers, such that these will be considered a unified
17 project for the purposes of the incentives provided under this
18 section.

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

23 (2) In the case of a qualified residential project or a project
24 involving university infrastructure, if the authority determines that
25 the estimated amount of incremental revenues pledged towards the
26 State portion of an incentive grant is inadequate to fully fund the
27 amount of the State portion of the incentive grant, then in lieu of an
28 incentive grant based on the incremental revenues, the developer
29 shall be awarded tax credits equal to the full amount of the
30 incentive grant.

31 (3) In the case of a mixed use parking project, if the authority
32 determines that the estimated amount of incremental revenues
33 pledged towards the State portion of an incentive grant is
34 inadequate to fully fund the amount of the State portion of the
35 incentive grant, then, in lieu of an incentive grant based on the
36 incremental revenues, the developer shall be awarded tax credits
37 equal to the full amount of the incentive grant.

38 The value of all credits approved by the authority pursuant to
39 paragraphs (2) and (3) of this subsection shall not exceed
40 **[\$628,000,000] \$718,000,000**, of which:

41 (a) \$250,000,000 shall be restricted to qualified residential
42 projects within Atlantic, Burlington, Camden, Cape May,
43 Cumberland, Gloucester, Ocean, and Salem counties, of which
44 \$175,000,000 of the credits shall be restricted to the following
45 categories of projects: (i) qualified residential projects located in a
46 Garden State Growth Zone located within the aforementioned
47 counties; and (ii) mixed use parking projects located in a Garden
48 State Growth Zone or urban transit hub located within the

1 aforementioned counties; (iii) and \$75,000,000 of the credits shall
2 be restricted to qualified residential projects in municipalities with a
3 2007 Municipal Revitalization Index of 400 or higher as of the date
4 of enactment of the "New Jersey Economic Opportunity Act of
5 2013," P.L.2013, c.161 (C.52:27D-489p et al.) and located within
6 the aforementioned counties;

7 (b) ~~【\$250,000,000】~~ \$290,000,000 shall be restricted to the
8 following categories of projects: (i) qualified residential projects
9 located in urban transit hubs that are commuter rail in nature that
10 otherwise do not qualify under subparagraph (a) of this paragraph;
11 (ii) qualified residential projects located in Garden State Growth
12 Zones that do not qualify under subparagraph (a) of this paragraph;
13 (iii) mixed use parking projects located in urban transit hubs or
14 Garden State Growth Zones that do not qualify under subparagraph
15 (a) of this paragraph, provided however, an urban transit hub shall
16 be allocated no more than \$25,000,000 for mixed use parking
17 projects; (iv) qualified residential projects which are disaster
18 recovery projects that otherwise do not qualify under subparagraph
19 (a) of this paragraph; **【and】** (v) qualified residential projects in
20 SDA municipalities located in Hudson County that were awarded
21 State Aid in State Fiscal Year 2013 through the Transitional Aid to
22 Localities program and otherwise do not qualify under
23 subparagraph (a) of this paragraph **【and】** ; (vi) \$25,000,000 of
24 credits shall be restricted to mixed use parking projects in Garden
25 State Growth Zones which have a population in excess of 125,000
26 and do not qualify under subparagraph (a) of this paragraph; and
27 (vii) \$40,000,000 of credits shall be restricted to qualified
28 residential projects that include a theater venue for the performing
29 arts and do not qualify under subparagraph (a) of this paragraph,
30 which projects are located in a municipality with a population of
31 less than 100,000 according to the latest federal decennial census,
32 and within which municipality is located an urban transit hub and a
33 campus of a public research university, as defined in section 1 of
34 P.L.2009, c.308 (C.18A:3B-46);

35 (c) \$87,000,000 shall be restricted to the following categories of
36 projects: (i) qualified residential projects located in distressed
37 municipalities, deep poverty pockets, highlands development credit
38 receiving areas or redevelopment areas, otherwise not qualifying
39 pursuant to subparagraph (a) or (b) of this paragraph; and (ii) mixed
40 use parking projects that do not qualify under subparagraph (a) or
41 (b) of this paragraph, and which are used by an independent
42 institution of higher education, a school of medicine, a nonprofit
43 hospital system, or any combination thereof; provided, however,
44 that \$20,000,000 of the \$87,000,000 shall be allocated to mixed use
45 parking projects that do not qualify under subparagraph (a) or (b) of
46 this paragraph;

47 (d) (i) \$16,000,000 shall be restricted to qualified residential
48 projects that are located within a qualifying economic

1 redevelopment and growth grant incentive area otherwise not
2 qualifying under subparagraph (a), (b), or (c) of this paragraph; and
3 (ii) an additional \$50,000,000 shall be restricted to qualified
4 residential projects which, as of the effective date of P.L. _____,
5 c. _____ (pending before the Legislature as this bill), are located in a
6 city of the first class with a population in excess of 270,000, are
7 subject to a Renewal Contract for a Section 8 Mark-Up-To-Market
8 Project from the United States Department of Housing and Urban
9 Development, and for which an application for the award of tax
10 credits under this subsection was submitted prior to January 1,
11 2016; and

12 (e) \$25,000,000 shall be restricted to projects involving
13 university infrastructure.

14 (f) For subparagraphs (a) through (d) of this paragraph, not
15 more than \$40,000,000 of credits shall be awarded to any qualified
16 residential project in a deep poverty pocket or distressed
17 municipality and not more than \$20,000,000 of credits shall be
18 awarded to any other qualified residential project. The developer of
19 a qualified residential project seeking an award of credits towards
20 the funding of its incentive grant shall submit an incentive grant
21 application prior to July 1, 2016 and if approved after September
22 18, 2013, the effective date of P.L.2013, c.161 (C.52:27D-489p et
23 al.) shall submit a temporary certificate of occupancy for the project
24 no later than July 28, 2019. The developer of a mixed use parking
25 project seeking an award of credits towards the funding of its
26 incentive grant pursuant to subparagraph (c) of this paragraph and if
27 approved after the effective date of P.L.2015, c.217, shall submit a
28 temporary certificate of occupancy for the project no later than July
29 28, 2021. Applications for tax credits pursuant to this subsection
30 relating to an ancillary infrastructure project or infrastructure
31 improvement in the public right-of-way, or both, shall be
32 accompanied with a letter of support relating to the project or
33 improvement by the governing body or agency in which the project
34 is located. Credits awarded to a developer pursuant to this
35 subsection shall be subject to the same financial and related analysis
36 by the authority, the same term of the grant, and the same
37 mechanism for administering the credits, and shall be utilized or
38 transferred by the developer as if the credits had been awarded to
39 the developer pursuant to section 35 of P.L.2009, c.90 (C.34:1B-
40 209.3) for qualified residential projects thereunder. No portion of
41 the revenues pledged pursuant to the "New Jersey Economic
42 Opportunity Act of 2013," P.L.2013, c.161 (C.52:27D-489p et al.)
43 shall be subject to withholding or retainage for adjustment, in the
44 event the developer or taxpayer waives its rights to claim a refund
45 thereof.

46 (4) A developer may apply to the Director of the Division of
47 Taxation in the Department of the Treasury and the chief executive
48 officer of the authority for a tax credit transfer certificate, if the

1 developer is awarded a tax credit pursuant to paragraph (2) or
2 paragraph (3) of this subsection, covering one or more years, in lieu
3 of the developer being allowed any amount of the credit against the
4 tax liability of the developer. The tax credit transfer certificate,
5 upon receipt thereof by the developer from the director and the
6 chief executive officer of the authority, may be sold or assigned, in
7 full or in part, to any other person who may have a tax liability
8 pursuant to section 5 of P.L.1945, c.162 (C.54:10A-5), sections 2
9 and 3 of P.L.1945, c.132 (C.54:18A-2 and C.54:18A-3), section 1
10 of P.L.1950, c.231 (C.17:32-15), or N.J.S.17B:23-5. The certificate
11 provided to the developer shall include a statement waiving the
12 developer's right to claim that amount of the credit against the taxes
13 that the developer has elected to sell or assign. The sale or
14 assignment of any amount of a tax credit transfer certificate allowed
15 under this paragraph shall not be exchanged for consideration
16 received by the developer of less than 75 percent of the transferred
17 credit amount before considering any further discounting to present
18 value that may be permitted. Any amount of a tax credit transfer
19 certificate used by a purchaser or assignee against a tax liability
20 shall be subject to the same limitations and conditions that apply to
21 the use of the credit by the developer who originally applied for and
22 was allowed the credit.

23 c. All administrative costs associated with the incentive grant
24 shall be assessed to the applicant and be retained by the State
25 Treasurer from the annual incentive grant payments.

26 d. The incremental revenue for the revenues listed in
27 subsection a. of this section shall be calculated as the difference
28 between the amount collected in any fiscal year from any eligible
29 revenue source included in the State redevelopment incentive grant
30 agreement, less the revenue increment base for that eligible
31 revenue.

32 e. The municipality is authorized to collect any information
33 necessary to facilitate grants under this program and remit that
34 information in order to assist in the calculation of incremental
35 revenue.

36 (cf: P.L.2015, c.252, s.3)

37

38 2. This act shall take effect immediately.

39

40

41

42

43 _____
44 Authorizes additional \$90 million worth of Economic
Redevelopment and Growth Grant program tax credits.

SENATE, No. 2041

STATE OF NEW JERSEY
217th LEGISLATURE

INTRODUCED APRIL 18, 2016

Sponsored by:

Senator RONALD L. RICE

District 28 (Essex)

Senator BOB SMITH

District 17 (Middlesex and Somerset)

SYNOPSIS

Authorizes additional \$90 million worth of Economic Redevelopment and Growth Grant program tax credits and reconciles simultaneous legislative enactments to clarify current law governing that program.

CURRENT VERSION OF TEXT

As introduced.



1 AN ACT concerning tax credits under the Economic Redevelopment
2 and Growth Grant program, amending P.L.2009, c.90, and
3 reconciling provisions of P.L.2015, c.217, P.L.2015, c.242, and
4 P.L.2015, c.252.

5

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

8

9 1. Section 6 of P.L.2009, c.90 (C.52:27D-489f) is amended to
10 read as follows:

11 6. a. Up to the limits established in subsection b. of this
12 section and in accordance with a redevelopment incentive grant
13 agreement, beginning upon the receipt of occupancy permits for any
14 portion of the redevelopment project, or upon **such** any other
15 event evidencing project completion as set forth in the incentive
16 grant agreement, the State Treasurer shall pay to the developer
17 incremental State revenues directly realized from businesses
18 operating **on or** at the site of the redevelopment project from the
19 following taxes: the Corporation Business Tax Act (1945),
20 P.L.1945, c.162 (C.54:10A-1 et seq.), the tax imposed on marine
21 insurance companies pursuant to R.S.54:16-1 et seq., the tax
22 imposed on insurers generally, pursuant to P.L.1945, c.132
23 (C.54:18A-1 et seq.), the public utility franchise tax, public utilities
24 gross receipts tax and public utility excise tax imposed on sewerage
25 and water corporations pursuant to P.L.1940, c.5 (C.54:30A-49 et
26 seq.), those tariffs and charges imposed by electric, natural gas,
27 telecommunications, water and sewage utilities, and cable television
28 companies under the jurisdiction of the New Jersey Board of
29 Utilities, or comparable entity, except for those tariffs, fees, or taxes
30 related to societal benefits charges assessed pursuant to section 12
31 of P.L.1999, c.23 (C.48:3-60), any charges paid for compliance
32 with the "Global Warming Response Act," P.L.2007, c.112
33 (C.26:2C-37 et seq.), transitional energy facility assessment unit
34 taxes paid pursuant to section 67 of P.L.1997, c.162 (C.48:2-21.34),
35 and the sales and use taxes on public utility and cable television
36 services and commodities, the tax derived from net profits from
37 business, a distributive share of partnership income, or a pro rata
38 share of S corporation income under the "New Jersey Gross Income
39 Tax Act," N.J.S.54A:1-1 et seq., the tax derived from a business at
40 the site of a redevelopment project that is required to collect the tax
41 pursuant to the "Sales and Use Tax Act," P.L.1966, c.30 (C.54:32B-
42 1 et seq.), the tax imposed pursuant to P.L.1966, c.30 (C.54:32B-1
43 et seq.) from the purchase of furniture, fixtures and equipment, or
44 materials for the remediation, the construction of new structures at
45 the site of a redevelopment project, the hotel and motel occupancy

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

Matter underlined thus is new matter.

1 fee imposed pursuant to section 1 of P.L.2003, c.114 (C.54:32D-1),
2 or the portion of the fee imposed pursuant to section 3 of P.L.1968,
3 c.49 (C.46:15-7) derived from the sale of real property at the site of
4 the redevelopment project and paid to the State Treasurer for use by
5 the State, that is not credited to the "Shore Protection Fund" or the
6 "Neighborhood Preservation Nonlapsing Revolving Fund" ("New
7 Jersey Affordable Housing Trust Fund") pursuant to section 4 of
8 P.L.1968, c.49 (C.46:15-8). Any developer shall be allowed to
9 assign their ability to apply for the tax credit under this subsection
10 to a non-profit organization with a mission dedicated to attracting
11 investment and completing development and redevelopment
12 projects in a Garden State Growth Zone. The non-profit
13 organization may make an application on behalf of a developer
14 which meets the requirements for the tax credit, or a group of non-
15 qualifying developers, such that these will be considered a unified
16 project for the purposes of the incentives provided under this
17 section.

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

22 (2) In the case of a qualified residential project or a project
23 involving university infrastructure, if the authority determines that
24 the estimated amount of incremental revenues pledged towards the
25 State portion of an incentive grant is inadequate to fully fund the
26 amount of the State portion of the incentive grant, then in lieu of an
27 incentive grant based on **[such]** incremental **[revenue]** revenues,
28 the developer shall be awarded tax credits equal to the full amount
29 of the incentive grant.

30 (3) In the case of a mixed use parking project, if the authority
31 determines that the estimated amount of **[the]** incremental revenues
32 pledged towards the State portion of an incentive grant is
33 inadequate to fully fund the amount of the State portion of the
34 incentive grant, then, in lieu of an incentive grant based on **[such]**
35 incremental **[revenue]** revenues, **[a municipal redeveloper]** the
36 developer shall be awarded tax credits equal to the full amount of
37 the incentive grant.

38 The value of all credits approved by the authority pursuant to
39 **[paragraph]** paragraphs (2) **[or]** and (3) of this **[paragraph]**
40 subsection shall not exceed **[\$600,000,000]** \$718,000,000, of
41 which:

42 (a) \$250,000,000 shall be restricted to qualified residential
43 projects within Atlantic, Burlington, Camden, Cape May,
44 Cumberland, Gloucester, Ocean, and Salem counties, of which
45 \$175,000,000 of credits shall be restricted to the following
46 categories of projects: (i) qualified residential projects located in a
47 Garden State Growth Zone located within the aforementioned
48 counties **[,];** and (ii) mixed use parking projects located in a

1 Garden State Growth Zone or urban transit hub located within the
2 aforementioned counties **[.];** and \$75,000,000 of credits shall be
3 restricted to qualified residential projects in municipalities with a
4 2007 Municipal Revitalization Index of 400 or higher as of the date
5 of enactment of the "New Jersey Economic Opportunity Act of
6 2013," P.L.2013, c.161 (C.52:27D-489p et al.) and located within
7 the aforementioned counties;

8 (b) **[\$250,000,000]** \$290,000,000 shall be restricted to the
9 following categories of projects: (i) qualified residential projects
10 located in urban transit hubs that are commuter rail in nature that
11 otherwise do not qualify under subparagraph (a) of this paragraph
12 **[.];** (ii) qualified residential projects located in Garden State
13 Growth Zones that do not qualify under subparagraph (a) of this
14 paragraph **[.];** (iii) mixed use parking projects located in urban
15 transit hubs or Garden State Growth Zones that do not qualify under
16 subparagraph (a) of this paragraph, provided however, an urban
17 transit hub shall be allocated no more than \$25,000,000 for mixed
18 use parking projects **[.];** (iv) qualified residential projects which
19 are disaster recovery projects that otherwise do not qualify under
20 subparagraph (a) of this paragraph **[, and];** (v) qualified residential
21 projects in SDA municipalities located in Hudson County that were
22 awarded State Aid in State Fiscal Year 2013 through the
23 Transitional Aid to Localities program and otherwise do not qualify
24 under subparagraph (a) of this paragraph **[, and];** (vi) \$25,000,000
25 of credits shall be restricted to mixed use parking projects in
26 Garden State Growth Zones which have a population in excess of
27 125,000 and do not qualify under subparagraph (a) of this
28 paragraph; and (vii) \$40,000,000 of credits shall be restricted to
29 qualified residential projects that include a theater venue for the
30 performing arts and do not qualify under subparagraph (a) of this
31 paragraph, which projects are located in a municipality with a
32 population of less than 100,000 according to the latest federal
33 decennial census, and within which municipality is located an urban
34 transit hub and a campus of a public research university, as defined
35 in section 1 of P.L.2009, c.308 (C.18A:3B-46);

36 (c) **[\$75,000,000]** \$87,000,000 shall be restricted to the
37 following categories of projects: (i) qualified residential projects
38 located in distressed municipalities, deep poverty pockets,
39 highlands development credit receiving areas or redevelopment
40 areas, otherwise not qualifying pursuant to subparagraph (a) or (b)
41 of this paragraph **[.];** and (ii) mixed use parking projects that do not
42 qualify under subparagraph (a) or (b) of this paragraph, **[which**
43 **include a vacant commercial building located wholly or partially**
44 **within a distressed municipality,]** and which are used by an
45 independent institution of higher education, a school of medicine, a
46 nonprofit hospital system, or any combination thereof; provided,
47 however, that \$20,000,000 of the \$87,000,000 shall be allocated to

1 mixed used parking projects that do not qualify under subparagraph
2 (a) or (b) of this paragraph; [and]
3 (d) **[\$25,000,000]** (i) \$16,000,000 shall be restricted to
4 qualified residential projects that are located within a qualifying
5 economic redevelopment and growth grant incentive area otherwise
6 not qualifying under subparagraph (a), (b), or (c) of this paragraph;
7 and
8 (ii) an additional \$50,000,000 shall be restricted to qualified
9 residential projects which, as of the effective date of P.L. _____,
10 c. _____ (pending before the Legislature as this bill), are located in a
11 city of the first class with a population in excess of 270,000, are
12 subject to a Renewal Contract for a Section 8 Mark-Up-To-Market
13 Project from the United States Department of Housing and Urban
14 Development, and for which an application for the award of tax
15 credits under this subsection was submitted prior to January 1,
16 2016; and
17 (e) \$25,000,000 shall be restricted to projects involving
18 university infrastructure.
19 (f) For subparagraphs (a) through (d) of this paragraph, not
20 more than \$40,000,000 of credits shall be awarded to any qualified
21 residential project in a deep poverty pocket or distressed
22 municipality and not more than \$20,000,000 of credits shall be
23 awarded to any other qualified residential project. The developer of
24 a qualified residential project seeking an award of credits towards
25 the funding of its incentive grant shall submit an incentive grant
26 application prior to July 1, 2016 and if approved after September
27 18, 2013, the effective date of P.L.2013, c.161 (C.52:27D-489p et
28 al.) shall submit a temporary certificate of occupancy for **[such]** the
29 project no later than July 28, [2018] 2019. The developer of a
30 mixed use parking project seeking an award of credits towards the
31 funding of its incentive grant pursuant to subparagraph (c) of this
32 paragraph and if approved after the effective date of P.L. _____,
33 c. _____ (pending before the Legislature as this bill), shall submit a
34 temporary certificate of occupancy for the project no later than July
35 28, 2021. Applications for tax credits pursuant to this subsection
36 relating to an ancillary infrastructure project or infrastructure
37 improvement in the public **[right of way]** right-of-way, or both,
38 shall be accompanied with a letter of support relating to the project
39 or improvement by the governing body or agency in which the
40 project is located. Credits awarded to a developer pursuant to this
41 subsection shall be subject to the same financial and related analysis
42 by the authority, the same term of the grant, and the same
43 mechanism for administering the credits, and shall be utilized or
44 transferred by the developer as if **[such]** the credits had been
45 awarded to the developer pursuant to section 35 of P.L.2009, c.90
46 (C.34:1B-209.3) for qualified residential projects thereunder. No
47 portion of the revenues pledged pursuant to the "New Jersey
48 Economic Opportunity Act of 2013," P.L.2013, c.161 (C.52:27D-

1 489p et al.) shall be subject to withholding or retainage for
2 adjustment, in the event the developer or taxpayer waives its rights
3 to claim a refund thereof.

4 (4) A developer may apply to the Director of the Division of
5 Taxation in the Department of the Treasury and the chief executive
6 officer of the authority for a tax credit transfer certificate, if the
7 developer is awarded a tax credit pursuant to paragraph (2) or
8 paragraph (3) of this subsection, covering one or more years, in lieu
9 of the developer being allowed any amount of the credit against the
10 tax liability of the developer. The tax credit transfer certificate,
11 upon receipt thereof by the developer from the director and the
12 chief executive officer of the authority, may be sold or assigned, in
13 full or in part, to any other person **[that]** who may have a tax
14 liability pursuant to section 5 of P.L.1945, c.162 (C.54:10A-5),
15 sections 2 and 3 of P.L.1945, c.132 (C.54:18A-2 and C.54:18A-3),
16 section 1 of P.L.1950, c.231 (C.17:32-15), or N.J.S.17B:23-5. The
17 certificate provided to the developer shall include a statement
18 waiving the developer's right to claim that amount of the credit
19 against the taxes that the developer has elected to sell or assign.
20 The sale or assignment of any amount of a tax credit transfer
21 certificate allowed under this paragraph shall not be exchanged for
22 consideration received by the developer of less than 75 percent of
23 the transferred credit amount before considering any further
24 discounting to present value that may be permitted. Any amount of
25 a tax credit transfer certificate used by a purchaser or assignee
26 against a tax liability shall be subject to the same limitations and
27 conditions that apply to the use of the credit by the developer who
28 originally applied for and was allowed the credit.

29 c. All administrative costs associated with the incentive grant
30 shall be assessed to the applicant and be retained by the State
31 Treasurer from the annual incentive grant payments.

32 d. The incremental revenue for the revenues listed in
33 subsection a. of this section shall be calculated as the difference
34 between the amount collected in any fiscal year from any eligible
35 revenue source included in the State redevelopment incentive grant
36 agreement, less the revenue increment base for that eligible
37 revenue.

38 e. The municipality is authorized to collect any **[and all]**
39 information necessary to facilitate grants under this program and
40 remit that information **[, as may be required from time to time,]** in
41 order to assist in the calculation of incremental revenue.

42 (cf: P.L.2015, c.69, s.2)

43

44 2. This act shall take effect immediately.

STATEMENT

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This bill would authorize the Economic Development Authority (EDA) to award an additional \$90 million worth of tax credits under the Economic Redevelopment and Growth Grant (ERGG) program and clarify section 6 of P.L.2009, c.90 (C.52:27D-489f) by reconciling three recent, nearly-simultaneous enactments of the 216th Legislature, each of which amended that section of law. Section 6 of P.L.2009, c.90 (C.52:27D-489f) imposes limits on the overall amount of tax credits the EDA may approve under the ERGG program, and allocates funding to specific geographic regions and categories of projects. Prior to the recent amendments to this statute, this provision of law limited the overall amount of tax credits that EDA may approve under the ERGG program to \$600 million.

P.L.2015, c.217, approved on January 11, 2016, increased the overall limit on the amount of tax credits that EDA may approve under the ERGG program from \$600 million to \$603 million, reallocated funding between two categories of projects, and increased the amount allocated to a specific category of projects. P.L.2015, c.242, approved on January 19, 2016, established a new project category (university infrastructure projects), allocated \$25 million worth of tax credits to that project category, and increased the overall “cap” on ERGG tax credits from \$600 million to \$625 million. P.L.2015, c.252 was also approved on January 19, 2016, however, it did not alter the funding allocations or overall program limit, leaving in place the \$600 million overall limitation.

This bill would increase the overall “cap” on the total value of tax credits that EDA may award under the ERGG program to \$718 million in order to accommodate the additional \$90 million worth of tax credits authorized under the bill, the \$3 million increase that was authorized by P.L.2015, c.217, and the \$25 million increase that was authorized by P.L.2015, c.242.

The bill restricts the additional \$90 million authorization of ERGG program tax credits to two specific categories of qualified residential projects:

- \$40 million worth of tax credits to projects within New Brunswick that include a theater venue for the performing arts; and
- \$50 million worth of tax credits to projects within Newark that are subject to a renewal contract for a Section 8 Mark-Up-To-Market Project from the United States Department of Housing and Urban Development, the developer of which applied for ERGG tax credits prior to January 1, 2016.

In order to reconcile the three recent amendments to section 6 of P.L.2009, c.90 (C.52:27D-489f), the text of the underlying section of law in the bill is as it appeared after enactment of P.L.2015, c.69, s.2, and changes to the underlying law from the three recent

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1 enactments are incorporated by using bold-faced brackets to
2 indicate omissions from the underlying law and underlines to
3 indicate new material. The bill also uses bold-faced brackets and
4 underlines to make new changes to the law. The bill makes a few
5 technical changes which were necessary to facilitate the
6 Legislature's intention to allow for the EDA to implement
7 P.L.2015, c.217, P.L.2015, c.242, and P.L.2015, c.252.

SENATE BUDGET AND APPROPRIATIONS COMMITTEE

STATEMENT TO

SENATE COMMITTEE SUBSTITUTE FOR **SENATE, No. 2041**

STATE OF NEW JERSEY

DATED: JUNE 6, 2016

The Senate Budget and Appropriations Committee reports favorably a Senate Committee Substitute for Senate Bill No. 2041.

This substitute bill authorizes the Economic Development Authority to award certain additional tax credits under the Economic Redevelopment and Growth (ERG) program, and increases the overall limit on the total value of all tax credits that may be awarded under the program to accommodate the additional tax credits authorized by the substitute.

Under current law, the authority is authorized to award ERG program tax credits for a percentage of total project costs that are incurred in connection with certain residential projects, projects involving university infrastructure, and mixed use parking projects. Current law limits the overall value of all tax credits that can be awarded under the program to not more than \$628 million, and allocates certain portions of the allowable tax credits to specific geographic regions and categories of eligible projects.

This substitute increases the current limit imposed on the overall value of all tax credits that can be awarded under the program to \$718 million, and authorizes the authority to award an additional \$90 million of tax credits. The substitute restricts the additional \$90 million of tax credits to two categories of residential projects:

- \$40 million worth of tax credits to projects within New Brunswick that include a theater venue for the performing arts; and
- \$50 million worth of tax credits to projects within Newark that are subject to a renewal contract for a Section 8 Mark-Up-To-Market Project from the United States Department of Housing and Urban Development, the developer of which applied for ERG program tax credits prior to January 1, 2016.

The substitute is scheduled to take effect immediately upon enactment.

FISCAL IMPACT:

The Office of Legislative Services (OLS) expects the substitute will produce a negative fiscal net impact of an indeterminate magnitude to the State. This expectation is due to the fact that the ERG program does not require eligible projects receiving tax credits to yield a net fiscal benefit to the State.

The inability of the OLS to quantify the substitute's fiscal net impact is the result of insufficient information regarding: the number and attributes of projects in New Brunswick and Newark that are likely to be awarded tax credits as a result of the substitute; and the potential State tax revenue that may be replaced by ERG program tax credit awards to projects in New Brunswick and Newark.

In general, the State fiscal net impact is calculated by adding the direct revenue loss from awarding up to \$90 million in ERG program tax credits to certain projects in New Brunswick and Newark and their indeterminate opportunity costs and subtracting from that sum the indeterminate indirect revenue gain that will accrue from additional economic activity the additional tax credit awards will catalyze.

The substitute may accrue an indeterminate revenue gain to affected local governments in the form of an indirect revenue gain from recipients of such tax credit awards spending amounts realized from incentives in New Jersey on goods and services that would not have been purchased absent the tax credit award.

LEGISLATIVE FISCAL ESTIMATE
SENATE COMMITTEE SUBSTITUTE FOR
SENATE, No. 2041
STATE OF NEW JERSEY
217th LEGISLATURE

DATED: JUNE 22, 2016

SUMMARY

- Synopsis:** Authorizes additional \$90 million worth of Economic Redevelopment and Growth Grant program tax credits and reconciles simultaneous legislative enactments to clarify current law governing that program.
- Type of Impact:** Potential negative fiscal net impact on State General Fund and Property Tax Relief Fund; potential revenue increase to affected local governments.
- Agencies Affected:** Department of the Treasury.
 New Jersey Economic Development Authority.
 Certain Local Governments.

Office of Legislative Services Estimate

Fiscal Impact	Multi-Year Lifespan of Tax Credit Awards
Direct <u>State</u> Revenue Loss	Up to \$90,000,000
Indirect <u>State</u> Revenue Gain	Indeterminate — See comments below
<u>State</u> Opportunity Cost	Indeterminate — See comments below
Indirect <u>Local</u> Revenue Gain	Indeterminate — See comments below

- The Office of Legislative Services (OLS) expects the bill to produce a negative fiscal net impact of indeterminate magnitude on the State, considering that the Economic Redevelopment and Growth Grant (ERG) tax credit program does not require tax credit-receiving projects to yield a net fiscal benefit to the State.
- The OLS’ inability to quantify the fiscal net impact is rooted in imperfect information regarding: a) the number and attributes of creditable projects in New Brunswick and Newark; and b) the State spending that may be crowded out by ERG tax credit awards to projects in New Brunswick and Newark.
- The State fiscal net impact is calculated by adding the direct revenue loss from awarding up to \$90 million in ERG tax credits to certain projects in New Brunswick (\$40 million worth of tax credits to qualified residential projects that include a theater) and Newark (\$50 million of

tax credits for certain housing projects) and their indeterminate opportunity costs (the fiscal benefits the State forgoes as spending is redirected from one economic activity to another) and subtracting from that sum the indeterminate indirect revenue gain that will accrue from additional economic activity that the additional incentive awards will catalyze.

- Affected local governments might accrue indirect revenue gain as a result of the bill's stimulus effects on the local economy. Specifically, a local government may realize enhanced local property tax collections from an incentive recipient investing the incentive amount in facility improvements, which then increases the property's value.

BILL DESCRIPTION

The Senate Committee Substitute for Senate Bill No. 2041 of 2016 authorizes up to \$90 million in ERG tax credits for two specific categories of qualified residential projects:

- \$40 million worth of tax credits to projects which: include a theater venue for performing arts; and are located within an urban transit hub municipality that hosts a campus of a public research university, is a distressed municipality, and does not have a Port Authority Trans-Hudson Corporation (PATH) rail station, Port Authority Transit Corporation (PATCO) rail station, or New Jersey Transit Corporation (NJT) light rail station. The city of New Brunswick meets these criteria.
- \$50 million worth of tax credits to projects which: are subject to a renewal contract for a Section 8 Mark-Up-To-Market Project from the United States Department of Housing and Urban Development; the developer of the projects has applied for an award of tax credits under the program; and are located in a city of the first class with a population in excess of 270,000. The city of Newark meets these criteria.

So as to accommodate the additional tax credits without adversely affecting previously created ERG tax credit program categories, the bill also raises the total ERG tax credit program cap from \$628 million to \$718 million.

The ERG tax credit awards are authorized for taxpayer use in up to ten equal annual installments following project completion, must close a project financing gap that otherwise would be likely to prevent a project's realization, and cannot exceed 30 percent of total project cost in conjunction with any municipal ERG award (or 40 percent in a Garden State Growth Zone municipality). The application deadline is July 1, 2016 and projects must obtain temporary certificates of occupancy by July 28, 2019. Projects receiving ERG tax credits are not required to generate fiscal benefits to the State in excess of the incentive amount.

FISCAL ANALYSIS

EXECUTIVE BRANCH

None received.

OFFICE OF LEGISLATIVE SERVICES

The OLS expects the bill to produce a negative fiscal net impact of indeterminate magnitude on the State and a potential revenue gain to affected local governments. Conceptually, the State fiscal net impact is calculated by adding the direct revenue loss from awarding additional incentive amounts and their opportunity costs (the fiscal benefits the State forgoes as spending is redirected from one economic activity to another) and subtracting from that sum the indirect revenue gain that will accrue from additional economic activity that the additional incentive amounts will catalyze.

Direct State Revenue Loss: The legislation's direct revenue loss to the State General Fund or Property Tax Relief Fund could be as high as \$90 million. The bill authorizes up to \$40 million in ERG tax credits to projects within New Brunswick which include a theater venue for the performing arts, and up to \$50 million in tax credits to projects within Newark that are subject to a renewal contract for a Section 8 Mark-Up-To-Market Project from the United States Department of Housing and Urban Development (the developer of which applied for ERG tax credits prior to January 1, 2016). Assuming maximization of these authorized credits, the bill would increase the ERG tax credit program cap by an equivalent amount from \$628 million to \$718 million.

Any revenue loss, however, will be a) temporally limited, as the EDA will only consider applications received before July 1, 2016; and b) spread out over several years, for tax credit awards are to be used in up to ten annual installments following project completion.

Indirect State and Local Revenue Gain: The OLS cannot quantify the legislation's indirect revenue gain to the State and local governments because of imperfect information on the number and attributes of creditable projects in New Brunswick and Newark. But, for reasons laid out below, the OLS anticipates the bill's indirect State and local government revenue gain to fall below its direct State revenue loss of up to \$90 million.

Analytical Framework: Like any government expenditure, economic development incentive awards inject new spending into the economy. Once businesses and individuals receive payments they would not receive absent the incentive awards, at least a portion of these payments will newly circulate in New Jersey's economy and produce so-called "multiplier effects." As the additional financial resources flow through the economy they generate, as a byproduct, additional State and local revenue collections—the indirect revenue gain discussed in this section. Examples are enhanced local property tax collections accruing when an incentive recipient invests the incentive amount in facility improvements, which then appreciate the property's value; or additional State sales and use tax collections from construction workers employed in the facility improvement spending their resultant income on taxable goods and services.

Indirect State fiscal effects offset the State's direct cost of awarding incentives in part or potentially even in whole. Fiscal "multiplier effects" tend to be maximized whenever an incentive award serves as the indispensable impetus for additional spending by the incentive recipient that would not otherwise occur. In this case, the incentive recipient magnifies the positive economic and fiscal impacts of the State's outlay. Depending on project and incentive attributes, the induced project may even yield indirect fiscal State benefits exceeding the cost of the subsidy. The larger the proportion of the public assistance relative to the financial outlay by the subsidized party, however, the lower the probability that the subsidized activity will generate positive net returns to the State.

In contrast, the State's return on investment is negative whenever the State subsidizes a project that a taxpayer will undertake with or without the public assistance. Because the financial inducement has not caused the project's realization, none of its economic and fiscal feedback effects are attributable to the incentive, and therefore must be excluded from the tabulation of the incentive's indirect fiscal benefits.

Nevertheless, even if the State provides financial assistance to a project that would be realized anyway, some, albeit comparatively small, indirect fiscal benefits may still accrue to the State. These would occur whenever the subsidy beneficiary spends the incentive award in New Jersey on goods and services that the beneficiary would otherwise not have procured. In that event the incentive award still represents an injection of additional cash into New Jersey's economy whose ripple effects include the accumulation of indirect fiscal State benefits.

Lastly, given the high degree of integration of New Jersey's economy with the national and global economies, an addition of spending in New Jersey will eventually leak into other jurisdictions and cease to circulate within the State. Consequently, any tabulation of a subsidy payment's New Jersey feedback effects must disregard feedback effects that other jurisdictions will absorb. For example, a Pennsylvania resident who works as a carpenter on a subsidized redevelopment project in New Jersey will pay Pennsylvania, and not New Jersey, income tax on the compensation earned in accordance with the State of New Jersey and the Commonwealth of Pennsylvania Reciprocal Personal Income Tax Agreement.

Bill's State Indirect Fiscal Effects: Two foundational aspects of the ERG tax credit program motivate the OLS to expect that the bill's direct State revenue loss will exceed its indirect State and local government revenue gain.

First, the ERG tax credit program does not subject credit-receiving capital investments to the multiplier-based net benefit test calculation, which for other economic development incentive programs is intended to ensure that the Economic Development Authority (EDA) will award tax incentives only to capital projects that are estimated to generate indirect State revenue equal to at least 110 percent of a tax incentive's direct State cost.

Second, under the ERG tax credit program, the EDA must only determine that the realization of a credit-receiving capital project is likely with the provision of a tax credit at the level requested but not likely without the tax credit. By not requiring that the financial assistance be instrumental to project execution, however, the bill gives projects the benefit of a doubt and thereby allows for projects to receive tax credits that will happen irrespective of the receipt of the State assistance.

Nevertheless, the OLS points out that it is possible that incentive-receiving projects that have not been induced by the incentive program may generate some indirect fiscal State benefits. This would occur whenever recipients of such tax incentives spend their incentive awards in New Jersey on goods and services that they would not have procured absent the incentive award.

Irrespective of the magnitude of the bill's indirect fiscal benefits, the analysis of its full impact on State finances is incomplete without considering the bill's opportunity costs.

State Opportunity Costs: Given the State's finite resources and its balanced budget requirement, the decision to award ERG tax credits to projects in New Brunswick and Newark, will invariably divert resources from policy alternatives to which they would have been applied absent the inducements. These policy alternatives also produce direct State costs and indirect State revenue collections. The concept of opportunity costs captures the value of these fiscal benefits the State foregoes as it redirects cash flows. Once opportunity costs are factored into the analysis, it is therefore possible for a bill to produce a *net* fiscal loss to the State even if its indirect fiscal benefits exceed its direct cost.

For example, if, instead of this legislation, the State invested in road construction the bill would produce a *net* fiscal effect equal to the difference between the total fiscal impact of the ERG tax credit awards to projects in New Brunswick and Newark—or the direct State cost of awarding ERG tax credits those projects, minus the incentives’ indirect State fiscal effects—and that of the foregone road construction investment.

Section: Revenue, Finance and Appropriations

*Analyst: Jordan M. DiGiovanni
Assistant Fiscal Analyst*

*Approved: Frank W. Haines III
Legislative Budget and Finance Officer*

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

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

ASSEMBLY, No. 3488

STATE OF NEW JERSEY 217th LEGISLATURE

INTRODUCED APRIL 4, 2016

Sponsored by:

Assemblywoman L. GRACE SPENCER

District 29 (Essex)

Assemblyman JOSEPH V. EGAN

District 17 (Middlesex and Somerset)

Assemblyman BENJIE E. WIMBERLY

District 35 (Bergen and Passaic)

Assemblyman GARY S. SCHAER

District 36 (Bergen and Passaic)

SYNOPSIS

Authorizes additional \$90 million worth of Economic Redevelopment and Growth Grant program tax credits and reconciles simultaneous legislative enactments to clarify current law governing that program.

CURRENT VERSION OF TEXT

As introduced.



(Sponsorship Updated As Of: 6/17/2016)

1 AN ACT concerning tax credits under the Economic Redevelopment
2 and Growth Grant program, amending P.L.2009, c.90, and
3 reconciling provisions of P.L.2015, c.217, P.L.2015, c.242, and
4 P.L.2015, c.252.

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

8
9 1. Section 6 of P.L.2009, c.90 (C.52:27D-489f) is amended to
10 read as follows:

11 6. a. Up to the limits established in subsection b. of this section
12 and in accordance with a redevelopment incentive grant agreement,
13 beginning upon the receipt of occupancy permits for any portion of
14 the redevelopment project, or upon **[such]** any other event
15 evidencing project completion as set forth in the incentive grant
16 agreement, the State Treasurer shall pay to the developer
17 incremental State revenues directly realized from businesses
18 operating **[on or]** at the site of the redevelopment project from the
19 following taxes: the Corporation Business Tax Act (1945),
20 P.L.1945, c.162 (C.54:10A-1 et seq.), the tax imposed on marine
21 insurance companies pursuant to R.S.54:16-1 et seq., the tax
22 imposed on insurers generally, pursuant to P.L.1945,
23 c.132 (C.54:18A-1 et seq.), the public utility franchise tax, public
24 utilities gross receipts tax and public utility excise tax imposed on
25 sewerage and water corporations pursuant to P.L.1940,
26 c.5 (C.54:30A-49 et seq.), those tariffs and charges imposed by
27 electric, natural gas, telecommunications, water and sewage
28 utilities, and cable television companies under the jurisdiction of
29 the New Jersey Board of Utilities, or comparable entity, except for
30 those tariffs, fees, or taxes related to societal benefits charges
31 assessed pursuant to section 12 of P.L.1999, c.23 (C.48:3-60), any
32 charges paid for compliance with the "Global Warming Response
33 Act," P.L.2007, c.112 (C.26:2C-37 et seq.), transitional energy
34 facility assessment unit taxes paid pursuant to section 67 of
35 P.L.1997, c.162 (C.48:2-21.34), and the sales and use taxes on
36 public utility and cable television services and commodities, the tax
37 derived from net profits from business, a distributive share of
38 partnership income, or a pro rata share of S corporation income
39 under the "New Jersey Gross Income Tax Act," N.J.S.54A:1-1 et
40 seq., the tax derived from a business at the site of a redevelopment
41 project that is required to collect the tax pursuant to the "Sales and
42 Use Tax Act," P.L.1966, c.30 (C.54:32B-1 et seq.), the tax imposed
43 pursuant to P.L.1966, c.30 (C.54:32B-1 et seq.) from the purchase
44 of furniture, fixtures and equipment, or materials for the
45 remediation, the construction of new structures at the site of a

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

Matter underlined thus is new matter.

1 redevelopment project, the hotel and motel occupancy fee imposed
2 pursuant to section 1 of P.L.2003, c.114 (C.54:32D-1), or the
3 portion of the fee imposed pursuant to section 3 of P.L.1968,
4 c.49 (C.46:15-7) derived from the sale of real property at the site of
5 the redevelopment project and paid to the State Treasurer for use by
6 the State, that is not credited to the "Shore Protection Fund" or the
7 "Neighborhood Preservation Nonlapsing Revolving Fund" ("New
8 Jersey Affordable Housing Trust Fund") pursuant to section 4 of
9 P.L.1968, c.49 (C.46:15-8). Any developer shall be allowed to
10 assign their ability to apply for the tax credit under this subsection
11 to a non-profit organization with a mission dedicated to attracting
12 investment and completing development and redevelopment
13 projects in a Garden State Growth Zone. The non-profit
14 organization may make an application on behalf of a developer
15 which meets the requirements for the tax credit, or a group of non-
16 qualifying developers, such that these will be considered a unified
17 project for the purposes of the incentives provided under this
18 section.

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

23 (2) In the case of a qualified residential project or a project
24 involving university infrastructure, if the authority determines that
25 the estimated amount of incremental revenues pledged towards the
26 State portion of an incentive grant is inadequate to fully fund the
27 amount of the State portion of the incentive grant, then in lieu of an
28 incentive grant based on **[such]** incremental **[revenue]** revenues,
29 the developer shall be awarded tax credits equal to the full amount
30 of the incentive grant.

31 (3) In the case of a mixed use parking project, if the authority
32 determines that the estimated amount of **[the]** incremental revenues
33 pledged towards the State portion of an incentive grant is
34 inadequate to fully fund the amount of the State portion of the
35 incentive grant, then, in lieu of an incentive grant based on **[such]**
36 incremental **[revenue]** revenues, **[a municipal redeveloper]** the
37 developer shall be awarded tax credits equal to the full amount of
38 the incentive grant.

39 The value of all credits approved by the authority pursuant to
40 **[paragraph]** paragraphs (2) **[or]** and (3) of this [paragraph]
41 subsection shall not exceed **[\$600,000,000]** \$718,000,000, of
42 which:

43 (a) \$250,000,000 shall be restricted to qualified residential
44 projects within Atlantic, Burlington, Camden, Cape May,
45 Cumberland, Gloucester, Ocean, and Salem counties, of which
46 \$175,000,000 of credits shall be restricted to the following
47 categories of projects: (i) qualified residential projects located in a
48 Garden State Growth Zone located within the aforementioned

1 counties **[,];** and (ii) mixed use parking projects located in a
2 Garden State Growth Zone or urban transit hub located within the
3 aforementioned counties **[,];** and \$75,000,000 of credits shall be
4 restricted to qualified residential projects in municipalities with a
5 2007 Municipal Revitalization Index of 400 or higher as of the date
6 of enactment of the "New Jersey Economic Opportunity Act of
7 2013," P.L.2013, c.161 (C.52:27D-489p et al.) and located within
8 the aforementioned counties;

9 (b) **[\$250,000,000]** \$290,000,000 shall be restricted to the
10 following categories of projects: (i) qualified residential projects
11 located in urban transit hubs that are commuter rail in nature that
12 otherwise do not qualify under subparagraph (a) of this paragraph
13 **[,];** (ii) qualified residential projects located in Garden State
14 Growth Zones that do not qualify under subparagraph (a) of this
15 paragraph **[,];** (iii) mixed use parking projects located in urban
16 transit hubs or Garden State Growth Zones that do not qualify under
17 subparagraph (a) of this paragraph, provided however, an urban
18 transit hub shall be allocated no more than \$25,000,000 for mixed
19 use parking projects **[,];** (iv) qualified residential projects which
20 are disaster recovery projects that otherwise do not qualify under
21 subparagraph (a) of this paragraph **[, and];** (v) qualified residential
22 projects in SDA municipalities located in Hudson County that were
23 awarded State Aid in State Fiscal Year 2013 through the
24 Transitional Aid to Localities program and otherwise do not qualify
25 under subparagraph (a) of this paragraph **[, and];** (vi) \$25,000,000
26 of credits shall be restricted to mixed use parking projects in
27 Garden State Growth Zones which have a population in excess of
28 125,000 and do not qualify under subparagraph (a) of this
29 paragraph; and (vii) \$40,000,000 of credits shall be restricted to
30 qualified residential projects that include a theater venue for the
31 performing arts and do not qualify under subparagraph (a) of this
32 paragraph, which projects are located in a municipality with a
33 population of less than 100,000 according to the latest federal
34 decennial census, and within which municipality is located an urban
35 transit hub and a campus of a public research university, as defined
36 in section 1 of P.L.2009, c.308 (C.18A:3B-46);

37 (c) **[\$75,000,000]** \$87,000,000 shall be restricted to the
38 following categories of projects: (i) qualified residential projects
39 located in distressed municipalities, deep poverty pockets,
40 highlands development credit receiving areas or redevelopment
41 areas, otherwise not qualifying pursuant to subparagraph (a) or (b)
42 of this paragraph **[,];** and (ii) mixed use parking projects that do not
43 qualify under subparagraph (a) or (b) of this paragraph, **[which**
44 **include a vacant commercial building located wholly or partially**
45 **within a distressed municipality,]** and which are used by an
46 independent institution of higher education, a school of medicine, a
47 nonprofit hospital system, or any combination thereof; provided,

1 however, that \$20,000,000 of the \$87,000,000 shall be allocated to
2 mixed used parking projects that do not qualify under subparagraph
3 (a) or (b) of this paragraph; [and]

4 (d) **[\$25,000,000]** (i) \$16,000,000 shall be restricted to
5 qualified residential projects that are located within a qualifying
6 economic redevelopment and growth grant incentive area otherwise
7 not qualifying under subparagraph (a), (b), or (c) of this paragraph;
8 and

9 (ii) an additional \$50,000,000 shall be restricted to qualified
10 residential projects which, as of the effective date of P.L. , c.
11 (pending before the Legislature as this bill), are located in a city of
12 the first class with a population in excess of 270,000, are subject to
13 a Renewal Contract for a Section 8 Mark-Up-To-Market Project
14 from the United States Department of Housing and Urban
15 Development, and for which an application for the award of tax
16 credits under this subsection was submitted prior to January 1,
17 2016; and

18 (e) \$25,000,000 shall be restricted to projects involving
19 university infrastructure.

20 (f) For subparagraphs (a) through (d) of this paragraph, not
21 more than \$40,000,000 of credits shall be awarded to any qualified
22 residential project in a deep poverty pocket or distressed
23 municipality and not more than \$20,000,000 of credits shall be
24 awarded to any other qualified residential project. The developer of
25 a qualified residential project seeking an award of credits towards
26 the funding of its incentive grant shall submit an incentive grant
27 application prior to July 1, 2016 and if approved after September
28 18, 2013, the effective date of P.L.2013, c.161 (C.52:27D-489p et
29 al.) shall submit a temporary certificate of occupancy for [such] the
30 project no later than July 28, [2018] 2019. The developer of a
31 mixed use parking project seeking an award of credits towards the
32 funding of its incentive grant pursuant to subparagraph (c) of this
33 paragraph and if approved after the effective date of P.L. ,
34 c. (pending before the Legislature as this bill), shall submit a
35 temporary certificate of occupancy for the project no later than July
36 28, 2021. Applications for tax credits pursuant to this subsection
37 relating to an ancillary infrastructure project or infrastructure
38 improvement in the public **[right of way]** right-of-way, or both,
39 shall be accompanied with a letter of support relating to the project
40 or improvement by the governing body or agency in which the
41 project is located. Credits awarded to a developer pursuant to this
42 subsection shall be subject to the same financial and related analysis
43 by the authority, the same term of the grant, and the same
44 mechanism for administering the credits, and shall be utilized or
45 transferred by the developer as if **[such]** the credits had been
46 awarded to the developer pursuant to section 35 of P.L.2009,
47 c.90 (C.34:1B-209.3) for qualified residential projects thereunder.
48 No portion of the revenues pledged pursuant to the "New Jersey

1 Economic Opportunity Act of 2013," P.L.2013, c.161 (C.52:27D-
2 489p et al.) shall be subject to withholding or retainage for
3 adjustment, in the event the developer or taxpayer waives its rights
4 to claim a refund thereof.

5 (4) A developer may apply to the Director of the Division of
6 Taxation in the Department of the Treasury and the chief executive
7 officer of the authority for a tax credit transfer certificate, if the
8 developer is awarded a tax credit pursuant to paragraph (2) or
9 paragraph (3) of this subsection, covering one or more years, in lieu
10 of the developer being allowed any amount of the credit against the
11 tax liability of the developer. The tax credit transfer certificate,
12 upon receipt thereof by the developer from the director and the
13 chief executive officer of the authority, may be sold or assigned, in
14 full or in part, to any other person **[that]** who may have a tax
15 liability pursuant to section 5 of P.L.1945, c.162 (C.54:10A-5),
16 sections 2 and 3 of P.L.1945, c.132 (C.54:18A-2 and C.54:18A-3),
17 section 1 of P.L.1950, c.231 (C.17:32-15), or N.J.S.17B:23-5. The
18 certificate provided to the developer shall include a statement
19 waiving the developer's right to claim that amount of the credit
20 against the taxes that the developer has elected to sell or assign.
21 The sale or assignment of any amount of a tax credit transfer
22 certificate allowed under this paragraph shall not be exchanged for
23 consideration received by the developer of less than 75 percent of
24 the transferred credit amount before considering any further
25 discounting to present value that may be permitted. Any amount of
26 a tax credit transfer certificate used by a purchaser or assignee
27 against a tax liability shall be subject to the same limitations and
28 conditions that apply to the use of the credit by the developer who
29 originally applied for and was allowed the credit.

30 c. All administrative costs associated with the incentive grant
31 shall be assessed to the applicant and be retained by the State
32 Treasurer from the annual incentive grant payments.

33 d. The incremental revenue for the revenues listed in
34 subsection a. of this section shall be calculated as the difference
35 between the amount collected in any fiscal year from any eligible
36 revenue source included in the State redevelopment incentive grant
37 agreement, less the revenue increment base for that eligible
38 revenue.

39 e. The municipality is authorized to collect any **[and all]**
40 information necessary to facilitate grants under this program and
41 remit that information **[, as may be required from time to time,]** in
42 order to assist in the calculation of incremental revenue.
43 (cf: P.L.2015, c.69, s.2)

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45 2. This act shall take effect immediately.

STATEMENT

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This bill would authorize the Economic Development Authority (EDA) to award an additional \$90 million worth of tax credits under the Economic Redevelopment and Growth Grant (ERGG) program and clarify section 6 of P.L.2009, c.90 (C.52:27D-489f) by reconciling three recent, nearly-simultaneous enactments of the 216th Legislature, each of which amended that section of law. Section 6 of P.L.2009, c.90 (C.52:27D-489f) imposes limits on the overall amount of tax credits the EDA may approve under the ERGG program, and allocates funding to specific geographic regions and categories of projects. Prior to the recent amendments to this statute, this provision of law limited the overall amount of tax credits that EDA may approve under the ERGG program to \$600 million.

P.L.2015, c.217, approved on January 11, 2016, increased the overall limit on the amount of tax credits that EDA may approve under the ERGG program from \$600 million to \$603 million, reallocated funding between two categories of projects, and increased the amount allocated to a specific category of projects. P.L.2015, c.242, approved on January 19, 2016, established a new project category (university infrastructure projects), allocated \$25 million worth of tax credits to that project category, and increased the overall “cap” on ERGG tax credits from \$600 million to \$625 million. P.L.2015, c.252 was also approved on January 19, 2016, however, it did not alter the funding allocations or overall program limit, leaving in place the \$600 million overall limitation.

This bill would increase the overall “cap” on the total value of tax credits that EDA may award under the ERGG program to \$718 million in order to accommodate the additional \$90 million worth of tax credits authorized under the bill, the \$3 million increase that was authorized by P.L.2015, c.217, and the \$25 million increase that was authorized by P.L.2015, c.242.

The bill restricts the additional \$90 million authorization of ERGG program tax credits to two specific categories of qualified residential projects:

- \$40 million worth of tax credits to projects within New Brunswick that include a theater venue for the performing arts; and
- \$50 million worth of tax credits to projects within Newark that are subject to a renewal contract for a Section 8 Mark-Up-To-Market Project from the United States Department of Housing and Urban Development, the developer of which applied for ERGG tax credits prior to January 1, 2016.

In order to reconcile the three recent amendments to section 6 of P.L.2009, c.90 (C.52:27D-489f), the text of the underlying section of law in the bill is as it appeared after enactment of P.L.2015, c.69, s.2, and changes to the underlying law from the three recent

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1 enactments are incorporated by using bold-faced brackets to
2 indicate omissions from the underlying law and underlines to
3 indicate new material. The bill also uses bold-faced brackets and
4 underlines to make new changes to the law. The bill makes a few
5 technical changes which were necessary to facilitate the
6 Legislature's intention to allow for the EDA to implement
7 P.L.2015, c.217, P.L.2015, c.242, and P.L.2015, c.252.

ASSEMBLY APPROPRIATIONS COMMITTEE

STATEMENT TO

ASSEMBLY COMMITTEE SUBSTITUTE FOR
ASSEMBLY, No. 3488

STATE OF NEW JERSEY

DATED: JUNE 20, 2016

The Assembly Appropriations Committee reports favorably an Assembly Committee Substitute for Assembly Bill No. 3488.

This Assembly Committee Substitute authorizes the Economic Development Authority to award certain additional tax credits under the Economic Redevelopment and Growth (ERG) program, and increases the overall limit on the total value of all tax credits that may be awarded under the program to accommodate the additional tax credits authorized by the substitute.

Under current law, the authority is authorized to award ERG program tax credits for a percentage of total project costs that are incurred in connection with certain residential projects, projects involving university infrastructure, and mixed use parking projects. Current law limits the overall value of all tax credits that can be awarded under the program to not more than \$628 million, and allocates certain portions of the allowable tax credits to specific geographic regions and categories of eligible projects.

This substitute increases the current limit imposed on the overall value of all tax credits that can be awarded under the program to \$718 million, and authorizes the authority to award an additional \$90 million of tax credits. The substitute restricts the additional \$90 million of tax credits to two categories of residential projects:

- \$40 million worth of tax credits to projects within New Brunswick that include a theater venue for the performing arts; and
- \$50 million worth of tax credits to projects within Newark that are subject to a renewal contract for a Section 8 Mark-Up-To-Market Project from the United States Department of Housing and Urban Development, the developer of which applied for ERG program tax credits prior to January 1, 2016.

The substitute is scheduled to take effect immediately upon enactment.

As substituted and reported by the committee, this substitute is identical to Senate Bill No. 2041 (SCS).

FISCAL IMPACT:

The Office of Legislative Services (OLS) expects the substitute will produce a negative fiscal net impact of an indeterminate magnitude to the State. This expectation is due to the fact that the ERG program does not require eligible projects receiving tax credits to yield a net fiscal benefit to the State.

The inability of the OLS to quantify the substitute's fiscal net impact is the result of insufficient information regarding: the number and attributes of projects in New Brunswick and Newark that are likely to be awarded tax credits as a result of the substitute; and the potential State tax revenue that may be replaced by ERG program tax credit awards to projects in New Brunswick and Newark.

In general, the State fiscal net impact is calculated by adding the direct revenue loss from awarding up to \$90 million in ERG program tax credits to certain projects in New Brunswick and Newark and their indeterminate opportunity costs and subtracting from that sum the indeterminate indirect revenue gain that will accrue from additional economic activity the additional tax credit awards will catalyze.

The substitute may accrue an indeterminate revenue gain to affected local governments in the form of an indirect revenue gain from recipients of such tax credit awards spending amounts realized from incentives in New Jersey on goods and services that would not have been purchased absent the tax credit award.

LEGISLATIVE FISCAL ESTIMATE
ASSEMBLY COMMITTEE SUBSTITUTE FOR
ASSEMBLY, No. 3488
STATE OF NEW JERSEY
217th LEGISLATURE

DATED: JUNE 24, 2016

SUMMARY

- Synopsis:** Authorizes additional \$90 million worth of Economic Redevelopment and Growth Grant program tax credits and reconciles simultaneous legislative enactments to clarify current law governing that program.
- Type of Impact:** Potential negative fiscal net impact on State General Fund and Property Tax Relief Fund; potential revenue increase to affected local governments.
- Agencies Affected:** Department of the Treasury.
 New Jersey Economic Development Authority.
 Certain Local Governments.

Office of Legislative Services Estimate

Fiscal Impact	Multi-Year Lifespan of Tax Credit Awards
Direct <u>State</u> Revenue Loss	Up to \$90,000,000
Indirect <u>State</u> Revenue Gain	Indeterminate — See comments below
<u>State</u> Opportunity Cost	Indeterminate — See comments below
Indirect <u>Local</u> Revenue Gain	Indeterminate — See comments below

- The Office of Legislative Services (OLS) expects the bill to produce a negative fiscal net impact of indeterminate magnitude on the State, considering that the Economic Redevelopment and Growth Grant (ERG) tax credit program does not require tax credit-receiving projects to yield a net fiscal benefit to the State.
- The OLS' inability to quantify the fiscal net impact is rooted in imperfect information regarding: a) the number and attributes of creditable projects in New Brunswick and Newark; and b) the State spending that may be crowded out by ERG tax credit awards to projects in New Brunswick and Newark.
- The State fiscal net impact is calculated by adding the direct revenue loss from awarding up to \$90 million in ERG tax credits to certain projects in New Brunswick (\$40 million worth of tax credits to qualified residential projects that include a theater) and Newark (\$50 million of

tax credits for certain housing projects) and their indeterminate opportunity costs (the fiscal benefits the State forgoes as spending is redirected from one economic activity to another) and subtracting from that sum the indeterminate indirect revenue gain that will accrue from additional economic activity that the additional incentive awards will catalyze.

- Affected local governments might accrue indirect revenue gain as a result of the bill's stimulus effects on the local economy. Specifically, a local government may realize enhanced local property tax collections from an incentive recipient investing the incentive amount in facility improvements, which then increases the property's value.

BILL DESCRIPTION

The Assembly Committee Substitute for Assembly Bill No. 3488 of 2016 authorizes up to \$90 million in ERG tax credits for two specific categories of qualified residential projects:

- \$40 million worth of tax credits to projects which: include a theater venue for performing arts; and are located within an urban transit hub municipality that hosts a campus of a public research university, is a distressed municipality, and does not have a Port Authority Trans-Hudson Corporation (PATH) rail station, Port Authority Transit Corporation (PATCO) rail station, or New Jersey Transit Corporation (NJT) light rail station. The city of New Brunswick meets these criteria.
- \$50 million worth of tax credits to projects which: are subject to a renewal contract for a Section 8 Mark-Up-To-Market Project from the United States Department of Housing and Urban Development; the developer of the projects has applied for an award of tax credits under the program; and are located in a city of the first class with a population in excess of 270,000. The city of Newark meets these criteria.

So as to accommodate the additional tax credits without adversely affecting previously created ERG tax credit program categories, the bill also raises the total ERG tax credit program cap from \$628 million to \$718 million.

The ERG tax credit awards are authorized for taxpayer use in up to ten equal annual installments following project completion, must close a project financing gap that otherwise would be likely to prevent a project's realization, and cannot exceed 30 percent of total project cost in conjunction with any municipal ERG award (or 40 percent in a Garden State Growth Zone municipality). The application deadline is July 1, 2016 and projects must obtain temporary certificates of occupancy by July 28, 2019. Projects receiving ERG tax credits are not required to generate fiscal benefits to the State in excess of the incentive amount.

FISCAL ANALYSIS

EXECUTIVE BRANCH

None received.

OFFICE OF LEGISLATIVE SERVICES

The OLS expects the bill to produce a negative fiscal net impact of indeterminate magnitude on the State and a potential revenue gain to affected local governments. Conceptually, the State fiscal net impact is calculated by adding the direct revenue loss from awarding additional incentive amounts and their opportunity costs (the fiscal benefits the State forgoes as spending is redirected from one economic activity to another) and subtracting from that sum the indirect revenue gain that will accrue from additional economic activity that the additional incentive amounts will catalyze.

Direct State Revenue Loss: The legislation's direct revenue loss to the State General Fund or Property Tax Relief Fund could be as high as \$90 million. The bill authorizes up to \$40 million in ERG tax credits to projects within New Brunswick which include a theater venue for the performing arts, and up to \$50 million in tax credits to projects within Newark that are subject to a renewal contract for a Section 8 Mark-Up-To-Market Project from the United States Department of Housing and Urban Development (the developer of which applied for ERG tax credits prior to January 1, 2016). Assuming maximization of these authorized credits, the bill would increase the ERG tax credit program cap by an equivalent amount from \$628 million to \$718 million.

Any revenue loss, however, will be a) temporally limited, as the EDA will only consider applications received before July 1, 2016; and b) spread out over several years, for tax credit awards are to be used in up to ten annual installments following project completion.

Indirect State and Local Revenue Gain: The OLS cannot quantify the legislation's indirect revenue gain to the State and local governments because of imperfect information on the number and attributes of creditable projects in New Brunswick and Newark. But, for reasons laid out below, the OLS anticipates the bill's indirect State and local government revenue gain to fall below its direct State revenue loss of up to \$90 million.

Analytical Framework: Like any government expenditure, economic development incentive awards inject new spending into the economy. Once businesses and individuals receive payments they would not receive absent the incentive awards, at least a portion of these payments will newly circulate in New Jersey's economy and produce so-called "multiplier effects." As the additional financial resources flow through the economy they generate, as a byproduct, additional State and local revenue collections—the indirect revenue gain discussed in this section. Examples are enhanced local property tax collections accruing when an incentive recipient invests the incentive amount in facility improvements, which then appreciate the property's value; or additional State sales and use tax collections from construction workers employed in the facility improvement spending their resultant income on taxable goods and services.

Indirect State fiscal effects offset the State's direct cost of awarding incentives in part or potentially even in whole. Fiscal "multiplier effects" tend to be maximized whenever an incentive award serves as the indispensable impetus for additional spending by the incentive recipient that would not otherwise occur. In this case, the incentive recipient magnifies the positive economic and fiscal impacts of the State's outlay. Depending on project and incentive attributes, the induced project may even yield indirect fiscal State benefits exceeding the cost of the subsidy. The larger the proportion of the public assistance relative to the financial outlay by the subsidized party, however, the lower the probability that the subsidized activity will generate positive net returns to the State.

In contrast, the State's return on investment is negative whenever the State subsidizes a project that a taxpayer will undertake with or without the public assistance. Because the financial inducement has not caused the project's realization, none of its economic and fiscal feedback effects are attributable to the incentive, and therefore must be excluded from the tabulation of the incentive's indirect fiscal benefits.

Nevertheless, even if the State provides financial assistance to a project that would be realized anyway, some, albeit comparatively small, indirect fiscal benefits may still accrue to the State. These would occur whenever the subsidy beneficiary spends the incentive award in New Jersey on goods and services that the beneficiary would otherwise not have procured. In that event the incentive award still represents an injection of additional cash into New Jersey's economy whose ripple effects include the accumulation of indirect fiscal State benefits.

Lastly, given the high degree of integration of New Jersey's economy with the national and global economies, an addition of spending in New Jersey will eventually leak into other jurisdictions and cease to circulate within the State. Consequently, any tabulation of a subsidy payment's New Jersey feedback effects must disregard feedback effects that other jurisdictions will absorb. For example, a Pennsylvania resident who works as a carpenter on a subsidized redevelopment project in New Jersey will pay Pennsylvania, and not New Jersey, income tax on the compensation earned in accordance with the State of New Jersey and the Commonwealth of Pennsylvania Reciprocal Personal Income Tax Agreement.

Bill's State Indirect Fiscal Effects: Two foundational aspects of the ERG tax credit program motivate the OLS to expect that the bill's direct State revenue loss will exceed its indirect State and local government revenue gain.

First, the ERG tax credit program does not subject credit-receiving capital investments to the multiplier-based net benefit test calculation, which for other economic development incentive programs is intended to ensure that the Economic Development Authority (EDA) will award tax incentives only to capital projects that are estimated to generate indirect State revenue equal to at least 110 percent of a tax incentive's direct State cost.

Second, under the ERG tax credit program, the EDA must only determine that the realization of a credit-receiving capital project is likely with the provision of a tax credit at the level requested but not likely without the tax credit. By not requiring that the financial assistance be instrumental to project execution, however, the bill gives projects the benefit of a doubt and thereby allows for projects to receive tax credits that will happen irrespective of the receipt of the State assistance.

Nevertheless, the OLS points out that it is possible that incentive-receiving projects that have not been induced by the incentive program may generate some indirect fiscal State benefits. This would occur whenever recipients of such tax incentives spend their incentive awards in New Jersey on goods and services that they would not have procured absent the incentive award.

Irrespective of the magnitude of the bill's indirect fiscal benefits, the analysis of its full impact on State finances is incomplete without considering the bill's opportunity costs.

State Opportunity Costs: Given the State's finite resources and its balanced budget requirement, the decision to award ERG tax credits to projects in New Brunswick and Newark, will invariably divert resources from policy alternatives to which they would have been applied absent the inducements. These policy alternatives also produce direct State costs and indirect State revenue collections. The concept of opportunity costs captures the value of these fiscal benefits the State foregoes as it redirects cash flows. Once opportunity costs are factored into the analysis, it is therefore possible for a bill to produce a *net* fiscal loss to the State even if its indirect fiscal benefits exceed its direct cost.

For example, if, instead of this legislation, the State invested in road construction the bill would produce a *net* fiscal effect equal to the difference between the total fiscal impact of the ERG tax credit awards to projects in New Brunswick and Newark—or the direct State cost of awarding ERG tax credits those projects, minus the incentives’ indirect State fiscal effects—and that of the foregone road construction investment.

Section: Revenue, Finance and Appropriations

Analyst: Jordan M. DiGiovanni
Assistant Fiscal Analyst

Approved: Frank W. Haines III
Legislative Budget and Finance Officer

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

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

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Trenton, NJ – Governor Chris Christie announced action that has been taken on the following legislation:

BILL SIGNED:

SCS for S-2041/ACS for A-3488 (Rice, Smith/Egan, Wimberly, Schaer, Pintor Marin) - Authorizes additional \$90 million worth of Economic Redevelopment and Growth Grant program tax credits

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Press Contact:
Brian Murray
609-777-2600



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Office of the Governor
PO Box 001
Trenton, NJ 08625
609-292-6000