

FLOOR AMENDMENT STATEMENT: No

LEGISLATIVE FISCAL ESTIMATE: Yes

VETO MESSAGE: No

GOVERNOR'S PRESS RELEASE ON SIGNING: No

FOLLOWING WERE PRINTED:

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REPORTS: No

HEARINGS: No

NEWSPAPER ARTICLES: No

LAW/RWH

P.L.2015, CHAPTER 69, *approved July 6, 2015*

Senate No. 2458 (*Third Reprint*)

1 AN ACT concerning tax credits ³under the Economic Redevelopment
2 and Growth Grant program³ for certain mixed-use ³parking³
3 projects ³[in Garden State Growth Zones],³ and ³ [²urban transit
4 hubs,²]³ amending P.L.2009, c.90.

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

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

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

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

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

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

27 "Aviation district" means the area within a one-mile radius of the
28 outermost boundary of the "Atlantic City International Airport,"
29 established pursuant to section 24 of P.L.1991, c.252 (C.27:25A-
30 24).

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

36 "Developer" means any person who enters or proposes to enter
37 into a redevelopment incentive grant agreement pursuant to the
38 provisions of section 9 of P.L.2009, c.90 (C.52:27D-489i), or its
39 successors or assigns, including but not limited to a lender that
40 completes a redevelopment project, operates a redevelopment

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 SEG committee amendments adopted January 29, 2015.

²Senate SBA committee amendments adopted March 9, 2015.

³Assembly ACE committee amendments adopted June 15, 2015.

1 project, or completes and operates a redevelopment project. A
2 developer also may be a municipal ~~government or a redevelopment~~
3 ~~agency as defined in section 3 of P.L.1992, c.79 (C.40A:12A-3)]~~
4 ~~redeveloper as defined ¹in section 3 of P.L.2009, c.90 (C.52:27D-~~
5 ~~489c)] herein¹.~~

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

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

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

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

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

36 "Garden State Growth Zone" or "growth zone" means the four
37 New Jersey cities with the lowest median family income based on
38 the 2009 American Community Survey from the US Census, (Table
39 708. Household, Family, and Per Capita Income and Individuals,
40 and Families Below Poverty Level by City: 2009) ¹; or a
41 municipality which contains a Tourism District as established
42 pursuant to section 5 of P.L.2011, c.18 (C.5:12-219) and regulated
43 by the Casino Reinvestment Development Authority¹.

44 "Highlands development credit receiving area or redevelopment
45 area" means an area located within an incentive area and designated
46 by the Highlands Council for the receipt of Highlands Development

1 Credits under the Highlands Transfer Development Rights Program
2 authorized under section 13 of P.L.2004, c.120 (C.13:20-13).

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

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

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

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

29 "Mixed use parking project" means a redevelopment project
30 undertaken by a municipal redeveloper ¹**【in a Garden State Growth**
31 **Zone】**¹, the parking component of which shall constitute 51 percent
32 or more of any of the following: ¹**【(i)】** a.¹ the total square footage
33 of the entire mixed use parking project ¹**【, (ii)】** ; b.¹ the estimated
34 revenues of the entire mixed use parking project ¹**【,】** ;¹ or ¹**【(iii)】**
35 c.¹ the total construction cost of the entire mixed use parking
36 project.

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

45 "Municipal redeveloper" means **【a municipal government】** an
46 applicant for a redevelopment incentive grant agreement, which
47 applicant is ¹**【(1)】** : a.¹ a municipal government, a municipal

1 parking authority, or a redevelopment agency acting on behalf of a
2 municipal government as defined in section 3 of P.L.1992,
3 c.79 (C.40A:12A-3) ~~that is an applicant for a redevelopment~~
4 ~~incentive grant agreement~~ ~~1~~ ~~;~~ ~~1~~ ~~or~~ ~~1~~ ~~[(2)]~~ ~~b.~~ a developer of a
5 mixed use parking project, provided that the parking component of
6 the mixed use parking project is operated and maintained by a
7 municipal parking authority for the term of any financial assistance
8 granted pursuant to P.L. , c. (C.) (pending before the
9 Legislature as this bill).

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

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

18 "Parking component" means that portion of a mixed use parking
19 project used for parking, together with the portion of the costs of
20 the mixed use parking project, including but not limited to the
21 footings, foundations, site work, infrastructure, and soft costs that
22 are allocable to the parking use.

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

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

1 redevelopment project, but excluding any particular costs for which
2 the project has received federal, State, or local funding.

3 "Project financing gap" means: a. the part of the total project
4 cost, including return on investment, that remains to be financed
5 after all other sources of capital have been accounted for, including,
6 but not limited to, developer-contributed capital, which shall not be
7 less than 20 percent of the total project cost, which may include the
8 value of any existing land and improvements in the project area
9 owned or controlled by the developer, and the cost of infrastructure
10 improvements in the public right-of-way, subject to review by the
11 State Treasurer, and investor or financial entity capital or loans for
12 which the developer, after making all good faith efforts to raise
13 additional capital, certifies that additional capital cannot be raised
14 from other sources on a non-recourse basis; and b. the amount by
15 which total project cost exceeds the cost of an alternative location
16 for the out-of-State redevelopment project.

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

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

20 ¹[(1)] a.¹ multiplying the general tax rate levied each year by
21 the taxable value of all the property assessed within a project area
22 in the same year, excluding any special assessments; and

23 ¹[(2)] b.¹ multiplying that product by a fraction having a
24 numerator equal to the taxable value of all the property assessed
25 within the project area, minus the property tax increment base, and
26 having a denominator equal to the taxable value of all property
27 assessed within the project area.

28 For the purpose of this definition, "property tax increment base"
29 means the aggregate taxable value of all property assessed which is
30 located within the redevelopment project area as of October 1st of
31 the year preceding the year in which the redevelopment incentive
32 grant agreement is authorized.

33 "Qualified incubator facility" means a commercial building
34 located within an incentive area: which contains 100,000 or more
35 square feet of office, laboratory, or industrial space; which is
36 located near, and presents opportunities for collaboration with, a
37 research institution, teaching hospital, college, or university; and
38 within which, at least 75 percent of the gross leasable area is
39 restricted for use by one or more technology startup companies
40 during the commitment period.

41 "Qualified residential project" means a redevelopment project
42 that is predominantly residential and includes multi-family
43 residential units for purchase or lease, or dormitory units for
44 purchase or lease, having a total project cost of at least
45 \$17,500,000, if the project is located in any municipality with a
46 population greater than 200,000 according to the latest federal
47 decennial census, or having a total project cost of at least
48 \$10,000,000 if the project is located in any municipality with a

1 population less than 200,000 according to the latest federal
2 decennial census, or is a disaster recovery project, or having a total
3 project cost of \$5,000,000 if the project is in a Garden State Growth
4 Zone.

5 "Qualifying economic redevelopment and growth grant incentive
6 area" or "incentive area" means:

- 7 a. an aviation district;
- 8 b. a port district;
- 9 c. a distressed municipality; or
- 10 d. an area (1) designated pursuant to the "State Planning Act,"

11 P.L.1985, c.398 (C.52:18A-196 et seq.), as:

12 (a) Planning Area 1 (Metropolitan);

13 (b) Planning Area 2 (Suburban); or

14 (c) Planning Area 3 (Fringe Planning Area);

15 (2) located within a smart growth area and planning area
16 designated in a master plan adopted by the New Jersey
17 Meadowlands Commission pursuant to subsection (i) of section 6 of
18 P.L.1968, c.404 (C.13:17-6) or subject to a redevelopment plan
19 adopted by the New Jersey Meadowlands Commission pursuant to
20 section 20 of P.L.1968, c.404 (C.13:17-21);

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

26 (4) located within a regional growth area, a town, village, or a
27 military and federal installation area designated in the
28 comprehensive management plan prepared and adopted by the
29 Pinelands Commission pursuant to the "Pinelands Protection Act,"
30 P.L.1979, c.111 (C.13:18A-1 et seq.);

31 (5) located within the planning area of the Highlands Region as
32 defined in section 3 of P.L.2004, c.120 (C.13:20-3) or in a
33 highlands development credit receiving area or redevelopment area;

34 (6) located within a Garden State Growth Zone;

35 (7) located within land approved for closure under any federal
36 Base Closure and Realignment Commission action; or

37 (8) located only within the following portions of the areas
38 designated pursuant to the "State Planning Act," P.L.1985,
39 c.398 (C.52:18A-196 et al.), as Planning Area 4A (Rural Planning
40 Area), Planning Area 4B (Rural/Environmentally Sensitive) or
41 Planning Area 5 (Environmentally Sensitive) if Planning Area 4A
42 (Rural Planning Area), Planning Area 4B (Rural/Environmentally
43 Sensitive) or Planning Area 5 (Environmentally Sensitive) is
44 located within:

45 (a) a designated center under the State Development and
46 Redevelopment Plan;

47 (b) a designated growth center in an endorsed plan until the
48 State Planning Commission revises and readopts New Jersey's State

1 Strategic Plan and adopts regulations to revise this definition as it
2 pertains to Statewide planning areas;

3 (c) any area determined to be in need of redevelopment pursuant
4 to sections 5 and 6 of P.L.1992, c.79 (C.40A:12A-5 and 40A:12A-
5 6) or in need of rehabilitation pursuant to section 14 of P.L.1992,
6 c.79 (C.40A:12A-14);

7 (d) any area on which a structure exists or previously existed
8 including any desired expansion of the footprint of the existing or
9 previously existing structure provided such expansion otherwise
10 complies with all applicable federal, State, county, and local
11 permits and approvals;

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

15 (f) any area on which an existing tourism destination project is
16 located.

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

22 "Redevelopment incentive grant agreement" means an agreement
23 between ¹[(1)] : a.¹ the State and the New Jersey Economic
24 Development Authority and a developer ¹[(.)] ;¹ or ¹[(2)] b.¹ a
25 municipality and a developer, or a municipal ordinance authorizing
26 a project to be undertaken by a municipal redeveloper, under which,
27 in exchange for the proceeds of an incentive grant, the developer
28 agrees to perform any work or undertaking necessary for a
29 redevelopment project, including the clearance, development or
30 redevelopment, construction, or rehabilitation of any structure or
31 improvement of commercial, industrial, residential, or public
32 structures or improvements within a qualifying economic
33 redevelopment and growth grant incentive area or a transit village.

34 "Redevelopment project" means a specific construction project
35 or improvement, including lands, buildings, improvements, real and
36 personal property or any interest therein, including lands under
37 water, riparian rights, space rights and air rights, acquired, owned,
38 leased, developed or redeveloped, constructed, reconstructed,
39 rehabilitated or improved, undertaken by a developer, owner or
40 tenant, or both, within a project area and any ancillary infrastructure
41 project including infrastructure improvements in the public right of
42 way, as set forth in an application to be made to the authority. The
43 use of the term "redevelopment project" in sections 3 through 18 of
44 P.L.2009, c.90 (C.52:27D-489c et al.) shall not be limited to only
45 redevelopment projects located in areas determined to be in need of
46 redevelopment pursuant to sections 5 and 6 of P.L.1992,
47 c.79 (C.40A:12A-5 and 40A:12A-6) but shall also include ¹, but not
48 be limited to,¹ any work or undertaking in accordance with the

1 "Redevelopment Area Bond Financing Law," sections 1 through 10
2 of P.L.2001, c.310 (C.40A:12A-64 et seq.) or other applicable law,
3 pursuant to a redevelopment plan adopted by a State entity, or as
4 described in the resolution adopted by a public entity created by
5 State law with the power to adopt a redevelopment plan or
6 otherwise determine the location, type and character of a
7 redevelopment project or part of a redevelopment project on land
8 owned or controlled by it or within its jurisdiction, including but
9 not limited to, the New Jersey Meadowlands Commission
10 established pursuant to P.L.1968, c.404 (C.13:17-1 et seq.), the
11 New Jersey Sports and Exposition Authority established pursuant to
12 P.L.1971 c.137 (C.5:10-1 et seq.) and the Fort Monmouth
13 Economic Revitalization Authority created pursuant to P.L.2010,
14 c.51 (C.52:27I-18 et seq.).

15 "Redevelopment utility" means a self-liquidating fund created by
16 a municipality pursuant to section 12 of P.L.2009, c.90 (C.52:27D-
17 489l) to account for revenues collected and incentive grants paid
18 pursuant to section 11 of P.L.2009, c.90 (C.52:27D-489k), or other
19 revenues dedicated to a redevelopment project.

20 "Revenue increment base" means the amounts of all eligible
21 revenues from sources within the redevelopment project area in the
22 calendar year preceding the year in which the redevelopment
23 incentive grant agreement is executed, as certified by the State
24 Treasurer for State revenues, and the chief financial officer of the
25 municipality for municipal revenues.

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

28 "SDA municipality" means a municipality in which an SDA
29 district is situate.

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

35 "Tourism destination project" means a redevelopment project
36 that will be among the most visited privately owned or operated
37 tourism or recreation sites in the State, and which is located within
38 the incentive area and has been determined by the authority to be in
39 an area appropriate for development and in need of economic
40 development incentive assistance.

41 "Transit project" means a redevelopment project located within a
42 1/2-mile radius, or one-mile radius for projects located in a Garden
43 State Growth Zone, surrounding the mid-point of a New Jersey
44 Transit Corporation, Port Authority Transit Corporation, or Port
45 Authority Trans-Hudson Corporation rail, bus, or ferry station
46 platform area, including all light rail stations.

47 "Transit village" means a community with a bus, train, light rail,
48 or ferry station that has developed a plan to achieve its economic

1 development and revitalization goals and has been designated by
2 the New Jersey Department of Transportation as a transit village.

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

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

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

29 (cf: P.L.2014, c.63, s.7)

30

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

33 6. a. Up to the limits established in subsection b. of this
34 section and in accordance with a redevelopment incentive grant
35 agreement, beginning upon the receipt of occupancy permits for any
36 portion of the redevelopment project, or upon such other event
37 evidencing project completion as set forth in the incentive grant
38 agreement, the State Treasurer shall pay to the developer
39 incremental State revenues directly realized from businesses
40 operating on or at the site of the redevelopment project from the
41 following taxes: the Corporation Business Tax Act (1945),
42 P.L.1945, c.162 (C.54:10A-1 et seq.), the tax imposed on marine
43 insurance companies pursuant to R.S.54:16-1 et seq., the tax
44 imposed on insurers generally, pursuant to P.L.1945,
45 c.132 (C.54:18A-1 et seq.), the public utility franchise tax, public
46 utilities gross receipts tax and public utility excise tax imposed on
47 sewerage and water corporations pursuant to P.L.1940,
48 c.5 (C.54:30A-49 et seq.), those tariffs and charges imposed by

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

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

42 (2) In the case of a qualified residential project, if the authority
43 determines that the estimated amount of incremental revenues
44 pledged towards the State portion of an incentive grant is
45 inadequate to fully fund the amount of the State portion of the
46 incentive grant, then in lieu of an incentive grant based on such
47 incremental revenue, the developer shall be awarded tax credits
48 equal to the full amount of the incentive grant.

1 (3) In the case of a mixed use parking project, if the authority
2 determines that the estimated amount of the incremental revenues
3 pledged towards the State portion of an incentive grant is
4 inadequate to fully fund the amount of the State portion of the
5 incentive grant, then, in lieu of an incentive grant based on such
6 incremental revenue, a municipal redeveloper shall be awarded tax
7 credits equal to the full amount of the incentive grant.

8 The value of all credits approved by the authority pursuant to
9 paragraph (2) or this paragraph shall not exceed \$600,000,000, of
10 which:

11 (a) \$250,000,000 shall be restricted to qualified residential
12 projects within Atlantic, Burlington, Camden, Cape May,
13 Cumberland, Gloucester, Ocean, and Salem counties, of which
14 \$175,000,000 of credits shall be restricted to 'the following
15 categories of projects: (i)' qualified residential projects 'located' in
16 a Garden State Growth Zone located within the aforementioned
17 counties, '(ii) mixed use parking projects located in a Garden State
18 Growth Zone or urban transit hub located within the
19 aforementioned counties,' and \$75,000,000 of credits shall be
20 restricted to qualified residential projects in municipalities with a
21 2007 Municipal Revitalization Index of 400 or higher as of the date
22 of enactment of the "New Jersey Economic Opportunity Act of
23 2013," P.L.2013, c.161 (C.52:27D-489p et al.) and located within
24 the aforementioned counties;

25 (b) \$250,000,000 shall be restricted to **qualified residential**
26 **projects located in** the following categories of projects: (i)
27 qualified residential projects located in urban transit hubs that are
28 commuter rail in nature that otherwise do not qualify under
29 subparagraph (a) of this paragraph, (ii) **[a]** qualified residential
30 projects 'or mixed use parking projects' located' in Garden State
31 Growth **[Zone not located in a county mentioned in]** Zones that do
32 not qualify under subparagraph (a) of this paragraph, (iii) 'mixed
33 use parking projects located in urban transit hubs or Garden State
34 Growth Zones that do not qualify under subparagraph (a) of this
35 paragraph, provided however, a urban transit hub shall be allocated
36 no more than \$25,000,000 for mixed use parking projects, (iv)'
37 qualified residential projects which are disaster recovery projects
38 that otherwise do not qualify under subparagraph (a) of this
39 paragraph, [or] and '(iv) (v)' qualified residential projects in
40 SDA municipalities located in Hudson County that were awarded
41 State Aid in State Fiscal Year 2013 through the Transitional Aid to
42 Localities program and otherwise do not qualify under
43 subparagraph (a) of this paragraph, 'and \$25,000,000 of credits
44 shall be restricted to mixed use parking projects in Garden State
45 Growth Zones which have a population in excess of 125,000 and do
46 not qualify under subparagraph (a) of this paragraph';

1 (c) \$75,000,000 shall be restricted to ³**qualified residential**
2 **projects** the following categories of projects: (i) qualified
3 residential projects located³ in distressed municipalities, deep
4 poverty pockets, highlands development credit receiving areas or
5 redevelopment areas, otherwise not qualifying pursuant to
6 subparagraph (a) or (b) of this paragraph ³, and (ii) mixed use
7 parking projects that do not qualify under subparagraph (a) or (b) of
8 this paragraph, which include a vacant commercial building located
9 wholly or partially within a distressed municipality, and which are
10 used by an independent institution of higher education, a school of
11 medicine, a nonprofit hospital system, or any combination thereof³;
12 and

13 (d) \$25,000,000 shall be restricted to qualified residential
14 projects that are located within a qualifying economic
15 redevelopment and growth grant incentive area otherwise not
16 qualifying under subparagraph (a), (b), or (c) of this paragraph.

17 (e) For subparagraphs (a) through (d) of this paragraph, not
18 more than \$40,000,000 of credits shall be awarded to any qualified
19 residential project in a deep poverty pocket or distressed
20 municipality and not more than \$20,000,000 of credits shall be
21 awarded to any other qualified residential project. The developer of
22 a qualified residential project seeking an award of credits towards
23 the funding of its incentive grant shall submit an incentive grant
24 application prior to July 1, ¹**2015** ¹**2016**¹ and if approved ¹after the
25 effective date of P.L.2013, c.161¹ shall submit a temporary
26 certificate of occupancy for such project no later than July 28,
27 ¹**2015** ¹**2018**¹. Applications for tax credits pursuant to this
28 subsection relating to an ancillary infrastructure project or
29 infrastructure improvement in the public right of way, or both, shall
30 be accompanied with a letter of support relating to the project or
31 improvement by the governing body or agency in which the project
32 is located. Credits awarded to a developer pursuant to this
33 subsection shall be subject to the same financial and related analysis
34 by the authority ¹, the same term of the grant, and the same
35 mechanism for administering the credits,¹ and shall be utilized or
36 transferred by the developer as if such credits had been awarded to
37 the developer pursuant to section 35 of P.L.2009, c.90 (C.34:1B-
38 209.3) for qualified residential projects thereunder. No portion of
39 the revenues pledged pursuant to the "New Jersey Economic
40 Opportunity Act of 2013," P.L.2013, c.161 (C.52:27D-489p et al.)
41 shall be subject to withholding or retainage for adjustment, in the
42 event the developer or taxpayer waives its rights to claim a refund
43 thereof.

44 **[(3)] (4)** A developer may apply to the Director of the
45 Division of Taxation in the Department of the Treasury and the
46 chief executive officer of the authority for a tax credit transfer
47 certificate, if the developer is awarded a tax credit pursuant to

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

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

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

31 e. The municipality is authorized to collect any and all
32 information necessary to facilitate grants under this program and
33 remit that information, as may be required from time to time, in
34 order to assist in the calculation of incremental revenue.

35 (cf: P.L.2014, c.63, s.8)

36

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

39 8. a. (1) The authority, in consultation with the State
40 Treasurer, shall promulgate an incentive grant application form and
41 procedure for the Economic Redevelopment and Growth Grant
42 program.

43 (2) (a) The Local Finance Board, in consultation with the
44 authority, shall develop a minimum standard incentive grant
45 application form for municipal Economic Redevelopment and
46 Growth Grant programs.

47 (b) Through regulation, the authority shall establish standards
48 for redevelopment projects seeking State or local incentive grants

1 based on the green building manual prepared by the Commissioner
2 of Community Affairs pursuant to section 1 of P.L.2007,
3 c.132 (C.52:27D-130.6), regarding the use of renewable energy,
4 energy-efficient technology, and non-renewable resources in order
5 to reduce environmental degradation and encourage long-term cost
6 reduction.

7 b. Within each incentive grant application, a developer shall
8 certify information concerning:

9 (1) the status of control of the entire redevelopment project site;

10 (2) all required State and federal government permits that have
11 been issued for the redevelopment project, or will be issued pending
12 resolution of financing issues;

13 (3) local planning and zoning board approvals, as required, for
14 the redevelopment project;

15 (4) estimates of the revenue increment base, the eligible
16 revenues for the project, and the assumptions upon which those
17 estimates are made.

18 c. (1) With regard to State tax revenues proposed to be
19 pledged for an incentive grant the authority and the State Treasurer
20 shall review the project costs, evaluate and validate the project
21 financing gap estimated by the developer, and conduct a State fiscal
22 impact analysis to ensure that the overall public assistance provided
23 to the project, except with regards to a qualified residential project
24 or a mixed use parking project, will result in net benefits to the
25 State including, without limitation, both direct and indirect
26 economic benefits and non-financial community revitalization
27 objectives, including but not limited to, the promotion of the use of
28 public transportation in the case of the ancillary infrastructure
29 project portion of any transit project.

30 (2) With regard to local incremental revenues proposed to be
31 pledged for an incentive grant the authority and the Local Finance
32 Board shall review the project costs, and except with respect to an
33 application by a municipal redeveloper, evaluate and validate the
34 project financing gap projected by the developer, and conduct a
35 local fiscal impact analysis to ensure that the overall public
36 assistance provided to the project, except with regards to a qualified
37 residential project or a mixed use parking project, will result in net
38 benefits to the municipality wherein the redevelopment project is
39 located including, without limitation, both direct and indirect
40 economic benefits and non-financial community revitalization
41 objectives, including but not limited to, the promotion of the use of
42 public transportation in the case of the ancillary infrastructure
43 project portion of any transit project.

44 (3) The authority, State Treasurer, and Local Finance Board
45 may act cooperatively to administer and review applications, and
46 shall consult with the Office of State Planning on matters
47 concerning State, regional, and local development and planning
48 strategies.

1 (4) The costs of the aforementioned reviews shall be assessed to
2 the applicant as an application fee.

3 (5) A developer who has already applied for an incentive grant
4 award prior to the effective date of the "New Jersey Economic
5 Opportunity Act of 2013," P.L.2013, c.161 (C.52:27D-489p et al.),
6 but who has not yet been approved for such grant, or has not
7 executed an agreement with the authority, may proceed under that
8 application or seek to amend such application or reapply for an
9 incentive grant award for the same project or any part thereof for
10 the purpose of availing itself of any more favorable provisions of
11 the Economic Redevelopment and Growth Grant program
12 established pursuant to the "New Jersey Economic Opportunity Act
13 of 2013," P.L.2013, c.161 (C.52:27D-489p et al.), except that
14 projects with costs exceeding \$200,000,000 shall not be eligible for
15 revised percentage caps under subsection d. of section 19 of
16 P.L.2013, c.161 (C.52:27D-489i).

17 (cf: P.L.2013, c.161, s.18)

18

19 4. Section 9 of P.L.2009, c.90 (C.52:27D-489i) is amended to
20 read as follows:

21 9. a. The authority is authorized to enter into a redevelopment
22 incentive grant agreement with a developer for any redevelopment
23 project located within a qualifying economic redevelopment and
24 growth grant incentive area that does not qualify as such area solely
25 by virtue of being a transit village.

26 b. The decision whether or not to enter into a redevelopment
27 incentive grant agreement is solely within the discretion of the
28 authority and the State Treasurer, provided that they both agree to
29 enter into an agreement.

30 c. The Chief Executive Officer of the authority, in consultation
31 with the State Treasurer shall negotiate the terms and conditions of
32 any redevelopment incentive grant agreement on behalf of the State.

33 d. (1) The redevelopment incentive grant agreement shall
34 specify the maximum amount of project costs, the amount of the
35 incentive grant to be awarded the developer, the frequency of
36 payments, and the eligibility period, which shall not exceed 20
37 years, during which reimbursement will be granted, and for a
38 project receiving an incentive grant in excess of \$50 million, the
39 amount of the negotiated repayment amount to the State, which may
40 include, but not be limited to, cash, equity, and warrants. Except
41 for redevelopment incentive grant agreements with a municipal
42 redeveloper, or with the developer of a redevelopment project
43 solely with respect to the cost of infrastructure improvements in the
44 public right-of-way including any ancillary infrastructure project in
45 the public right-of-way, in no event shall the base amount of the
46 combined reimbursements under redevelopment incentive grant
47 agreements with the State or municipality exceed 20 percent of the

1 total project cost, except in a Garden State Growth Zone, which
2 shall not exceed 30 percent.

3 (2) The authority shall be permitted to increase the amount of
4 the reimbursement under the redevelopment incentive grant
5 agreement with the State by up to 10 percent of the total project
6 cost if the project is:

7 (a) located in a distressed municipality which lacks adequate
8 access to nutritious food in the judgment of the Chief Executive
9 Officer of the authority and will include either a supermarket or
10 grocery store with a minimum of 15,000 square feet of selling space
11 devoted to the sale of consumable products or a prepared food
12 establishment selling only nutritious ready to serve meals;

13 (b) located in a distressed municipality which lacks adequate
14 access to health care and health services in the judgment of the
15 Chief Executive Officer of the authority and will include a health
16 care and health services center with a minimum of 10,000 square
17 feet of space devoted to the provision of health care and health
18 services;

19 (c) located in a distressed municipality which has a business
20 located therein that is required to respond to a request for proposal
21 to fulfill a contract with the federal government as set forth in
22 subsection d. of section 3 of P.L.2011, c.149 (C.34:1B-244);

23 (d) a transit project;

24 (e) a qualified residential project in which at least 10 percent of
25 the residential units are constructed as and reserved for moderate
26 income housing;

27 (f) located in a highlands development credit receiving area or
28 redevelopment area;

29 (g) located in a Garden State Growth Zone;

30 (h) a disaster recovery project;

31 (i) an aviation project;

32 (j) a tourism destination project; or

33 (k) substantial rehabilitation or renovation of an existing
34 structure or structures.

35 (3) The maximum amount of any redevelopment incentive grant
36 shall be equal to up to 30 percent of the total project costs, except
37 for projects located in a Garden State Growth Zone, in which case
38 the maximum amount of any redevelopment incentive grant shall be
39 equal to up to 40 percent of the total project costs. Notwithstanding
40 anything to the contrary contained within this section, the maximum
41 amount of any redevelopment incentive grant with respect to a
42 mixed use parking project shall be up to 100 percent of the total
43 project costs allocable to the parking component of the project, and
44 shall be up to 40 percent of the total project costs allocable to the
45 non-parking component of the project.

46 e. Except in the case of a qualified residential project or a
47 mixed use parking project, the authority and the State Treasurer
48 may enter into a redevelopment incentive grant agreement only if

1 they make a finding that the State revenues to be realized from the
2 redevelopment project will be in excess of the amount necessary to
3 reimburse the developer for its project financing gap. This finding
4 may be made by an estimation based upon the professional
5 judgment of the Chief Executive Officer of the authority and the
6 State Treasurer.

7 f. In deciding whether or not to recommend entering into a
8 redevelopment incentive grant agreement and in negotiating a
9 redevelopment agreement with a developer, the Chief Executive
10 Officer of the authority shall consider the following factors:

11 (1) the economic feasibility of the redevelopment project;

12 (2) the extent of economic and related social distress in the
13 municipality and the area to be affected by the redevelopment
14 project or the level of site specific distress to include dilapidated
15 conditions, brownfields designation, environmental contamination,
16 pattern of vacancy, abandonment, or under utilization of the
17 property, rate of foreclosures, or other site conditions as determined
18 by the authority;

19 (3) the degree to which the redevelopment project will advance
20 State, regional, and local development and planning strategies;

21 (4) the likelihood that the redevelopment project shall, upon
22 completion, be capable of generating new tax revenue in an amount
23 in excess of the amount necessary to reimburse the developer for
24 project costs incurred as provided in the redevelopment incentive
25 grant agreement, provided, however, that any tax revenue generated
26 by a redevelopment project that is a disaster recovery project shall
27 be considered new tax revenue even if the same or more tax revenue
28 was generated at or on the site prior to the disaster;

29 (5) the relationship of the redevelopment project to a
30 comprehensive local development strategy, including other major
31 projects undertaken within the municipality;

32 (6) the need of the redevelopment incentive grant agreement to
33 the viability of the redevelopment project or the promotion of the
34 use of public transportation; and

35 (7) the degree to which the redevelopment project enhances and
36 promotes job creation and economic development or the promotion
37 of the use of public transportation.

38 g. (1) A developer that has entered into a redevelopment
39 incentive grant agreement with the authority and the State Treasurer
40 pursuant to this section may, upon notice to and consent of the
41 authority and the State Treasurer, pledge, assign, transfer, or sell
42 any or all of its right, title and interest in and to such agreements
43 and in the incentive grants payable thereunder, and the right to
44 receive same, along with the rights and remedies provided to the
45 developer under such agreement. Any such assignment shall be an
46 absolute assignment for all purposes, including the federal
47 bankruptcy code.

1 (2) Any pledge of incentive grants made by the developer shall
2 be valid and binding from the time when the pledge is made and
3 filed in the records of the authority. The incentive grants so
4 pledged and thereafter received by the developer shall immediately
5 be subject to the lien of the pledge without any physical delivery
6 thereof or further act, and the lien of any pledge shall be valid and
7 binding as against all parties having claims of any kind in tort,
8 contract, or otherwise against the developer irrespective of whether
9 the parties have notice thereof. Neither the redevelopment
10 incentive grant agreement nor any other instrument by which a
11 pledge under this section is created need be filed or recorded except
12 with the authority.

13 (cf: P.L.2013, c.161, s.19)

14

15 5. This act shall take effect immediately.

16

17

18

19

20 Permits municipal redevelopers to receive tax credits under
21 Economic Redevelopment and Growth Grant program for certain
22 mixed use parking projects.

SENATE, No. 2458

STATE OF NEW JERSEY
216th LEGISLATURE

INTRODUCED OCTOBER 9, 2014

Sponsored by:

Senator NELLIE POU

District 35 (Bergen and Passaic)

Senator STEPHEN M. SWEENEY

District 3 (Cumberland, Gloucester and Salem)

SYNOPSIS

Permits municipalities and municipal parking authorities to receive tax credits under Economic Redevelopment and Growth Grant program for certain mixed use parking projects in Garden State Growth Zones.

CURRENT VERSION OF TEXT

As introduced.



1 AN ACT concerning tax credits for certain mixed-use projects in
2 Garden State Growth Zones 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 3 of P.L.2009, c.90 (C.52:27D-489c) is amended to
8 read as follows:

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

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

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

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

25 "Aviation district" means the area within a one-mile radius of the
26 outermost boundary of the "Atlantic City International Airport,"
27 established pursuant to section 24 of P.L.1991, c.252 (C.27:25A-
28 24).

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

34 "Developer" means any person who enters or proposes to enter
35 into a redevelopment incentive grant agreement pursuant to the
36 provisions of section 9 of P.L.2009, c.90 (C.52:27D-489i), or its
37 successors or assigns, including but not limited to a lender that
38 completes a redevelopment project, operates a redevelopment
39 project, or completes and operates a redevelopment project. A
40 developer also may be a municipal **[government or a redevelopment**
41 **agency as defined in section 3 of P.L.1992, c.79 (C.40A:12A-3)]**
42 redeveloper as defined in section 3 of P.L.2009, c.90 (C.52:27D-
43 489c).

44 "Director" means the Director of the Division of Taxation in the
45 Department of the Treasury.

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

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

16 "Eligibility period" means the period of time specified in a
17 redevelopment incentive grant agreement for the payment of
18 reimbursements to a developer, which period shall not exceed 20
19 years, with the term to be determined solely at the discretion of the
20 applicant.

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

29 "Garden State Growth Zone" or "growth zone" means the four
30 New Jersey cities with the lowest median family income based on
31 the 2009 American Community Survey from the US Census, (Table
32 708. Household, Family, and Per Capita Income and Individuals,
33 and Families Below Poverty Level by City: 2009).

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

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

44 "Infrastructure improvements in the public right-of-way" mean
45 public structures or improvements located in the public right of way
46 that are located within a project area or that constitute an ancillary
47 infrastructure project, either of which are dedicated to or owned by
48 a governmental body or agency upon completion, or any required

1 payment in lieu of such structures, improvements or projects or any
2 costs of remediation associated with such structures, improvements
3 or projects, and that are determined by the authority, in consultation
4 with applicable State agencies, to be consistent with and in
5 furtherance of State public infrastructure objectives and initiatives.

6 "Low-income housing" means housing affordable according to
7 federal Department of Housing and Urban Development or other
8 recognized standards for home ownership and rental costs and
9 occupied or reserved for occupancy by households with a gross
10 household income equal to 50 percent or less of the median gross
11 household income for households of the same size within the
12 housing region in which the housing is located.

13 "Major rail station" means a railroad station located within a
14 qualified incentive area which provides access to the public to a
15 minimum of six rail passenger service lines operated by the New
16 Jersey Transit Corporation.

17 "Mixed use parking project" means a redevelopment project
18 undertaken by a municipal redeveloper in a Garden State Growth
19 Zone, the parking component of which shall constitute 51 percent or
20 more of any of the following: (i) the total square footage of the
21 entire mixed use parking project, (ii) the estimated revenues of the
22 entire mixed use parking project, or (iii) the total construction cost
23 of the entire mixed use parking project.

24 "Moderate-income housing" means housing affordable,
25 according to United States Department of Housing and Urban
26 Development or other recognized standards for home ownership
27 and rental costs, and occupied or reserved for occupancy by
28 households with a gross household income equal to more than 50
29 percent but less than 80 percent of the median gross household
30 income for households of the same size within the housing region in
31 which the housing is located.

32 "Municipal redeveloper" means **[a municipal government]** an
33 applicant for a redevelopment incentive grant agreement, which
34 applicant is (1) a municipal government, a municipal parking
35 authority, or a redevelopment agency acting on behalf of a
36 municipal government as defined in section 3 of P.L.1992, c.79
37 (C.40A:12A-3) [that is an applicant for a redevelopment incentive
38 grant agreement] , or (2) a developer of a mixed use parking
39 project, provided that the parking component of the mixed use
40 parking project is operated and maintained by a municipal parking
41 authority for the term of any financial assistance granted pursuant to
42 P.L. , c. (C.) (pending before the Legislature as this bill).

43 "Municipal Revitalization Index" means the 2007 index by the
44 Office for Planning Advocacy within the Department of State
45 measuring or ranking municipal distress.

46 "Non-parking component" means that portion of a mixed use
47 parking project not used for parking, together with the portion of
48 the costs of the mixed use parking project, including but not limited

1 to the footings, foundations, site work, infrastructure, and soft costs
2 that are allocable to the non-parking use.

3 "Parking component" means that portion of a mixed use parking
4 project used for parking, together with the portion of the costs of
5 the mixed use parking project, including but not limited to the
6 footings, foundations, site work, infrastructure, and soft costs that
7 are allocable to the parking use.

8 "Project area" means land or lands located within the incentive
9 area under common ownership or control including through a
10 redevelopment agreement with a municipality, or as otherwise
11 established by a municipality or a redevelopment agreement
12 executed by a State entity to implement a redevelopment project.

13 "Project cost" means the costs incurred in connection with the
14 redevelopment project by the developer until the issuance of a
15 permanent certificate of occupancy, or until such other time
16 specified by the authority, for a specific investment or
17 improvement, including the costs relating to receiving Highlands
18 Development Credits under the Highlands Transfer Development
19 Rights Program authorized pursuant to section 13 of P.L.2004,
20 c.120 (C.13:20-13), lands, buildings, improvements, real or
21 personal property, or any interest therein, including leases
22 discounted to present value, including lands under water, riparian
23 rights, space rights and air rights acquired, owned, developed or
24 redeveloped, constructed, reconstructed, rehabilitated or improved,
25 any environmental remediation costs, plus costs not directly related
26 to construction, of an amount not to exceed 20 percent of the total
27 costs, capitalized interest paid to third parties, and the cost of
28 infrastructure improvements, including ancillary infrastructure
29 projects, and, for projects located in a Garden State Growth Zone
30 only, the cost of infrastructure improvements including any
31 ancillary infrastructure project and the amount by which total
32 project cost exceeds the cost of an alternative location for the
33 redevelopment project, but excluding any particular costs for which
34 the project has received federal, State, or local funding.

35 "Project financing gap" means: a. the part of the total project
36 cost, including return on investment, that remains to be financed
37 after all other sources of capital have been accounted for, including,
38 but not limited to, developer-contributed capital, which shall not be
39 less than 20 percent of the total project cost, which may include the
40 value of any existing land and improvements in the project area
41 owned or controlled by the developer, and the cost of infrastructure
42 improvements in the public right-of-way, subject to review by the
43 State Treasurer, and investor or financial entity capital or loans for
44 which the developer, after making all good faith efforts to raise
45 additional capital, certifies that additional capital cannot be raised
46 from other sources on a non-recourse basis; and b. the amount by
47 which total project cost exceeds the cost of an alternative location
48 for the out-of-State redevelopment project.

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

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

4 (1) multiplying the general tax rate levied each year by the
5 taxable value of all the property assessed within a project area in
6 the same year, excluding any special assessments; and

7 (2) multiplying that product by a fraction having a numerator
8 equal to the taxable value of all the property assessed within the
9 project area, minus the property tax increment base, and having a
10 denominator equal to the taxable value of all property assessed
11 within the project area.

12 For the purpose of this definition, "property tax increment base"
13 means the aggregate taxable value of all property assessed which is
14 located within the redevelopment project area as of October 1st of
15 the year preceding the year in which the redevelopment incentive
16 grant agreement is authorized.

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

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

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

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

- 44 (a) Planning Area 1 (Metropolitan);
45 (b) Planning Area 2 (Suburban); or
46 (c) Planning Area 3 (Fringe Planning Area);

47 (2) located within a smart growth area and planning area
48 designated in a master plan adopted by the New Jersey

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

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

6 "Redevelopment incentive grant agreement" means an agreement
7 between, (1) the State and the New Jersey Economic Development
8 Authority and a developer, or (2) a municipality and a developer, or
9 a municipal ordinance authorizing a project to be undertaken by a
10 municipal redeveloper, under which, in exchange for the proceeds
11 of an incentive grant, the developer agrees to perform any work or
12 undertaking necessary for a redevelopment project, including the
13 clearance, development or redevelopment, construction, or
14 rehabilitation of any structure or improvement of commercial,
15 industrial, residential, or public structures or improvements within a
16 qualifying economic redevelopment and growth grant incentive area
17 or a transit village.

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

46 "Redevelopment utility" means a self-liquidating fund created by
47 a municipality pursuant to section 12 of P.L.2009, c.90 (C.52:27D-
48 489I) to account for revenues collected and incentive grants paid

1 pursuant to section 11 of P.L.2009, c.90 (C.52:27D-489k), or other
2 revenues dedicated to a redevelopment project.

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

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

11 "SDA municipality" means a municipality in which an SDA
12 district is situate.

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

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

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

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

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

42 "Vacant commercial building" means any commercial building
43 or complex of commercial buildings having over 400,000 square
44 feet of office, laboratory, or industrial space that is more than 70
45 percent unoccupied at the time of application to the authority or is
46 negatively impacted by the approval of a "qualified business
47 facility," as defined pursuant to section 2 of P.L.2007, c.346
48 (C.34:1B-208), or any vacant commercial building in a Garden

1 State Growth Zone having over 35,000 square feet of office,
2 laboratory, or industrial space, or over 200,000 square feet of
3 office, laboratory, or industrial space in Atlantic, Burlington,
4 Camden, Cape May, Cumberland, Gloucester, Ocean, or Salem
5 counties available for occupancy for a period of over one year.

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

12 (cf: P.L.2013, c.161, s.14)

13

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

16 6. a. Up to the limits established in subsection b. of this
17 section and in accordance with a redevelopment incentive grant
18 agreement, beginning upon the receipt of occupancy permits for any
19 portion of the redevelopment project, or upon such other event
20 evidencing project completion as set forth in the incentive grant
21 agreement, the State Treasurer shall pay to the developer
22 incremental State revenues directly realized from businesses
23 operating on or at the site of the redevelopment project from the
24 following taxes: the Corporation Business Tax Act (1945),
25 P.L.1945, c.162 (C.54:10A-1 et seq.), the tax imposed on marine
26 insurance companies pursuant to R.S.54:16-1 et seq., the tax
27 imposed on insurers generally, pursuant to P.L.1945, c.132
28 (C.54:18A-1 et seq.), the public utility franchise tax, public utilities
29 gross receipts tax and public utility excise tax imposed on sewerage
30 and water corporations pursuant to P.L.1940, c.5 (C.54:30A-49 et
31 seq.), those tariffs and charges imposed by electric, natural gas,
32 telecommunications, water and sewage utilities, and cable television
33 companies under the jurisdiction of the New Jersey Board of
34 Utilities, or comparable entity, except for those tariffs, fees, or taxes
35 related to societal benefits charges assessed pursuant to section 12
36 of P.L.1999, c.23 (C.48:3-60), any charges paid for compliance
37 with the "Global Warming Response Act," P.L.2007, c.112
38 (C.26:2C-37 et seq.), transitional energy facility assessment unit
39 taxes paid pursuant to section 67 of P.L.1997, c.162 (C.48:2-21.34),
40 and the sales and use taxes on public utility and cable television
41 services and commodities, the tax derived from net profits from
42 business, a distributive share of partnership income, or a pro rata
43 share of S corporation income under the "New Jersey Gross Income
44 Tax Act," N.J.S.54A:1-1 et seq., the tax derived from a business at
45 the site of a redevelopment project that is required to collect the tax
46 pursuant to the "Sales and Use Tax Act," P.L.1966, c.30 (C.54:32B-
47 1 et seq.), the tax imposed pursuant to P.L.1966, c.30 (C.54:32B-1
48 et seq.) from the purchase of furniture, fixtures and equipment, or

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

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

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

38 The value of all credits approved by the authority pursuant to
39 paragraph (2) or this paragraph shall not exceed \$600,000,000, of
40 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 credits shall be restricted to qualified residential
45 projects in a Garden State Growth Zone located within the
46 aforementioned counties, and \$75,000,000 of credits shall be
47 restricted to qualified residential projects in municipalities with a
48 2007 Municipal Revitalization Index of 400 or higher as of the date

1 of enactment of the "New Jersey Economic Opportunity Act of
2 2013," P.L.2013, c.161 (C.52:27D-489p et al.) and located within
3 the aforementioned counties;

4 (b) \$250,000,000 shall be restricted to **qualified residential**
5 **projects located in** the following categories of projects: (i)
6 qualified residential projects located in urban transit hubs that are
7 commuter rail in nature that otherwise do not qualify under
8 subparagraph (a) of this paragraph, (ii) **a** qualified residential
9 projects or mixed use parking projects in Garden State Growth
10 **Zone not located in a county mentioned in** Zones that do not
11 qualify under subparagraph (a) of this paragraph, (iii) qualified
12 residential projects which are disaster recovery projects that
13 otherwise do not qualify under subparagraph (a) of this paragraph,
14 **or** and (iv) qualified residential projects in SDA municipalities
15 located in Hudson County that were awarded State Aid in State
16 Fiscal Year 2013 through the Transitional Aid to Localities program
17 and otherwise do not qualify under subparagraph (a) of this
18 paragraph;

19 (c) \$75,000,000 shall be restricted to qualified residential
20 projects in distressed municipalities, deep poverty pockets,
21 highlands development credit receiving areas or redevelopment
22 areas, otherwise not qualifying pursuant to subparagraph (a) or (b)
23 of this paragraph; and

24 (d) \$25,000,000 shall be restricted to qualified residential
25 projects that are located within a qualifying economic
26 redevelopment and growth grant incentive area otherwise not
27 qualifying under subparagraph (a), (b), or (c) of this paragraph.

28 (e) For subparagraphs (a) through (d) of this paragraph, not
29 more than \$40,000,000 of credits shall be awarded to any qualified
30 residential project in a deep poverty pocket or distressed
31 municipality and not more than \$20,000,000 of credits shall be
32 awarded to any other qualified residential project. The developer of
33 a qualified residential project seeking an award of credits towards
34 the funding of its incentive grant shall submit an incentive grant
35 application prior to July 1, 2015 and if approved shall submit a
36 temporary certificate of occupancy for such project no later than
37 July 28, 2015. Applications for tax credits pursuant to this
38 subsection relating to an ancillary infrastructure project or
39 infrastructure improvement in the public right of way, or both, shall
40 be accompanied with a letter of support relating to the project or
41 improvement by the governing body or agency in which the project
42 is located. Credits awarded to a developer pursuant to this
43 subsection shall be subject to the same financial and related analysis
44 by the authority and shall be utilized or transferred by the developer
45 as if such credits had been awarded to the developer pursuant to
46 section 35 of P.L.2009, c.90 (C.34:1B-209.3) for qualified
47 residential projects thereunder. No portion of the revenues pledged
48 pursuant to the "New Jersey Economic Opportunity Act of 2013,"

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

4 **[(3)] (4)** A developer may apply to the Director of the
5 Division of Taxation in the Department of the Treasury and the
6 chief executive officer of the authority for a tax credit transfer
7 certificate, if the developer is awarded a tax credit pursuant to
8 paragraph (2) or paragraph (3) of this subsection, covering one or
9 more years, in lieu of the developer being allowed any amount of
10 the credit against the tax liability of the developer. The tax credit
11 transfer certificate, upon receipt thereof by the developer from the
12 director and the chief executive officer of the authority, may be sold
13 or assigned, in full or in part, to any other person that may have a
14 tax 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 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. Any amount of a tax credit transfer
24 certificate used by a purchaser or assignee against a tax liability
25 shall be subject to the same limitations and conditions that apply to
26 the use of the credit by the developer who originally applied for and
27 was allowed the credit.

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

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

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

41 (cf: P.L.2013, c.161, s.17)

42

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

45 8. a. (1) The authority, in consultation with the State Treasurer,
46 shall promulgate an incentive grant application form and procedure
47 for the Economic Redevelopment and Growth Grant program.

1 (2) (a) The Local Finance Board, in consultation with the
2 authority, shall develop a minimum standard incentive grant
3 application form for municipal Economic Redevelopment and
4 Growth Grant programs.

5 (b) Through regulation, the authority shall establish standards
6 for redevelopment projects seeking State or local incentive grants
7 based on the green building manual prepared by the Commissioner
8 of Community Affairs pursuant to section 1 of P.L.2007, c.132
9 (C.52:27D-130.6), regarding the use of renewable energy, energy-
10 efficient technology, and non-renewable resources in order to
11 reduce environmental degradation and encourage long-term cost
12 reduction.

13 b. Within each incentive grant application, a developer shall
14 certify information concerning:

15 (1) the status of control of the entire redevelopment project site;

16 (2) all required State and federal government permits that have
17 been issued for the redevelopment project, or will be issued pending
18 resolution of financing issues;

19 (3) local planning and zoning board approvals, as required, for
20 the redevelopment project;

21 (4) estimates of the revenue increment base, the eligible
22 revenues for the project, and the assumptions upon which those
23 estimates are made.

24 c. (1) With regard to State tax revenues proposed to be pledged
25 for an incentive grant the authority and the State Treasurer shall
26 review the project costs, evaluate and validate the project financing
27 gap estimated by the developer, and conduct a State fiscal impact
28 analysis to ensure that the overall public assistance provided to the
29 project, except with regards to a qualified residential project or a
30 mixed use parking project, will result in net benefits to the State
31 including, without limitation, both direct and indirect economic
32 benefits and non-financial community revitalization objectives,
33 including but not limited to, the promotion of the use of public
34 transportation in the case of the ancillary infrastructure project
35 portion of any transit project.

36 (2) With regard to local incremental revenues proposed to be
37 pledged for an incentive grant the authority and the Local Finance
38 Board shall review the project costs, and except with respect to an
39 application by a municipal redeveloper, evaluate and validate the
40 project financing gap projected by the developer, and conduct a
41 local fiscal impact analysis to ensure that the overall public
42 assistance provided to the project, except with regards to a qualified
43 residential project or a mixed use parking project, will result in net
44 benefits to the municipality wherein the redevelopment project is
45 located including, without limitation, both direct and indirect
46 economic benefits and non-financial community revitalization
47 objectives, including but not limited to, the promotion of the use of

1 public transportation in the case of the ancillary infrastructure
2 project portion of any transit project.

3 (3) The authority, State Treasurer, and Local Finance Board
4 may act cooperatively to administer and review applications, and
5 shall consult with the Office of State Planning on matters
6 concerning State, regional, and local development and planning
7 strategies.

8 (4) The costs of the aforementioned reviews shall be assessed to
9 the applicant as an application fee.

10 (5) A developer who has already applied for an incentive grant
11 award prior to the effective date of the "New Jersey Economic
12 Opportunity Act of 2013," P.L.2013, c.161 (C.52:27D-489p et al.),
13 but who has not yet been approved for such grant, or has not
14 executed an agreement with the authority, may proceed under that
15 application or seek to amend such application or reapply for an
16 incentive grant award for the same project or any part thereof for
17 the purpose of availing itself of any more favorable provisions of
18 the Economic Redevelopment and Growth Grant program
19 established pursuant to the "New Jersey Economic Opportunity Act
20 of 2013," P.L.2013, c.161 (C.52:27D-489p et al.), except that
21 projects with costs exceeding \$200,000,000 shall not be eligible for
22 revised percentage caps under subsection d. of section 19 of
23 P.L.2013, c.161 (C.52:27D-489i).
24 (cf: P.L.2013, c.161, s.18)

25
26 4. Section 9 of P.L.2009, c.90 (C.52:27D-489i) is amended to
27 read as follows:

28 9. a. The authority is authorized to enter into a redevelopment
29 incentive grant agreement with a developer for any redevelopment
30 project located within a qualifying economic redevelopment and
31 growth grant incentive area that does not qualify as such area solely
32 by virtue of being a transit village.

33 b. The decision whether or not to enter into a redevelopment
34 incentive grant agreement is solely within the discretion of the
35 authority and the State Treasurer, provided that they both agree to
36 enter into an agreement.

37 c. The Chief Executive Officer of the authority, in consultation
38 with the State Treasurer shall negotiate the terms and conditions of
39 any redevelopment incentive grant agreement on behalf of the State.

40 d. (1) The redevelopment incentive grant agreement shall
41 specify the maximum amount of project costs, the amount of the
42 incentive grant to be awarded the developer, the frequency of
43 payments, and the eligibility period, which shall not exceed 20
44 years, during which reimbursement will be granted, and for a
45 project receiving an incentive grant in excess of \$50 million, the
46 amount of the negotiated repayment amount to the State, which may
47 include, but not be limited to, cash, equity, and warrants. Except
48 for redevelopment incentive grant agreements with a municipal

1 redeveloper, or with the developer of a redevelopment project
2 solely with respect to the cost of infrastructure improvements in the
3 public right-of-way including any ancillary infrastructure project in
4 the public right-of-way, in no event shall the base amount of the
5 combined reimbursements under redevelopment incentive grant
6 agreements with the State or municipality exceed 20 percent of the
7 total project cost, except in a Garden State Growth Zone, which
8 shall not exceed 30 percent.

9 (2) The authority shall be permitted to increase the amount of
10 the reimbursement under the redevelopment incentive grant
11 agreement with the State by up to 10 percent of the total project
12 cost if the project is:

13 (a) located in a distressed municipality which lacks adequate
14 access to nutritious food in the judgment of the Chief Executive
15 Officer of the authority and will include either a supermarket or
16 grocery store with a minimum of 15,000 square feet of selling space
17 devoted to the sale of consumable products or a prepared food
18 establishment selling only nutritious ready to serve meals;

19 (b) located in a distressed municipality which lacks adequate
20 access to health care and health services in the judgment of the
21 Chief Executive Officer of the authority and will include a health
22 care and health services center with a minimum of 10,000 square
23 feet of space devoted to the provision of health care and health
24 services;

25 (c) located in a distressed municipality which has a business
26 located therein that is required to respond to a request for proposal
27 to fulfill a contract with the federal government as set forth in
28 subsection d. of section 3 of P.L.2011, c.149 (C.34:1B-244);

29 (d) a transit project;

30 (e) a qualified residential project in which at least 10 percent of
31 the residential units are constructed as and reserved for moderate
32 income housing;

33 (f) located in a highlands development credit receiving area or
34 redevelopment area;

35 (g) located in a Garden State Growth Zone;

36 (h) a disaster recovery project;

37 (i) an aviation project;

38 (j) a tourism destination project; or

39 (k) substantial rehabilitation or renovation of an existing
40 structure or structures.

41 (3) The maximum amount of any redevelopment incentive grant
42 shall be equal to up to 30 percent of the total project costs, except
43 for projects located in a Garden State Growth Zone, in which case
44 the maximum amount of any redevelopment incentive grant shall be
45 equal to up to 40 percent of the total project costs. Notwithstanding
46 anything to the contrary contained within this section, the maximum
47 amount of any redevelopment incentive grant with respect to a
48 mixed use parking project shall be up to 100 percent of the total

1 project costs allocable to the parking component of the project, and
2 shall be up to 40 percent of the total project costs allocable to the
3 non-parking component of the project.

4 e. Except in the case of a qualified residential project or a
5 mixed use parking project, the authority and the State Treasurer
6 may enter into a redevelopment incentive grant agreement only if
7 they make a finding that the State revenues to be realized from the
8 redevelopment project will be in excess of the amount necessary to
9 reimburse the developer for its project financing gap. This finding
10 may be made by an estimation based upon the professional
11 judgment of the Chief Executive Officer of the authority and the
12 State Treasurer.

13 f. In deciding whether or not to recommend entering into a
14 redevelopment incentive grant agreement and in negotiating a
15 redevelopment agreement with a developer, the Chief Executive
16 Officer of the authority shall consider the following factors:

17 (1) the economic feasibility of the redevelopment project;

18 (2) the extent of economic and related social distress in the
19 municipality and the area to be affected by the redevelopment
20 project or the level of site specific distress to include dilapidated
21 conditions, brownfields designation, environmental contamination,
22 pattern of vacancy, abandonment, or under utilization of the
23 property, rate of foreclosures, or other site conditions as determined
24 by the authority;

25 (3) the degree to which the redevelopment project will advance
26 State, regional, and local development and planning strategies;

27 (4) the likelihood that the redevelopment project shall, upon
28 completion, be capable of generating new tax revenue in an amount
29 in excess of the amount necessary to reimburse the developer for
30 project costs incurred as provided in the redevelopment incentive
31 grant agreement, provided, however, that any tax revenue generated
32 by a redevelopment project that is a disaster recovery project shall
33 be considered new tax revenue even if the same or more tax revenue
34 was generated at or on the site prior to the disaster;

35 (5) the relationship of the redevelopment project to a
36 comprehensive local development strategy, including other major
37 projects undertaken within the municipality;

38 (6) the need of the redevelopment incentive grant agreement to
39 the viability of the redevelopment project or the promotion of the
40 use of public transportation; and

41 (7) the degree to which the redevelopment project enhances and
42 promotes job creation and economic development or the promotion
43 of the use of public transportation.

44 g. (1) A developer that has entered into a redevelopment
45 incentive grant agreement with the authority and the State Treasurer
46 pursuant to this section may, upon notice to and consent of the
47 authority and the State Treasurer, pledge, assign, transfer, or sell
48 any or all of its right, title and interest in and to such agreements

1 and in the incentive grants payable thereunder, and the right to
2 receive same, along with the rights and remedies provided to the
3 developer under such agreement. Any such assignment shall be an
4 absolute assignment for all purposes, including the federal
5 bankruptcy code.

6 (2) Any pledge of incentive grants made by the developer shall
7 be valid and binding from the time when the pledge is made and
8 filed in the records of the authority. The incentive grants so
9 pledged and thereafter received by the developer shall immediately
10 be subject to the lien of the pledge without any physical delivery
11 thereof or further act, and the lien of any pledge shall be valid and
12 binding as against all parties having claims of any kind in tort,
13 contract, or otherwise against the developer irrespective of whether
14 the parties have notice thereof. Neither the redevelopment
15 incentive grant agreement nor any other instrument by which a
16 pledge under this section is created need be filed or recorded except
17 with the authority.

18 (cf: P.L.2013, c.161, s.19)

19

20 5. This act shall take effect immediately.

21

22

23

STATEMENT

24

25 This bill would permit municipal redevelopers, which shall
26 include municipalities, redevelopment agencies, municipal parking
27 authorities, and developers that enter into long term operation and
28 maintenance agreements with municipal parking authorities, to
29 obtain tax credits under the ERG program when they develop mixed
30 use parking projects. The municipal redeveloper could obtain a tax
31 credit of up to 100 percent of the parking component cost and up to
32 40 percent of the non-parking component cost. A mixed use
33 parking project would consist of a qualified residential project and a
34 parking facility within a Garden State Growth Zone, for which the
35 parking component constitutes at least 51 percent of any of the
36 following: (i) the total square footage of the entire mixed use
37 parking project, or (ii) the estimated revenues of the entire mixed
38 use parking project, or (iii) the total construction cost of the entire
39 mixed use parking project.

SENATE ECONOMIC GROWTH COMMITTEE

STATEMENT TO

SENATE, No. 2458

STATE OF NEW JERSEY

DATED: JANUARY 29, 2015

The Senate Economic Growth Committee reports favorably and with committee amendments Senate Bill No. 2458.

As amended and reported, this bill permits municipal redevelopers, which include municipalities, redevelopment agencies, municipal parking authorities, and developers that enter into long term operation and maintenance agreements with municipal parking authorities, to obtain tax credits under the Economic Redevelopment and Growth (ERG) program when they develop mixed use parking projects. The municipal redeveloper is eligible for a tax credit of up to 100 percent of the parking component cost and up to 40 percent of the non-parking component cost. A mixed use parking project (project) is to consist of a qualified residential project and parking facility for which the parking component constitutes at least 51 percent of any of the following: (1) the total square footage of the entire project; (2) the estimated revenues of the entire project; or (3) the total construction cost of the entire project.

The committee amended the bill to: 1) expand project eligibility for tax credits under ERG to Garden State Growth Zones in Atlantic, Burlington, Camden, Cape May, Cumberland, Gloucester, Ocean, and Salem counties, and all “urban transit hubs”; 2) limit the tax credits to \$25 million per “urban transit hub,” not located in the above counties; and 3) dedicate \$25 million to a Garden State Growth Zone municipality with a population over 125,000 not located in one of the above counties. The amendments also reflect intervening enactments since the bill’s introduction and make reference corrections.

SENATE BUDGET AND APPROPRIATIONS COMMITTEE

STATEMENT TO

[First Reprint]

SENATE, No. 2458

with committee amendments

STATE OF NEW JERSEY

DATED: MARCH 9, 2015

The Senate Budget and Appropriations Committee reports favorably Senate Bill No. 2458 (1R), with committee amendments.

As amended, this bill permits municipal redevelopers, which include municipalities, redevelopment agencies, municipal parking authorities, and developers that enter into long-term operation and maintenance agreements with municipal parking authorities, to obtain tax credits under the Economic Redevelopment and Growth (ERG) program when they develop mixed-use parking projects. The municipal redeveloper is eligible for a tax credit of up to 100 percent of the parking component cost and up to 40 percent of the non-parking component cost. A mixed-use parking project is to consist of a redevelopment project with a parking facility for which the parking component constitutes at least 51 percent of any of the following: (1) the total square footage of the entire project; (2) the estimated revenues of the entire project; or (3) the total construction cost of the entire project.

The bill (1) expands parking project eligibility for tax credits under ERG to Garden State Growth Zones in Atlantic, Burlington, Camden, Cape May, Cumberland, Gloucester, Ocean, and Salem counties, and all "urban transit hubs;" (2) limits the tax credits to \$25 million per "urban transit hub," not located in the above counties; and (3) dedicates \$25 million to a Garden State Growth Zone municipality with a population over 125,000 not located in one of the above counties.

COMMITTEE AMENDMENTS:

The committee amendments make a technical correction to the title of the bill to clarify the inclusion of urban transit hubs in areas eligible for tax credits for mixed-use parking projects.

FISCAL IMPACT:

The Office of Legislative Services (OLS) finds the bill is likely to produce a negative fiscal net impact of indeterminate magnitude on the

State. The inability to quantify the net impact is rooted in imperfect information regarding: (1) the number and attributes of mixed-use parking projects that would newly earn Economic Redevelopment and Growth (ERG) tax credits; (2) the extent to which, absent this bill, the \$600 million cap on total ERG tax credit awards would be reached; and (3) the number and attributes of residential redevelopment projects whose tax credits may be crowded out by tax credit awards to mixed-use parking projects.

In general, the State fiscal net impact is calculated by adding the indeterminate direct revenue loss from awarding ERG tax credits to mixed-use parking 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.

The OLS expects the bill's indirect State revenue gain to fall below its direct State cost because the ERG tax credit program does not require tax credit-receiving projects to yield a net fiscal benefit to the State. Moreover, if tax credit awards to mixed-use parking projects under this bill displace tax credit awards to other redevelopment projects, then the excess of the direct State revenue loss from awarding the credits over the indirect State revenue gain is likely to be greater with mixed use parking projects than with residential redevelopment projects. This is so because the maximum credit amount for mixed-use parking projects (up to 100 percent of a project's parking component cost and up to 40 percent of its non-parking component cost) exceeds the maximum credit amount for residential redevelopment projects (20 percent to 40 percent of the capital cost depending on a project's specific location).

The legislation might accrue an indeterminate revenue gain to affected local governments in the form of an indirect revenue gain.

LEGISLATIVE FISCAL ESTIMATE

[Second Reprint]

SENATE, No. 2458

STATE OF NEW JERSEY 216th LEGISLATURE

DATED: MARCH 18, 2015

SUMMARY

- Synopsis:** Permits municipalities and municipal parking authorities to receive tax credits under Economic Redevelopment and Growth Grant program for certain mixed-use parking projects in Garden State Growth Zones and urban transit hubs.
- 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	Indeterminate — See comments below
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
<u>Local</u> Opportunity Cost	Indeterminate — See comments below

- The Office of Legislative Services (OLS) finds the bill is likely to produce a negative fiscal net impact of indeterminate magnitude on the State. The inability to quantify the net impact is rooted in imperfect information on: a) the number and attributes of mixed use parking projects that would newly earn Economic Redevelopment and Growth (ERG) tax credits; b) the extent to which, absent this bill, the \$600 million cap on total ERG tax credit awards would be reached; and c) the number and attributes of residential redevelopment projects whose tax credits may be crowded out by tax credit awards to mixed use parking projects.
- The State fiscal net impact is calculated by adding the indeterminate direct revenue loss from awarding ERG tax credits to mixed use parking 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.

- The OLS expects the bill's indirect State revenue gain to fall below its direct State cost because the ERG tax credit program does not require tax credit-receiving projects to yield a net fiscal benefit to the State. Moreover, if tax credit awards to mixed use parking projects under this bill displace tax credit awards to other redevelopment projects, then the excess of the direct State revenue loss from awarding the credits over the indirect State revenue gain is likely to be greater with mixed use parking projects than with residential redevelopment projects. This is so because the maximum credit amount for mixed use parking projects (up to 100 percent of a project's parking component cost and up to 40 percent of its non-parking component cost) exceeds the maximum credit amount for residential redevelopment projects (20 percent to 40 percent of the capital cost depending on a project's specific location).
- The legislation might accrue an indeterminate revenue gain to affected local governments in the form of an indirect revenue gain.

BILL DESCRIPTION

Senate Bill No. 2458 (2R) of 2014 extends the Economic Redevelopment and Growth (ERG) tax credit program for residential redevelopment projects to certain mixed use parking projects. Tax credits for eligible mixed use parking projects equal up to 100 percent of a project's parking component cost and up to 40 percent of its non-parking component cost and must close a project financing gap that otherwise would be likely to prevent the project's realization. Tax credits are authorized for taxpayer use in up to ten annual installments following project completion. The bill does not alter the \$600 million cap on the ERG tax credit program for residential redevelopment projects. The application deadline is July 1, 2016 and projects must obtain temporary certificates of occupancy by July 28, 2018.

A tax credit-eligible mixed use parking project must: a) be located in a Garden State Growth Zone (the cities of Atlantic City, Camden, Passaic, Paterson, and Trenton) or an urban transit hub (the area within a one-half mile radius around a rail or light rail station in Camden, East Orange, Elizabeth, Hoboken, Jersey City, Newark, New Brunswick, Paterson, and Trenton, with the Camden urban transit hub covering the area within a one-mile radius around a rail or light rail station; in addition, there is an urban transit hub in the area within a one-mile radius of a rail or light rail station that was subject to a Choice Neighborhoods Transformation Plan with the McGinley Square – Montgomery Corridor in Jersey City being the only current New Jersey Choice Neighborhood); b) be undertaken by municipal redevelopers, which include municipalities, redevelopment agencies, municipal parking authorities, and developers that enter into long-term operation and maintenance agreements with municipal parking authorities; and c) consist of a redevelopment project and a parking facility for which the parking component constitutes at least 51 percent of any of the following: (1) the project's total square footage; (2) the project's estimated revenues or (3) the project's total construction cost. There is no minimum capital investment threshold to qualify for tax credits and projects are not required to generate fiscal net State benefits in excess of the tax credit award.

FISCAL ANALYSIS

EXECUTIVE BRANCH

None received.

OFFICE OF LEGISLATIVE SERVICES

The OLS finds the bill is likely 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 OLS cannot determine whether the bill will impose a direct revenue loss on the State General Fund and Property Tax Relief Fund. This is so because of imperfect information on: a) the number and attributes of mixed use parking projects that would earn ERG tax credits, and b) the extent to which, absent this bill, the \$600 million cap on total ERG tax credit awards for residential redevelopment projects would be reached.

Three scenarios are conceivable, assuming the ERG tax credit program's \$600 million cap will not be increased or eliminated in the future: a) the bill has no direct State revenue impact; b) the bill produces a direct State revenue loss equal to the dollar value of tax credits awarded to mixed use parking projects; and c) the bill produces a direct State revenue loss that is less than the dollar value of tax credits awarded to mixed use parking projects.

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

No Direct State Revenue Impact: The bill would produce no direct State revenue impact if one of two scenarios materialized. First, no mixed use parking project qualifies for an ERG tax credit. Second, if, absent this bill, the ERG tax credit program's \$600 million cap space were to be fully used up, then any tax credit award to a mixed use parking project under this bill would merely redistribute the available program allocation among competing projects and not change the total dollar amount of tax credit authorizations.

Direct State Revenue Loss Equal to Amount of Tax Credit Awards for Mixed Use Parking Projects: The bill would produce a direct State revenue loss equal to the cumulative dollar value of tax credits awarded to mixed use parking projects if the amount of unused ERG tax credit program cap space, absent this bill, were larger or equal to the cumulative dollar value of tax credits awarded to mixed use parking projects.

Direct State Revenue Loss of Less than Amount of Tax Credit Awards for Mixed Use Parking Projects: The bill would produce a direct State revenue loss of less than the cumulative dollar value of tax credits awarded to mixed use parking projects if there were unused ERG tax credit program cap space, absent this bill, but if the unused cap space were less than the dollar amount of tax credits awarded to mixed use parking projects. In this case, the bill's direct State revenue loss would equal the dollar value of the otherwise unused cap space that tax credit awards to mixed use parking projects would consume. The excess of the dollar value of tax credit awards for mixed use parking projects over the dollar value of the unused cap space would merely

represent a reallocation of tax credit amounts from other credit-eligible residential redevelopment projects to mixed use parking projects.

Indirect State and Local Revenue Gain: The OLS cannot quantify the legislation's indirect revenue gain to the State and local governments. This is so because of imperfect information on: a) the number and attributes of mixed use parking projects that would earn ERG tax credits, and b) the number and attributes of redevelopment projects whose tax credits may be crowded out by the bill's tax credit awards to mixed use parking projects. But, for reasons laid out below, the OLS anticipates the bill to increase the amount by which the ERG tax credit program's direct State revenue loss exceed its indirect State and local government revenue gain.

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: The OLS anticipates the bill to increase the amount by which the ERG tax credit program's direct State revenue loss exceeds its indirect State and local government revenue gain, irrespective of any displacement by ERG tax credit awards to mixed use parking projects of ERG tax credit awards to other residential redevelopment projects.

If, on the one hand, the bill results in tax credit awards to mixed use parking projects without crowding out any tax credit award to other residential redevelopment projects, then tax credit awards under this bill are likely to generate an indirect State revenue gain that is less than the value of the tax credits because, as explained further below, the ERG tax credit program, by design, does not require tax credit-receiving projects to yield a net fiscal benefit to the State.

If, on the other hand, tax credit awards to mixed use parking projects under this bill displace tax credit awards to other residential redevelopment projects, then the excess of the direct State revenue loss from awarding the tax credits over the indirect revenue gain is likely to be greater with mixed use parking projects than with residential redevelopment projects. This is so because the maximum credit amount for mixed use parking projects (up to 100 percent of a project's parking component cost and up to 40 percent of its non-parking component cost) exceeds the maximum credit amount for residential redevelopment projects (20 percent to 40 percent of the capital cost, depending on a project's specific location).

In general, by its very nature, the ERG tax credit program for residential redevelopment projects can be expected to generate indirect fiscal benefits to the State that are less than the direct State cost of the tax credit awards. First, the ERG tax credit program does not subject residential redevelopment and mixed use parking projects to the multiplier-based net benefit test calculation, which for other economic development incentive programs is intended to ensure that the 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, the EDA must only determine that the realization of a residential redevelopment or mixed use parking 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 will not have been induced by the incentive programs 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. Given that many beneficiaries are national and global in scope, however, the expectation that such incentive recipients will expend at least a portion of their incentive awards in New Jersey often seems challengeable.

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 mixed use parking projects 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 mixed use parking projects—or the direct State cost of awarding ERG tax credits to mixed use parking projects minus the incentives' indirect State fiscal effects—and that of the foregone road construction investment.

Section: Revenue, Finance and Appropriations

*Analyst: Thomas Koenig
Lead Fiscal Analyst*

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

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

ASSEMBLY COMMERCE AND ECONOMIC DEVELOPMENT
COMMITTEE

STATEMENT TO

[Second Reprint]
SENATE, No. 2458

with committee amendments

STATE OF NEW JERSEY

DATED: JUNE 15, 2015

The Assembly Commerce and Economic Development Committee reports favorably and with committee amendments Senate Bill No. 2458 (2R).

As amended by the committee, this bill amends the law governing the Economic Redevelopment and Growth Grant (ERG) program to encourage the development of mixed use parking projects by allowing municipal parking authorities and certain private developers to apply for tax credits under the ERG program when they develop mixed use parking projects.

The bill defines a "mixed use parking project" to mean a redevelopment project undertaken by a municipal redeveloper, the parking component of which constitutes 51 percent of the entire project, based upon either the total square footage, the estimated revenues, or the total construction cost. The bill amends the ERG law's definition of "municipal redeveloper," which currently applies to a municipal government or a redevelopment agency created pursuant to the "Local Redevelopment and Housing Law," to include a municipal parking authority, and also a developer of a mixed use parking project, provided that the parking component of the mixed use parking project is operated and maintained by a municipal parking authority for the term of any ERG financial incentives.

The bill, as amended by the committee, provides that the amount of ERG tax credits available for mixed use parking projects are within the \$600 million cap currently applicable to ERG tax credits for qualified residential projects. The bill restricts \$25 million of the \$250 million of credits reserved for northern counties for mixed use parking projects in Garden State Growth Zones which have a population in excess of 125,000. The bill authorizes the Economic Development Authority to grant tax credits for mixed use parking projects which include a vacant commercial building located wholly or partially within a distressed municipality, and which are used by an

independent institution of higher education, a school of medicine, a nonprofit hospital system, or any combination thereof, out of the \$75 million currently restricted for qualified residential projects in distressed municipalities, deep poverty pockets, highlands development credit receiving areas or redevelopment areas.

COMMITTEE AMENDMENTS:

The committee amended the bill to authorize the grant of tax credits for mixed use parking projects which include a vacant commercial building located wholly or partially within a distressed municipality, and which are used by an independent institution of higher education, a school of medicine, a nonprofit hospital system, or any combination thereof, out of the \$75 million currently restricted for qualified residential projects in distressed municipalities, deep poverty pockets, highlands development credit receiving areas or redevelopment areas.

ASSEMBLY APPROPRIATIONS COMMITTEE

STATEMENT TO

[Third Reprint]

SENATE, No. 2458

STATE OF NEW JERSEY

DATED: JUNE 22, 2015

The Assembly Appropriations Committee reports favorably Senate Bill No. 2458 (3R).

This bill amends the law governing the Economic Redevelopment and Growth Grant (ERG) program to encourage the development of mixed use parking projects by allowing municipal parking authorities and certain private developers to apply for tax credits under the ERG program when they develop mixed use parking projects.

The bill defines a "mixed use parking project" to mean a redevelopment project undertaken by a municipal redeveloper, the parking component of which constitutes 51 percent of the entire project, based upon the total square footage, the estimated revenues, or the total construction cost. The bill amends the ERG law's definition of "municipal redeveloper," which currently applies to a municipal government or a redevelopment agency created pursuant to the "Local Redevelopment and Housing Law," to include a municipal parking authority, and also a developer of a mixed use parking project, provided that the parking component of the mixed use parking project is operated and maintained by a municipal parking authority for the term of any ERG financial incentives.

The bill provides that the amount of ERG tax credits available for mixed use parking projects are within the \$600 million cap currently applicable to ERG tax credits for qualified residential projects. The bill restricts \$25 million of the \$250 million of credits reserved for northern counties for mixed use parking projects in Garden State Growth Zones which have a population in excess of 125,000. The bill authorizes the Economic Development Authority to grant tax credits for mixed use parking projects which include a vacant commercial building located wholly or partially within a distressed municipality, and which are used by an independent institution of higher education, a school of medicine, a nonprofit hospital system, or any combination thereof, out of the \$75 million currently restricted for qualified residential projects in distressed municipalities, deep poverty pockets, highlands development credit receiving areas or redevelopment areas.

As reported, this bill is identical to Assembly Bill No. 4332 (1R), as also reported by the committee.

FISCAL IMPACT:

The Office of Legislative Services (OLS) finds the bill is likely to produce a negative fiscal net impact of indeterminate magnitude on the State. The inability to quantify the net impact is rooted in imperfect information on:

- the number and attributes of mixed use parking projects that would newly earn Economic Redevelopment and Growth (ERG) tax credits,

- the extent to which, absent this bill, the \$600 million cap on total ERG tax credit awards would be reached, and

- the number and attributes of residential redevelopment projects whose tax credits may be crowded out by tax credit awards to mixed use parking projects.

In general, the State fiscal net impact is calculated by adding the indeterminate direct revenue loss from awarding ERG tax credits to mixed use parking 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.

The OLS expects the bill's indirect State revenue gain to fall below its direct State cost because the ERG tax credit program does not require tax credit-receiving projects to yield a net fiscal benefit to the State. Moreover, if tax credit awards to mixed use parking projects under this bill displace tax credit awards to other redevelopment projects, then the excess of the direct State revenue loss from awarding the credits over the indirect State revenue gain is likely to be greater with mixed use parking projects than with residential redevelopment projects. This is so because the maximum credit amount for mixed use parking projects (up to 100 percent of a project's parking component cost and up to 40 percent of its non-parking component cost) exceeds the maximum credit amount for residential redevelopment projects (20 percent to 40 percent of the capital cost depending on a project's specific location).

The bill may accrue an indeterminate revenue gain to affected local governments in the form of an indirect revenue gain.

LEGISLATIVE FISCAL ESTIMATE

[Third Reprint]

SENATE, No. 2458

STATE OF NEW JERSEY 216th LEGISLATURE

DATED: JUNE 24, 2015

SUMMARY

- Synopsis:** Permits municipal redevelopers to receive tax credits under Economic Redevelopment and Growth Grant program for certain mixed use parking projects.
- 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	Indeterminate — See comments below
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
<u>Local</u> Opportunity Cost	Indeterminate — See comments below

- The Office of Legislative Services (OLS) finds the bill is likely to produce a negative fiscal net impact of indeterminate magnitude on the State. The inability to quantify the net impact is rooted in imperfect information on: a) the number and attributes of mixed use parking projects that would newly earn Economic Redevelopment and Growth (ERG) tax credits; b) the extent to which, absent this bill, the \$600 million cap on total ERG tax credit awards would be reached; and c) the number and attributes of residential redevelopment projects whose tax credits may be crowded out by tax credit awards to mixed use parking projects.
- The State fiscal net impact is calculated by adding the indeterminate direct revenue loss from awarding ERG tax credits to mixed use parking 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.

- The OLS expects the bill's indirect State revenue gain to fall below its direct State cost because the ERG tax credit program does not require tax credit-receiving projects to yield a net fiscal benefit to the State. Moreover, if tax credit awards to mixed use parking projects under this bill displace tax credit awards to other redevelopment projects, then the excess of the direct State revenue loss from awarding the credits over the indirect State revenue gain is likely to be greater with mixed use parking projects than with residential redevelopment projects. This is so because the maximum credit amount for mixed use parking projects (up to 100 percent of a project's parking component cost and up to 40 percent of its non-parking component cost) exceeds the maximum credit amount for residential redevelopment projects (20 percent to 40 percent of the capital cost depending on a project's specific location).
- The legislation might accrue an indeterminate revenue gain to affected local governments in the form of an indirect revenue gain.

BILL DESCRIPTION

Senate Bill No. 2458 (3R) of 2014 extends the ERG tax credit program for residential redevelopment projects to certain mixed use parking projects. Tax credits for eligible mixed use parking projects equal up to 100 percent of a project's parking component cost and up to 40 percent of its non-parking component cost and must close a project financing gap that otherwise would be likely to prevent the project's realization. Tax credits are authorized for taxpayer use in up to ten annual installments following project completion. The bill does not alter the \$600 million cap on the ERG tax credit program for residential redevelopment projects. The application deadline is July 1, 2016 and projects must obtain temporary certificates of occupancy by July 28, 2018.

A tax credit-eligible mixed use parking project must:

a) be located in: 1) a Garden State Growth Zone (the cities of Atlantic City, Camden, Passaic, Paterson, and Trenton); 2) an urban transit hub (the area within a one-half mile radius around a rail or light rail station in Camden, East Orange, Elizabeth, Hoboken, Jersey City, Newark, New Brunswick, Paterson, and Trenton, with the Camden urban transit hub covering the area within a one-mile radius around a rail or light rail station; in addition, there is an urban transit hub in the area within a one-mile radius of a rail or light rail station that was subject to a Choice Neighborhoods Transformation Plan with the McGinley Square – Montgomery Corridor in Jersey City being the only current New Jersey Choice Neighborhood); or 3) a distressed municipality if an independent institution of higher education, a school of medicine, a non-profit hospital system or any combination thereof uses the mixed use parking project, which must include a vacant commercial building located in a distressed municipality;

b) be undertaken by municipal redevelopers, which include municipalities, redevelopment agencies, municipal parking authorities, and developers that enter into long-term operation and maintenance agreements with municipal parking authorities; and

c) consist of a redevelopment project and a parking facility for which the parking component constitutes at least 51 percent of any of the following: (1) the project's total square footage; (2) the project's estimated revenues or (3) the project's total construction cost.

There is no minimum capital investment threshold to qualify for tax credits and projects are not required to generate fiscal net State benefits in excess of the tax credit award.

FISCAL ANALYSIS

EXECUTIVE BRANCH

None received.

OFFICE OF LEGISLATIVE SERVICES

The OLS finds the bill is likely 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 OLS cannot determine whether the bill will impose a direct revenue loss on the State General Fund and Property Tax Relief Fund. This is so because of imperfect information on: a) the number and attributes of mixed use parking projects that would earn ERG tax credits, and b) the extent to which, absent this bill, the \$600 million cap on total ERG tax credit awards for residential redevelopment projects would be reached.

Three scenarios are conceivable, assuming the ERG tax credit program's \$600 million cap will not be increased or eliminated in the future: a) the bill has no direct State revenue impact; b) the bill produces a direct State revenue loss equal to the dollar value of tax credits awarded to mixed use parking projects; and c) the bill produces a direct State revenue loss that is less than the dollar value of tax credits awarded to mixed use parking projects.

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

No Direct State Revenue Impact: The bill would produce no direct State revenue impact if one of two scenarios materialized. First, no mixed use parking project qualifies for an ERG tax credit. Second, if, absent this bill, the ERG tax credit program's \$600 million cap space were to be fully used up, then any tax credit award to a mixed use parking project under this bill would merely redistribute the available program allocation among competing projects and not change the total dollar amount of tax credit authorizations.

Direct State Revenue Loss Equal to Amount of Tax Credit Awards for Mixed Use Parking Projects: The bill would produce a direct State revenue loss equal to the cumulative dollar value of tax credits awarded to mixed use parking projects if the amount of unused ERG tax credit program cap space, absent this bill, were larger or equal to the cumulative dollar value of tax credits awarded to mixed use parking projects.

Direct State Revenue Loss of Less than Amount of Tax Credit Awards for Mixed Use Parking Projects: The bill would produce a direct State revenue loss of less than the cumulative dollar value of tax credits awarded to mixed use parking projects if there were unused ERG tax credit program cap space, absent this bill, but if the unused cap space were less than the dollar amount

of tax credits awarded to mixed use parking projects. In this case, the bill's direct State revenue loss would equal the dollar value of the otherwise unused cap space that tax credit awards to mixed use parking projects would consume. The excess of the dollar value of tax credit awards for mixed use parking projects over the dollar value of the unused cap space would merely represent a reallocation of tax credit amounts from other credit-eligible residential redevelopment projects to mixed use parking projects.

Indirect State and Local Revenue Gain: The OLS cannot quantify the legislation's indirect revenue gain to the State and local governments. This is so because of imperfect information on: a) the number and attributes of mixed use parking projects that would earn ERG tax credits, and b) the number and attributes of redevelopment projects whose tax credits may be crowded out by the bill's tax credit awards to mixed use parking projects. But, for reasons laid out below, the OLS anticipates the bill to increase the amount by which the ERG tax credit program's direct State revenue loss exceed its indirect State and local government revenue gain.

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: The OLS anticipates the bill to increase the amount by which the ERG tax credit program's direct State revenue loss exceeds its indirect State and local government revenue gain, irrespective of any displacement by ERG tax credit awards to mixed use parking projects of ERG tax credit awards to other residential redevelopment projects.

If, on the one hand, the bill results in tax credit awards to mixed use parking projects without crowding out any tax credit award to other residential redevelopment projects, then tax credit awards under this bill are likely to generate an indirect State revenue gain that is less than the value of the tax credits because, as explained further below, the ERG tax credit program, by design, does not require tax credit-receiving projects to yield a net fiscal benefit to the State.

If, on the other hand, tax credit awards to mixed use parking projects under this bill displace tax credit awards to other residential redevelopment projects, then the excess of the direct State revenue loss from awarding the tax credits over the indirect revenue gain is likely to be greater with mixed use parking projects than with residential redevelopment projects. This is so because the maximum credit amount for mixed use parking projects (up to 100 percent of a project's parking component cost and up to 40 percent of its non-parking component cost) exceeds the maximum credit amount for residential redevelopment projects (20 percent to 40 percent of the capital cost, depending on a project's specific location).

In general, by its very nature, the ERG tax credit program for residential redevelopment projects can be expected to generate indirect fiscal benefits to the State that are less than the direct State cost of the tax credit awards. First, the ERG tax credit program does not subject residential redevelopment and mixed use parking projects to the multiplier-based net benefit test calculation, which for other economic development incentive programs is intended to ensure that the 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, the EDA must only determine that the realization of a residential redevelopment or mixed use parking 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 will not have been induced by the incentive programs 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. Given that many beneficiaries are national and global in scope, however, the expectation that such incentive recipients will expend at least a portion of their incentive awards in New Jersey often seems challengeable.

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 mixed use parking projects 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 mixed use parking projects—or the direct State cost of awarding ERG tax credits to mixed use parking projects minus the incentives' indirect State fiscal effects—and that of the foregone road construction investment.

Section: Revenue, Finance and Appropriations

*Analyst: Thomas Koenig
Lead Fiscal Analyst*

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

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

ASSEMBLY, No. 4332

STATE OF NEW JERSEY 216th LEGISLATURE

INTRODUCED MARCH 23, 2015

Sponsored by:

Assemblywoman ELIANA PINTOR MARIN

District 29 (Essex)

Assemblyman BENJIE E. WIMBERLY

District 35 (Bergen and Passaic)

Assemblyman TROY SINGLETON

District 7 (Burlington)

SYNOPSIS

Permits municipalities and municipal parking authorities to receive tax credits under Economic Redevelopment and Growth Grant program for certain mixed-use parking projects in Garden State Growth Zones and urban transit hubs.

CURRENT VERSION OF TEXT

As introduced.



A4332 PINTOR MARIN, WIMBERLY

2

1 AN ACT concerning tax credits for certain mixed-use projects in
2 Garden State Growth Zones and urban transit hubs, amending
3 P.L.2009, c.90.

4

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

7

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

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

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

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

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

26 "Aviation district" means the area within a one-mile radius of the
27 outermost boundary of the "Atlantic City International Airport,"
28 established pursuant to section 24 of P.L.1991, c.252 (C.27:25A-
29 24).

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

35 "Developer" means any person who enters or proposes to enter
36 into a redevelopment incentive grant agreement pursuant to the
37 provisions of section 9 of P.L.2009, c.90 (C.52:27D-489i), or its
38 successors or assigns, including but not limited to a lender that
39 completes a redevelopment project, operates a redevelopment
40 project, or completes and operates a redevelopment project. A
41 developer also may be a municipal **government or a redevelopment**
42 **agency as defined in section 3 of P.L.1992, c.79 (C.40A:12A-3)]**
43 redeveloper as defined herein.

44 "Director" means the Director of the Division of Taxation in the
45 Department of the Treasury.

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

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

16 "Eligibility period" means the period of time specified in a
17 redevelopment incentive grant agreement for the payment of
18 reimbursements to a developer, which period shall not exceed 20
19 years, with the term to be determined solely at the discretion of the
20 applicant.

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

29 "Garden State Growth Zone" or "growth zone" means the four
30 New Jersey cities with the lowest median family income based on
31 the 2009 American Community Survey from the US Census, (Table
32 708. Household, Family, and Per Capita Income and Individuals,
33 and Families Below Poverty Level by City: 2009); or a municipality
34 which contains a Tourism District as established pursuant to section
35 5 of P.L.2011, c.18 (C.5:12-219) and regulated by the Casino
36 Reinvestment Development Authority.

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

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

47 "Infrastructure improvements in the public right-of-way" mean
48 public structures or improvements located in the public right of way

1 that are located within a project area or that constitute an ancillary
2 infrastructure project, either of which are dedicated to or owned by
3 a governmental body or agency upon completion, or any required
4 payment in lieu of such structures, improvements or projects or any
5 costs of remediation associated with such structures, improvements
6 or projects, and that are determined by the authority, in consultation
7 with applicable State agencies, to be consistent with and in
8 furtherance of State public infrastructure objectives and initiatives.

9 "Low-income housing" means housing affordable according to
10 federal Department of Housing and Urban Development or other
11 recognized standards for home ownership and rental costs and
12 occupied or reserved for occupancy by households with a gross
13 household income equal to 50 percent or less of the median gross
14 household income for households of the same size within the
15 housing region in which the housing is located.

16 "Major rail station" means a railroad station located within a
17 qualified incentive area which provides access to the public to a
18 minimum of six rail passenger service lines operated by the New
19 Jersey Transit Corporation.

20 "Mixed use parking project" means a redevelopment project
21 undertaken by a municipal redeveloper, the parking component of
22 which shall constitute 51 percent or more of any of the following: a.
23 the total square footage of the entire mixed use parking project; b.
24 the estimated revenues of the entire mixed use parking project; or c.
25 the total construction cost of the entire mixed use parking project.

26 "Moderate-income housing" means housing affordable,
27 according to United States Department of Housing and Urban
28 Development or other recognized standards for home ownership
29 and rental costs, and occupied or reserved for occupancy by
30 households with a gross household income equal to more than 50
31 percent but less than 80 percent of the median gross household
32 income for households of the same size within the housing region in
33 which the housing is located.

34 "Municipal redeveloper" means **【a municipal government】** an
35 applicant for a redevelopment incentive grant agreement, which
36 applicant is: a. a municipal government, a municipal parking
37 authority, or a redevelopment agency acting on behalf of a
38 municipal government as defined in section 3 of P.L.1992,
39 c.79 (C.40A:12A-3) 【that is an applicant for a redevelopment
40 incentive grant agreement】; or b. a developer of a mixed use
41 parking project, provided that the parking component of the mixed
42 use parking project is operated and maintained by a municipal
43 parking authority for the term of any financial assistance granted
44 pursuant to P.L. , c. (C.) (pending before the Legislature as
45 this bill).

46 "Municipal Revitalization Index" means the 2007 index by the
47 Office for Planning Advocacy within the Department of State
48 measuring or ranking municipal distress.

1 "Non-parking component" means that portion of a mixed use
2 parking project not used for parking, together with the portion of
3 the costs of the mixed use parking project, including but not limited
4 to the footings, foundations, site work, infrastructure, and soft costs
5 that are allocable to the non-parking use.

6 "Parking component" means that portion of a mixed use parking
7 project used for parking, together with the portion of the costs of
8 the mixed use parking project, including but not limited to the
9 footings, foundations, site work, infrastructure, and soft costs that
10 are allocable to the parking use.

11 "Project area" means land or lands located within the incentive
12 area under common ownership or control including through a
13 redevelopment agreement with a municipality, or as otherwise
14 established by a municipality or a redevelopment agreement
15 executed by a State entity to implement a redevelopment project.

16 "Project cost" means the costs incurred in connection with the
17 redevelopment project by the developer until the issuance of a
18 permanent certificate of occupancy, or until such other time
19 specified by the authority, for a specific investment or
20 improvement, including the costs relating to receiving Highlands
21 Development Credits under the Highlands Transfer Development
22 Rights Program authorized pursuant to section 13 of P.L.2004,
23 c.120 (C.13:20-13), lands, buildings, improvements, real or
24 personal property, or any interest therein, including leases
25 discounted to present value, including lands under water, riparian
26 rights, space rights and air rights acquired, owned, developed or
27 redeveloped, constructed, reconstructed, rehabilitated or improved,
28 any environmental remediation costs, plus costs not directly related
29 to construction, of an amount not to exceed 20 percent of the total
30 costs, capitalized interest paid to third parties, and the cost of
31 infrastructure improvements, including ancillary infrastructure
32 projects, and, for projects located in a Garden State Growth Zone
33 only, the cost of infrastructure improvements including any
34 ancillary infrastructure project and the amount by which total
35 project cost exceeds the cost of an alternative location for the
36 redevelopment project, but excluding any particular costs for which
37 the project has received federal, State, or local funding.

38 "Project financing gap" means: a. the part of the total project
39 cost, including return on investment, that remains to be financed
40 after all other sources of capital have been accounted for, including,
41 but not limited to, developer-contributed capital, which shall not be
42 less than 20 percent of the total project cost, which may include the
43 value of any existing land and improvements in the project area
44 owned or controlled by the developer, and the cost of infrastructure
45 improvements in the public right-of-way, subject to review by the
46 State Treasurer, and investor or financial entity capital or loans for
47 which the developer, after making all good faith efforts to raise
48 additional capital, certifies that additional capital cannot be raised

1 from other sources on a non-recourse basis; and b. the amount by
2 which total project cost exceeds the cost of an alternative location
3 for the out-of-State redevelopment project.

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

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

7 **[(1)]** a. multiplying the general tax rate levied each year by
8 the taxable value of all the property assessed within a project area
9 in the same year, excluding any special assessments; and

10 **[(2)]** b. multiplying that product by a fraction having a
11 numerator equal to the taxable value of all the property assessed
12 within the project area, minus the property tax increment base, and
13 having a denominator equal to the taxable value of all property
14 assessed within the project area.

15 For the purpose of this definition, "property tax increment base"
16 means the aggregate taxable value of all property assessed which is
17 located within the redevelopment project area as of October 1st of
18 the year preceding the year in which the redevelopment incentive
19 grant agreement is authorized.

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

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

40 "Qualifying economic redevelopment and growth grant incentive
41 area" or "incentive area" means:

- 42 a. an aviation district;
43 b. a port district;
44 c. a distressed municipality; or
45 d. an area (1) designated pursuant to the "State Planning Act,"

46 P.L.1985, c.398 (C.52:18A-196 et seq.), as:

- 47 (a) Planning Area 1 (Metropolitan);
48 (b) Planning Area 2 (Suburban); or

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

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

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

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

11 "Redevelopment incentive grant agreement" means an agreement
12 between ~~[(1)]~~: a. the State and the New Jersey Economic
13 Development Authority and a developer ~~[(1)]~~; or ~~[(2)]~~b. a
14 municipality and a developer, or a municipal ordinance authorizing
15 a project to be undertaken by a municipal redeveloper, under which,
16 in exchange for the proceeds of an incentive grant, the developer
17 agrees to perform any work or undertaking necessary for a
18 redevelopment project, including the clearance, development or
19 redevelopment, construction, or rehabilitation of any structure or
20 improvement of commercial, industrial, residential, or public
21 structures or improvements within a qualifying economic
22 redevelopment and growth grant incentive area or a transit village.

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

1 P.L.1971 c.137 (C.5:10-1 et seq.) and the Fort Monmouth
2 Economic Revitalization Authority created pursuant to P.L.2010,
3 c.51 (C.52:27I-18 et seq.).

4 "Redevelopment utility" means a self-liquidating fund created by
5 a municipality pursuant to section 12 of P.L.2009, c.90 (C.52:27D-
6 489l) to account for revenues collected and incentive grants paid
7 pursuant to section 11 of P.L.2009, c.90 (C.52:27D-489k), or other
8 revenues dedicated to a redevelopment project.

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

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

17 "SDA municipality" means a municipality in which an SDA
18 district is situate.

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

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

30 "Transit project" means a redevelopment project located within a
31 1/2-mile radius, or one-mile radius for projects located in a Garden
32 State Growth Zone, surrounding the mid-point of a New Jersey
33 Transit Corporation, Port Authority Transit Corporation, or Port
34 Authority Trans-Hudson Corporation rail, bus, or ferry station
35 platform area, including all light rail stations.

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

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

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

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

19 (cf: P.L.2014, c.63, s.7)

20

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

23 6. a. Up to the limits established in subsection b. of this
24 section and in accordance with a redevelopment incentive grant
25 agreement, beginning upon the receipt of occupancy permits for any
26 portion of the redevelopment project, or upon such other event
27 evidencing project completion as set forth in the incentive grant
28 agreement, the State Treasurer shall pay to the developer
29 incremental State revenues directly realized from businesses
30 operating on or at the site of the redevelopment project from the
31 following taxes: the Corporation Business Tax Act (1945),
32 P.L.1945, c.162 (C.54:10A-1 et seq.), the tax imposed on marine
33 insurance companies pursuant to R.S.54:16-1 et seq., the tax
34 imposed on insurers generally, pursuant to P.L.1945,
35 c.132 (C.54:18A-1 et seq.), the public utility franchise tax, public
36 utilities gross receipts tax and public utility excise tax imposed on
37 sewerage and water corporations pursuant to P.L.1940,
38 c.5 (C.54:30A-49 et seq.), those tariffs and charges imposed by
39 electric, natural gas, telecommunications, water and sewage
40 utilities, and cable television companies under the jurisdiction of
41 the New Jersey Board of Utilities, or comparable entity, except for
42 those tariffs, fees, or taxes related to societal benefits charges
43 assessed pursuant to section 12 of P.L.1999, c.23 (C.48:3-60), any
44 charges paid for compliance with the "Global Warming Response
45 Act," P.L.2007, c.112 (C.26:2C-37 et seq.), transitional energy
46 facility assessment unit taxes paid pursuant to section 67 of
47 P.L.1997, c.162 (C.48:2-21.34), and the sales and use taxes on
48 public utility and cable television services and commodities, the tax

1 derived from net profits from business, a distributive share of
2 partnership income, or a pro rata share of S corporation income
3 under the "New Jersey Gross Income Tax Act," N.J.S.54A:1-1 et
4 seq., the tax derived from a business at the site of a redevelopment
5 project that is required to collect the tax pursuant to the "Sales and
6 Use Tax Act," P.L.1966, c.30 (C.54:32B-1 et seq.), the tax imposed
7 pursuant to P.L.1966, c.30 (C.54:32B-1 et seq.) from the purchase
8 of furniture, fixtures and equipment, or materials for the
9 remediation, the construction of new structures at the site of a
10 redevelopment project, the hotel and motel occupancy fee imposed
11 pursuant to section 1 of P.L.2003, c.114 (C.54:32D-1), or the
12 portion of the fee imposed pursuant to section 3 of P.L.1968,
13 c.49 (C.46:15-7) derived from the sale of real property at the site of
14 the redevelopment project and paid to the State Treasurer for use by
15 the State, that is not credited to the "Shore Protection Fund" or the
16 "Neighborhood Preservation Nonlapsing Revolving Fund" ("New
17 Jersey Affordable Housing Trust Fund") pursuant to section 4 of
18 P.L.1968, c.49 (C.46:15-8). Any developer shall be allowed to
19 assign their ability to apply for the tax credit under this subsection
20 to a non-profit organization with a mission dedicated to attracting
21 investment and completing development and redevelopment
22 projects in a Garden State Growth Zone. The non-profit
23 organization may make an application on behalf of a developer
24 which meets the requirements for the tax credit, or a group of non-
25 qualifying developers, such that these will be considered a unified
26 project for the purposes of the incentives provided under this
27 section.

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

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

39 (3) In the case of a mixed use parking project, if the authority
40 determines that the estimated amount of the incremental revenues
41 pledged towards the State portion of an incentive grant is
42 inadequate to fully fund the amount of the State portion of the
43 incentive grant, then, in lieu of an incentive grant based on such
44 incremental revenue, a municipal redeveloper shall be awarded tax
45 credits equal to the full amount of the incentive grant.

46 The value of all credits approved by the authority pursuant to
47 paragraph (2) or this paragraph shall not exceed \$600,000,000, of
48 which:

1 (a) \$250,000,000 shall be restricted to qualified residential
2 projects within Atlantic, Burlington, Camden, Cape May,
3 Cumberland, Gloucester, Ocean, and Salem counties, of which
4 \$175,000,000 of credits shall be restricted to the following
5 categories of projects: (i) qualified residential projects located in a
6 Garden State Growth Zone located within the aforementioned
7 counties, (ii) mixed use parking projects located in a Garden State
8 Growth Zone or urban transit hub located within the
9 aforementioned counties, and \$75,000,000 of credits shall be
10 restricted to qualified residential projects in municipalities with a
11 2007 Municipal Revitalization Index of 400 or higher as of the date
12 of enactment of the "New Jersey Economic Opportunity Act of
13 2013," P.L.2013, c.161 (C.52:27D-489p et al.) and located within
14 the aforementioned counties;

15 (b) \$250,000,000 shall be restricted to **qualified residential**
16 **projects located in** the following categories of projects: (i)
17 qualified residential projects located in urban transit hubs that are
18 commuter rail in nature that otherwise do not qualify under
19 subparagraph (a) of this paragraph, (ii) **a** qualified residential
20 projects located in Garden State Growth **Zone not located in a**
21 **county mentioned in** Zones that do not qualify under subparagraph
22 (a) of this paragraph, (iii) mixed use parking projects located in
23 urban transit hubs or Garden State Growth Zones that do not qualify
24 under subparagraph (a) of this paragraph, provided however, a
25 urban transit hub shall be allocated no more than \$25,000,000 for
26 mixed use parking projects, (iv) qualified residential projects which
27 are disaster recovery projects that otherwise do not qualify under
28 subparagraph (a) of this paragraph, **or** and **[(iv)] (v) qualified**
29 residential projects in SDA municipalities located in Hudson
30 County that were awarded State Aid in State Fiscal Year 2013
31 through the Transitional Aid to Localities program and otherwise do
32 not qualify under subparagraph (a) of this paragraph, and
33 \$25,000,000 of credits shall be restricted to mixed use parking
34 projects in Garden State Growth Zones which have a population in
35 excess of 125,000 and do not qualify under subparagraph (a) of this
36 paragraph;

37 (c) \$75,000,000 shall be restricted to qualified residential
38 projects 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

42 (d) \$25,000,000 shall be restricted to qualified residential
43 projects that are located within a qualifying economic
44 redevelopment and growth grant incentive area otherwise not
45 qualifying under subparagraph (a), (b), or (c) of this paragraph.

46 (e) For subparagraphs (a) through (d) of this paragraph, not
47 more than \$40,000,000 of credits shall be awarded to any qualified

1 residential project in a deep poverty pocket or distressed
2 municipality and not more than \$20,000,000 of credits shall be
3 awarded to any other qualified residential project. The developer of
4 a qualified residential project seeking an award of credits towards
5 the funding of its incentive grant shall submit an incentive grant
6 application prior to July 1, 2016 and if approved after the effective
7 date of P.L.2013, c.161 shall submit a temporary certificate of
8 occupancy for such project no later than July 28, 2018.
9 Applications for tax credits pursuant to this subsection relating to
10 an ancillary infrastructure project or infrastructure improvement in
11 the public right of way, or both, shall be accompanied with a letter
12 of support relating to the project or improvement by the governing
13 body or agency in which the project is located. Credits awarded to
14 a developer pursuant to this subsection shall be subject to the same
15 financial and related analysis by the authority and shall be utilized
16 or transferred by the developer as if such credits had been awarded
17 to the developer pursuant to section 35 of P.L.2009, c.90 (C.34:1B-
18 209.3) for qualified residential projects thereunder. No portion of
19 the revenues pledged pursuant to the "New Jersey Economic
20 Opportunity Act of 2013," P.L.2013, c.161 (C.52:27D-489p et al.)
21 shall be subject to withholding or retainage for adjustment, in the
22 event the developer or taxpayer waives its rights to claim a refund
23 thereof.

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

1 c. All administrative costs associated with the incentive grant
2 shall be assessed to the applicant and be retained by the State
3 Treasurer from the annual incentive grant payments.

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

10 e. The municipality is authorized to collect any and all
11 information necessary to facilitate grants under this program and
12 remit that information, as may be required from time to time, in
13 order to assist in the calculation of incremental revenue.

14 (cf: P.L.2014, c.63, s.8)

15

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

18 8. a. (1) The authority, in consultation with the State
19 Treasurer, shall promulgate an incentive grant application form and
20 procedure for the Economic Redevelopment and Growth Grant
21 program.

22 (2) (a) The Local Finance Board, in consultation with the
23 authority, shall develop a minimum standard incentive grant
24 application form for municipal Economic Redevelopment and
25 Growth Grant programs.

26 (b) Through regulation, the authority shall establish standards
27 for redevelopment projects seeking State or local incentive grants
28 based on the green building manual prepared by the Commissioner
29 of Community Affairs pursuant to section 1 of P.L.2007,
30 c.132 (C.52:27D-130.6), regarding the use of renewable energy,
31 energy-efficient technology, and non-renewable resources in order
32 to reduce environmental degradation and encourage long-term cost
33 reduction.

34 b. Within each incentive grant application, a developer shall
35 certify information concerning:

36 (1) the status of control of the entire redevelopment project site;

37 (2) all required State and federal government permits that have
38 been issued for the redevelopment project, or will be issued pending
39 resolution of financing issues;

40 (3) local planning and zoning board approvals, as required, for
41 the redevelopment project;

42 (4) estimates of the revenue increment base, the eligible
43 revenues for the project, and the assumptions upon which those
44 estimates are made.

45 c. (1) With regard to State tax revenues proposed to be
46 pledged for an incentive grant the authority and the State Treasurer
47 shall review the project costs, evaluate and validate the project
48 financing gap estimated by the developer, and conduct a State fiscal

1 impact analysis to ensure that the overall public assistance provided
2 to the project, except with regards to a qualified residential project
3 or a mixed use parking project, will result in net benefits to the
4 State including, without limitation, both direct and indirect
5 economic benefits and non-financial community revitalization
6 objectives, including but not limited to, the promotion of the use of
7 public transportation in the case of the ancillary infrastructure
8 project portion of any transit project.

9 (2) With regard to local incremental revenues proposed to be
10 pledged for an incentive grant the authority and the Local Finance
11 Board shall review the project costs, and except with respect to an
12 application by a municipal redeveloper, evaluate and validate the
13 project financing gap projected by the developer, and conduct a
14 local fiscal impact analysis to ensure that the overall public
15 assistance provided to the project, except with regards to a qualified
16 residential project or a mixed use parking project, will result in net
17 benefits to the municipality wherein the redevelopment project is
18 located including, without limitation, both direct and indirect
19 economic benefits and non-financial community revitalization
20 objectives, including but not limited to, the promotion of the use of
21 public transportation in the case of the ancillary infrastructure
22 project portion of any transit project.

23 (3) The authority, State Treasurer, and Local Finance Board
24 may act cooperatively to administer and review applications, and
25 shall consult with the Office of State Planning on matters
26 concerning State, regional, and local development and planning
27 strategies.

28 (4) The costs of the aforementioned reviews shall be assessed to
29 the applicant as an application fee.

30 (5) A developer who has already applied for an incentive grant
31 award prior to the effective date of the "New Jersey Economic
32 Opportunity Act of 2013," P.L.2013, c.161 (C.52:27D-489p et al.),
33 but who has not yet been approved for such grant, or has not
34 executed an agreement with the authority, may proceed under that
35 application or seek to amend such application or reapply for an
36 incentive grant award for the same project or any part thereof for
37 the purpose of availing itself of any more favorable provisions of
38 the Economic Redevelopment and Growth Grant program
39 established pursuant to the "New Jersey Economic Opportunity Act
40 of 2013," P.L.2013, c.161 (C.52:27D-489p et al.), except that
41 projects with costs exceeding \$200,000,000 shall not be eligible for
42 revised percentage caps under subsection d. of section 19 of
43 P.L.2013, c.161 (C.52:27D-489i).
44 (cf: P.L.2013, c.161, s.18)

45
46 4. Section 9 of P.L.2009, c.90 (C.52:27D-489i) is amended to
47 read as follows:

- 1 9. a. The authority is authorized to enter into a redevelopment
2 incentive grant agreement with a developer for any redevelopment
3 project located within a qualifying economic redevelopment and
4 growth grant incentive area that does not qualify as such area solely
5 by virtue of being a transit village.
- 6 b. The decision whether or not to enter into a redevelopment
7 incentive grant agreement is solely within the discretion of the
8 authority and the State Treasurer, provided that they both agree to
9 enter into an agreement.
- 10 c. The Chief Executive Officer of the authority, in consultation
11 with the State Treasurer shall negotiate the terms and conditions of
12 any redevelopment incentive grant agreement on behalf of the State.
- 13 d. (1) The redevelopment incentive grant agreement shall
14 specify the maximum amount of project costs, the amount of the
15 incentive grant to be awarded the developer, the frequency of
16 payments, and the eligibility period, which shall not exceed 20
17 years, during which reimbursement will be granted, and for a
18 project receiving an incentive grant in excess of \$50 million, the
19 amount of the negotiated repayment amount to the State, which may
20 include, but not be limited to, cash, equity, and warrants. Except
21 for redevelopment incentive grant agreements with a municipal
22 redeveloper, or with the developer of a redevelopment project
23 solely with respect to the cost of infrastructure improvements in the
24 public right-of-way including any ancillary infrastructure project in
25 the public right-of-way, in no event shall the base amount of the
26 combined reimbursements under redevelopment incentive grant
27 agreements with the State or municipality exceed 20 percent of the
28 total project cost, except in a Garden State Growth Zone, which
29 shall not exceed 30 percent.
- 30 (2) The authority shall be permitted to increase the amount of
31 the reimbursement under the redevelopment incentive grant
32 agreement with the State by up to 10 percent of the total project
33 cost if the project is:
- 34 (a) located in a distressed municipality which lacks adequate
35 access to nutritious food in the judgment of the Chief Executive
36 Officer of the authority and will include either a supermarket or
37 grocery store with a minimum of 15,000 square feet of selling space
38 devoted to the sale of consumable products or a prepared food
39 establishment selling only nutritious ready to serve meals;
- 40 (b) located in a distressed municipality which lacks adequate
41 access to health care and health services in the judgment of the
42 Chief Executive Officer of the authority and will include a health
43 care and health services center with a minimum of 10,000 square
44 feet of space devoted to the provision of health care and health
45 services;
- 46 (c) located in a distressed municipality which has a business
47 located therein that is required to respond to a request for proposal

1 to fulfill a contract with the federal government as set forth in
2 subsection d. of section 3 of P.L.2011, c.149 (C.34:1B-244);

3 (d) a transit project;

4 (e) a qualified residential project in which at least 10 percent of
5 the residential units are constructed as and reserved for moderate
6 income housing;

7 (f) located in a highlands development credit receiving area or
8 redevelopment area;

9 (g) located in a Garden State Growth Zone;

10 (h) a disaster recovery project;

11 (i) an aviation project;

12 (j) a tourism destination project; or

13 (k) substantial rehabilitation or renovation of an existing
14 structure or structures.

15 (3) The maximum amount of any redevelopment incentive grant
16 shall be equal to up to 30 percent of the total project costs, except
17 for projects located in a Garden State Growth Zone, in which case
18 the maximum amount of any redevelopment incentive grant shall be
19 equal to up to 40 percent of the total project costs. Notwithstanding
20 anything to the contrary contained within this section, the maximum
21 amount of any redevelopment incentive grant with respect to a
22 mixed use parking project shall be up to 100 percent of the total
23 project costs allocable to the parking component of the project, and
24 shall be up to 40 percent of the total project costs allocable to the
25 non-parking component of the project.

26 e. Except in the case of a qualified residential project or a
27 mixed use parking project, the authority and the State Treasurer
28 may enter into a redevelopment incentive grant agreement only if
29 they make a finding that the State revenues to be realized from the
30 redevelopment project will be in excess of the amount necessary to
31 reimburse the developer for its project financing gap. This finding
32 may be made by an estimation based upon the professional
33 judgment of the Chief Executive Officer of the authority and the
34 State Treasurer.

35 f. In deciding whether or not to recommend entering into a
36 redevelopment incentive grant agreement and in negotiating a
37 redevelopment agreement with a developer, the Chief Executive
38 Officer of the authority shall consider the following factors:

39 (1) the economic feasibility of the redevelopment project;

40 (2) the extent of economic and related social distress in the
41 municipality and the area to be affected by the redevelopment
42 project or the level of site specific distress to include dilapidated
43 conditions, brownfields designation, environmental contamination,
44 pattern of vacancy, abandonment, or under utilization of the
45 property, rate of foreclosures, or other site conditions as determined
46 by the authority;

47 (3) the degree to which the redevelopment project will advance
48 State, regional, and local development and planning strategies;

1 (4) the likelihood that the redevelopment project shall, upon
2 completion, be capable of generating new tax revenue in an amount
3 in excess of the amount necessary to reimburse the developer for
4 project costs incurred as provided in the redevelopment incentive
5 grant agreement, provided, however, that any tax revenue generated
6 by a redevelopment project that is a disaster recovery project shall
7 be considered new tax revenue even if the same or more tax revenue
8 was generated at or on the site prior to the disaster;

9 (5) the relationship of the redevelopment project to a
10 comprehensive local development strategy, including other major
11 projects undertaken within the municipality;

12 (6) the need of the redevelopment incentive grant agreement to
13 the viability of the redevelopment project or the promotion of the
14 use of public transportation; and

15 (7) the degree to which the redevelopment project enhances and
16 promotes job creation and economic development or the promotion
17 of the use of public transportation.

18 g. (1) A developer that has entered into a redevelopment
19 incentive grant agreement with the authority and the State Treasurer
20 pursuant to this section may, upon notice to and consent of the
21 authority and the State Treasurer, pledge, assign, transfer, or sell
22 any or all of its right, title and interest in and to such agreements
23 and in the incentive grants payable thereunder, and the right to
24 receive same, along with the rights and remedies provided to the
25 developer under such agreement. Any such assignment shall be an
26 absolute assignment for all purposes, including the federal
27 bankruptcy code.

28 (2) Any pledge of incentive grants made by the developer shall
29 be valid and binding from the time when the pledge is made and
30 filed in the records of the authority. The incentive grants so
31 pledged and thereafter received by the developer shall immediately
32 be subject to the lien of the pledge without any physical delivery
33 thereof or further act, and the lien of any pledge shall be valid and
34 binding as against all parties having claims of any kind in tort,
35 contract, or otherwise against the developer irrespective of whether
36 the parties have notice thereof. Neither the redevelopment
37 incentive grant agreement nor any other instrument by which a
38 pledge under this section is created need be filed or recorded except
39 with the authority.

40 (cf: P.L.2013, c.161, s.19)

41
42 5. This act shall take effect immediately.
43
44

45 STATEMENT

46
47 This bill amends the law governing the Economic
48 Redevelopment and Growth Grant (ERG) program to encourage the

1 development of mixed use parking projects by allowing municipal
2 parking authorities and certain private developers to apply for tax
3 credits under the ERG program when they develop mixed use
4 parking projects.

5 The bill defines a "mixed use parking project" to mean a
6 redevelopment project undertaken by a municipal redeveloper, the
7 parking component of which constitutes 51 percent of the entire
8 project, based upon either the total square footage, the estimated
9 revenues, or the total construction cost. The bill amends the ERG
10 law's definition of "municipal redeveloper," which currently
11 applies to a municipal government or a redevelopment agency
12 created pursuant to the "Local Redevelopment and Housing Law,"
13 to include a municipal parking authority, and also a developer of a
14 mixed use parking project, provided that the parking component of
15 the mixed use parking project is operated and maintained by a
16 municipal parking authority for the term of any ERG financial
17 incentives.

18 The bill provides that the amount of ERG tax credits available
19 for mixed use parking projects are within the \$600 million cap
20 currently applicable to ERG tax credits for qualified residential
21 projects. Tax credits for mixed use parking projects would be
22 restricted to projects located in Garden State Growth Zones and
23 urban transit hubs. The bill restricts \$25,000,000 of the \$250
24 million of credits reserved for northern counties for mixed use
25 parking projects in Garden State Growth Zones which have a
26 population in excess of 125,000.

ASSEMBLY COMMERCE AND ECONOMIC DEVELOPMENT
COMMITTEE

STATEMENT TO
ASSEMBLY, No. 4332

with committee amendments

STATE OF NEW JERSEY

DATED: JUNE 15, 2015

The Assembly Commerce and Economic Development Committee reports favorably Assembly Bill No. 4332, with committee amendments.

As amended by the committee, this bill amends the law governing the Economic Redevelopment and Growth Grant (ERG) program to encourage the development of mixed use parking projects by allowing municipal parking authorities and certain private developers to apply for tax credits under the ERG program when they develop mixed use parking projects.

The bill defines a "mixed use parking project" to mean a redevelopment project undertaken by a municipal redeveloper, the parking component of which constitutes 51 percent of the entire project, based upon either the total square footage, the estimated revenues, or the total construction cost. The bill amends the ERG law's definition of "municipal redeveloper," which currently applies to a municipal government or a redevelopment agency created pursuant to the "Local Redevelopment and Housing Law," to include a municipal parking authority, and also a developer of a mixed use parking project, provided that the parking component of the mixed use parking project is operated and maintained by a municipal parking authority for the term of any ERG financial incentives.

The bill, as amended by the committee, provides that the amount of ERG tax credits available for mixed use parking projects are within the \$600 million cap currently applicable to ERG tax credits for qualified residential projects. The bill restricts \$25 million of the \$250 million of credits reserved for northern counties for mixed use parking projects in Garden State Growth Zones which have a population in excess of 125,000. The bill authorizes the Economic Development Authority to grant tax credits for mixed use parking projects which include a vacant commercial building located wholly or partially within a distressed municipality, and which are used by an independent institution of higher education, a school of medicine, a nonprofit hospital system, or any combination thereof, out of the \$75

million currently restricted for qualified residential projects in distressed municipalities, deep poverty pockets, highlands development credit receiving areas or redevelopment areas.

COMMITTEE AMENDMENTS:

The committee amended the bill to authorize the grant of tax credits for mixed use parking projects which include a vacant commercial building located wholly or partially within a distressed municipality, and which are used by an independent institution of higher education, a school of medicine, a nonprofit hospital system, or any combination thereof, out of the \$75 million currently restricted for qualified residential projects in distressed municipalities, deep poverty pockets, highlands development credit receiving areas or redevelopment areas.

ASSEMBLY APPROPRIATIONS COMMITTEE

STATEMENT TO

[First Reprint]

ASSEMBLY, No. 4332

STATE OF NEW JERSEY

DATED: JUNE 22, 2015

The Assembly Appropriations Committee reports favorably Assembly Bill No. 4332 (1R).

This bill amends the law governing the Economic Redevelopment and Growth Grant (ERG) program to encourage the development of mixed use parking projects by allowing municipal parking authorities and certain private developers to apply for tax credits under the ERG program when they develop mixed use parking projects.

The bill defines a "mixed use parking project" to mean a redevelopment project undertaken by a municipal redeveloper, the parking component of which constitutes 51 percent of the entire project, based upon the total square footage, the estimated revenues, or the total construction cost. The bill amends the ERG law's definition of "municipal redeveloper," which currently applies to a municipal government or a redevelopment agency created pursuant to the "Local Redevelopment and Housing Law," to include a municipal parking authority, and also a developer of a mixed use parking project, provided that the parking component of the mixed use parking project is operated and maintained by a municipal parking authority for the term of any ERG financial incentives.

The bill provides that the amount of ERG tax credits available for mixed use parking projects are within the \$600 million cap currently applicable to ERG tax credits for qualified residential projects. The bill restricts \$25 million of the \$250 million of credits reserved for northern counties for mixed use parking projects in Garden State Growth Zones which have a population in excess of 125,000. The bill authorizes the Economic Development Authority to grant tax credits for mixed use parking projects which include a vacant commercial building located wholly or partially within a distressed municipality, and which are used by an independent institution of higher education, a school of medicine, a nonprofit hospital system, or any combination thereof, out of the \$75 million currently restricted for qualified residential projects in distressed municipalities, deep poverty pockets, highlands development credit receiving areas or redevelopment areas.

As reported, this bill is identical to Senate Bill No. 2458 (3R), as also reported by the committee.

FISCAL IMPACT:

The Office of Legislative Services (OLS) finds the bill is likely to produce a negative fiscal net impact of indeterminate magnitude on the State. The inability to quantify the net impact is rooted in imperfect information on:

- the number and attributes of mixed use parking projects that would newly earn Economic Redevelopment and Growth (ERG) tax credits,

- the extent to which, absent this bill, the \$600 million cap on total ERG tax credit awards would be reached, and

- the number and attributes of residential redevelopment projects whose tax credits may be crowded out by tax credit awards to mixed use parking projects.

In general, the State fiscal net impact is calculated by adding the indeterminate direct revenue loss from awarding ERG tax credits to mixed use parking 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.

The OLS expects the bill's indirect State revenue gain to fall below its direct State cost because the ERG tax credit program does not require tax credit-receiving projects to yield a net fiscal benefit to the State. Moreover, if tax credit awards to mixed use parking projects under this bill displace tax credit awards to other redevelopment projects, then the excess of the direct State revenue loss from awarding the credits over the indirect State revenue gain is likely to be greater with mixed use parking projects than with residential redevelopment projects. This is so because the maximum credit amount for mixed use parking projects (up to 100 percent of a project's parking component cost and up to 40 percent of its non-parking component cost) exceeds the maximum credit amount for residential redevelopment projects (20 percent to 40 percent of the capital cost depending on a project's specific location).

The bill may accrue an indeterminate revenue gain to affected local governments in the form of an indirect revenue gain.

LEGISLATIVE FISCAL ESTIMATE

[First Reprint]

ASSEMBLY, No. 4332

STATE OF NEW JERSEY 216th LEGISLATURE

DATED: JUNE 24, 2015

SUMMARY

- Synopsis:** Permits municipal redevelopers to receive tax credits under Economic Redevelopment and Growth Grant program for certain mixed use parking projects.
- 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	Indeterminate — See comments below
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
<u>Local</u> Opportunity Cost	Indeterminate — See comments below

- The Office of Legislative Services (OLS) finds the bill is likely to produce a negative fiscal net impact of indeterminate magnitude on the State. The inability to quantify the net impact is rooted in imperfect information on: a) the number and attributes of mixed use parking projects that would newly earn Economic Redevelopment and Growth (ERG) tax credits; b) the extent to which, absent this bill, the \$600 million cap on total ERG tax credit awards would be reached; and c) the number and attributes of residential redevelopment projects whose tax credits may be crowded out by tax credit awards to mixed use parking projects.
- The State fiscal net impact is calculated by adding the indeterminate direct revenue loss from awarding ERG tax credits to mixed use parking 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.

- The OLS expects the bill's indirect State revenue gain to fall below its direct State cost because the ERG tax credit program does not require tax credit-receiving projects to yield a net fiscal benefit to the State. Moreover, if tax credit awards to mixed use parking projects under this bill displace tax credit awards to other redevelopment projects, then the excess of the direct State revenue loss from awarding the credits over the indirect State revenue gain is likely to be greater with mixed use parking projects than with residential redevelopment projects. This is so because the maximum credit amount for mixed use parking projects (up to 100 percent of a project's parking component cost and up to 40 percent of its non-parking component cost) exceeds the maximum credit amount for residential redevelopment projects (20 percent to 40 percent of the capital cost depending on a project's specific location).
- The legislation might accrue an indeterminate revenue gain to affected local governments in the form of an indirect revenue gain.

BILL DESCRIPTION

Assembly Bill No. 4332 (1R) of 2015 extends the ERG tax credit program for residential redevelopment projects to certain mixed use parking projects. Tax credits for eligible mixed use parking projects equal up to 100 percent of a project's parking component cost and up to 40 percent of its non-parking component cost and must close a project financing gap that otherwise would be likely to prevent the project's realization. Tax credits are authorized for taxpayer use in up to ten annual installments following project completion. The bill does not alter the \$600 million cap on the ERG tax credit program for residential redevelopment projects. The application deadline is July 1, 2016 and projects must obtain temporary certificates of occupancy by July 28, 2018.

A tax credit-eligible mixed use parking project must:

- a) be located in: 1) a Garden State Growth Zone (the cities of Atlantic City, Camden, Passaic, Paterson, and Trenton); 2) an urban transit hub (the area within a one-half mile radius around a rail or light rail station in Camden, East Orange, Elizabeth, Hoboken, Jersey City, Newark, New Brunswick, Paterson, and Trenton, with the Camden urban transit hub covering the area within a one-mile radius around a rail or light rail station; in addition, there is an urban transit hub in the area within a one-mile radius of a rail or light rail station that was subject to a Choice Neighborhoods Transformation Plan with the McGinley Square – Montgomery Corridor in Jersey City being the only current New Jersey Choice Neighborhood); or 3) a distressed municipality if an independent institution of higher education, a school of medicine, a non-profit hospital system or any combination thereof uses the mixed use parking project, which must include a vacant commercial building located in a distressed municipality;
- b) be undertaken by municipal redevelopers, which include municipalities, redevelopment agencies, municipal parking authorities, and developers that enter into long-term operation and maintenance agreements with municipal parking authorities; and
- c) consist of a redevelopment project and a parking facility for which the parking component constitutes at least 51 percent of any of the following: (1) the project's total square footage; (2) the project's estimated revenues or (3) the project's total construction cost.

There is no minimum capital investment threshold to qualify for tax credits and projects are not required to generate fiscal net State benefits in excess of the tax credit award.

FISCAL ANALYSIS

EXECUTIVE BRANCH

None received.

OFFICE OF LEGISLATIVE SERVICES

The OLS finds the bill is likely 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 OLS cannot determine whether the bill will impose a direct revenue loss on the State General Fund and Property Tax Relief Fund. This is so because of imperfect information on: a) the number and attributes of mixed use parking projects that would earn ERG tax credits, and b) the extent to which, absent this bill, the \$600 million cap on total ERG tax credit awards for residential redevelopment projects would be reached.

Three scenarios are conceivable, assuming the ERG tax credit program's \$600 million cap will not be increased or eliminated in the future: a) the bill has no direct State revenue impact; b) the bill produces a direct State revenue loss equal to the dollar value of tax credits awarded to mixed use parking projects; and c) the bill produces a direct State revenue loss that is less than the dollar value of tax credits awarded to mixed use parking projects.

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

No Direct State Revenue Impact: The bill would produce no direct State revenue impact if one of two scenarios materialized. First, no mixed use parking project qualifies for an ERG tax credit. Second, if, absent this bill, the ERG tax credit program's \$600 million cap space were to be fully used up, then any tax credit award to a mixed use parking project under this bill would merely redistribute the available program allocation among competing projects and not change the total dollar amount of tax credit authorizations.

Direct State Revenue Loss Equal to Amount of Tax Credit Awards for Mixed Use Parking Projects: The bill would produce a direct State revenue loss equal to the cumulative dollar value of tax credits awarded to mixed use parking projects if the amount of unused ERG tax credit program cap space, absent this bill, were larger or equal to the cumulative dollar value of tax credits awarded to mixed use parking projects.

Direct State Revenue Loss of Less than Amount of Tax Credit Awards for Mixed Use Parking Projects: The bill would produce a direct State revenue loss of less than the cumulative dollar value of tax credits awarded to mixed use parking projects if there were unused ERG tax credit program cap space, absent this bill, but if the unused cap space were less than the dollar amount of tax credits awarded to mixed use parking projects. In this case, the bill's direct State revenue

loss would equal the dollar value of the otherwise unused cap space that tax credit awards to mixed use parking projects would consume. The excess of the dollar value of tax credit awards for mixed use parking projects over the dollar value of the unused cap space would merely represent a reallocation of tax credit amounts from other credit-eligible residential redevelopment projects to mixed use parking projects.

Indirect State and Local Revenue Gain: The OLS cannot quantify the legislation's indirect revenue gain to the State and local governments. This is so because of imperfect information on: a) the number and attributes of mixed use parking projects that would earn ERG tax credits, and b) the number and attributes of redevelopment projects whose tax credits may be crowded out by the bill's tax credit awards to mixed use parking projects. But, for reasons laid out below, the OLS anticipates the bill to increase the amount by which the ERG tax credit program's direct State revenue loss exceed its indirect State and local government revenue gain.

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: The OLS anticipates the bill to increase the amount by which the ERG tax credit program's direct State revenue loss exceeds its indirect State and local government revenue gain, irrespective of any displacement by ERG tax credit awards to mixed use parking projects of ERG tax credit awards to other residential redevelopment projects.

If, on the one hand, the bill results in tax credit awards to mixed use parking projects without crowding out any tax credit award to other residential redevelopment projects, then tax credit awards under this bill are likely to generate an indirect State revenue gain that is less than the value of the tax credits because, as explained further below, the ERG tax credit program, by design, does not require tax credit-receiving projects to yield a net fiscal benefit to the State.

If, on the other hand, tax credit awards to mixed use parking projects under this bill displace tax credit awards to other residential redevelopment projects, then the excess of the direct State revenue loss from awarding the tax credits over the indirect revenue gain is likely to be greater with mixed use parking projects than with residential redevelopment projects. This is so because the maximum credit amount for mixed use parking projects (up to 100 percent of a project's parking component cost and up to 40 percent of its non-parking component cost) exceeds the maximum credit amount for residential redevelopment projects (20 percent to 40 percent of the capital cost, depending on a project's specific location).

In general, by its very nature, the ERG tax credit program for residential redevelopment projects can be expected to generate indirect fiscal benefits to the State that are less than the direct State cost of the tax credit awards. First, the ERG tax credit program does not subject residential redevelopment and mixed use parking projects to the multiplier-based net benefit test calculation, which for other economic development incentive programs is intended to ensure that the 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, the EDA must only determine that the realization of a residential redevelopment or mixed use parking 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 will not have been induced by the incentive programs 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. Given that many beneficiaries are national and global in scope, however, the expectation that such incentive recipients will expend at least a portion of their incentive awards in New Jersey often seems challengeable.

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 mixed use parking projects 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 mixed use parking projects—or the direct State cost of awarding ERG tax credits to mixed use parking projects minus the incentives' indirect State fiscal effects—and that of the foregone road construction investment.

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

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