

# ASSEMBLY, No. 3816

## STATE OF NEW JERSEY 214th LEGISLATURE

INTRODUCED FEBRUARY 17, 2011

**Sponsored by:**

**Assemblyman ALBERT COUTINHO**

**District 29 (Essex and Union)**

**Assemblyman WAYNE P. DEANGELO**

**District 14 (Mercer and Middlesex)**

**Assemblywoman BONNIE WATSON COLEMAN**

**District 15 (Mercer)**

**SYNOPSIS**

Amends provisions of NJ Economic Stimulus Act of 2009 concerning Economic Redevelopment and Growth Grant program of EDA.

**CURRENT VERSION OF TEXT**

As introduced.



**(Sponsorship Updated As Of: 11/14/2011)**

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

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

6  
7 1. Section 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 "Ancillary infrastructure project" means public structures or  
12 improvements that are located outside the project area of a  
13 redevelopment project, provided a developer has demonstrated that  
14 the redevelopment project would not be economically viable  
15 without such improvements.

16 "Applicant" means a developer proposing to enter into a  
17 redevelopment incentive grant agreement.

18 "Ancillary infrastructure project" means public structures or  
19 improvements that are located in the public right-of-way outside the  
20 project area of a redevelopment project, provided a developer or  
21 municipal redeveloper has demonstrated that the redevelopment  
22 project would not be economically viable without such  
23 improvements.

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 "Developer" means any person who enters or proposes to enter  
28 into a redevelopment incentive grant agreement pursuant to the  
29 provisions of section 9 of P.L.2009, c.90 (C.52:27D-489i). A  
30 developer also may be a municipal **government or a redevelopment**  
31 **agency as defined in section 3 of P.L.1992, c.79 (C.40A:12A-3)]**  
32 redeveloper.

33 "Developer contributed capital" means any and all capital  
34 contributed by a developer toward the costs of a redevelopment  
35 project, which shall not be less than 20 percent of the total  
36 redevelopment project costs. Developer contributed capital shall  
37 include, but not be limited to, the appraised value of any existing  
38 improvements in the project area owned or controlled by the  
39 developer.

40 "Director" means the Director of the Division of Taxation in the  
41 Department of the Treasury.

42 "Eligible revenue" means the property tax increment and any  
43 other incremental revenues set forth in section 11 of P.L.2009, c.90  
44 (C.52:27D-489k).

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

6 "Infrastructure improvements in the public right-of-way" means  
7 public structures or improvements located in the public right of way  
8 that are located within a project area or that constitute an ancillary  
9 infrastructure project or a major transit facility.

10 "Major transit facility" means a train station or bus terminal  
11 located along a commuter rail line or bus route operated by the  
12 National Railroad Passenger Corporation, known as Amtrak, or the  
13 New Jersey Transit Corporation that is undertaken as part of a  
14 redevelopment project and that is located within or directly adjacent  
15 to the project area, provided a developer has demonstrated that the  
16 redevelopment project would not be economically viable without  
17 such facility.

18 "Maximum incentive amount" means 35 percent of the total  
19 redevelopment project costs, except that the costs incurred in  
20 connection with the construction, reconstruction, rehabilitation or  
21 improvement of infrastructure improvements, or the dedication of  
22 land to open space and any remediation thereof may be funded up to  
23 100 percent.

24 "Municipal redeveloper" means a municipal government or a  
25 redevelopment agency as defined in section 3 of P.L.1992, c.79  
26 (C.40A:12A-3) acting on behalf of a municipal government that is  
27 an applicant for a redevelopment incentive grant agreement.

28 "Project area" means land or lands under common ownership or  
29 control including through a redevelopment agreement with a  
30 municipality or as otherwise established by a municipality.

31 "Project financing gap" means the part of the total  
32 redevelopment project cost, including return on investment, that  
33 remains to be financed after all other sources of capital have been  
34 accounted for, including, but not limited to, developer contributed  
35 capital [, which shall not be less than 20 percent of the total project  
36 cost,] and investor or financial entity capital or loans for which the  
37 developer, after making all good faith efforts to raise additional  
38 capital, certifies that additional capital cannot be raised from other  
39 sources.

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

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

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

46 (2) multiplying that product by a fraction having a numerator  
47 equal to the taxable value of all the property assessed within the  
48 project area, minus the property tax increment base, and having a

1 denominator equal to the taxable value of all property assessed  
2 within the project area.

3 For the purpose of this definition, "property tax increment base"  
4 means the aggregate taxable value of all property assessed which is  
5 located within the redevelopment project area as of October 1st of  
6 the year preceding the year in which the redevelopment incentive  
7 grant agreement is authorized.

8 **["Qualifying economic redevelopment and growth grant**  
9 **incentive area"** means Planning Area 1 (Metropolitan), Planning  
10 Area 2 (Suburban), or a center as designated by the State Planning  
11 Commission; a pinelands regional growth area, a pinelands town  
12 management area, a pinelands village, or a military and federal  
13 installation area established pursuant to the pinelands  
14 comprehensive management plan adopted pursuant to P.L.1979,  
15 c.111 (C.13:18A-1 et seq.); a transit village, as determined by the  
16 Commissioner of Transportation; and federally owned land  
17 approved for closure under a federal Base Realignment Closing  
18 Commission action.]

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

33 "Redevelopment project" means a specific work or improvement,  
34 including lands, buildings, improvements, real and personal  
35 property or any interest therein, including lands under water,  
36 riparian rights, space rights and air rights, acquired, owned,  
37 developed or redeveloped, constructed, reconstructed, rehabilitated  
38 or improved, undertaken by a developer within a project area,  
39 infrastructure improvements associated therewith, and any project  
40 conducted upon lands donated for open space and the remediation  
41 thereof, and any ancillary infrastructure project associated  
42 therewith.

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

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

7 "Smart growth area" means an area designated pursuant to  
8 P.L.1985, c.398 (C.52:18A-196 et al.) as Planning Area 1  
9 (Metropolitan), Planning Area 2 (Suburban), a designated center, or  
10 a designated growth center in an endorsed plan; a smart growth area  
11 and planning area designated in a master plan adopted by the New  
12 Jersey Meadowlands Commission pursuant to subsection (i) of  
13 section 6 of P.L.1968, c.404 (C.13:17-6); a growth area designated  
14 in the comprehensive management plan prepared and adopted by  
15 the Pinelands Commission pursuant to section 7 of the Pinelands  
16 Protection Act, P.L.1979, c.111 (C.13:18A-8); an urban enterprise  
17 zone designated pursuant to P.L.1983, c.303 (C.52:27H-60 et seq.)  
18 or P.L.2001, c.347 (C.52:27H-66.2 et al.); an area determined to be  
19 in need of redevelopment pursuant to P.L.1992, c.79 (C.40A:12A-1  
20 et al.) and approved by the Department of Community Affairs; or  
21 similar areas designated by the Department of Environmental  
22 Protection.

23 "Total redevelopment project cost" means the total cost incurred  
24 in connection with the redevelopment project including, without  
25 limitation, remediation costs, soft costs and capitalized interest paid  
26 to third parties, but excluding any costs for which the project has  
27 received other State or local funding.

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

32 (cf: P.L.2010, c.10, s.4)

33  
34 2. Section 5 of P.L.2009, c.90 (C.52:27D-489e) is amended to  
35 read as follows:

36 5. a. The **【New Jersey Economic Development Authority】**  
37 authority, in consultation with the State Treasurer, shall establish an  
38 Economic Redevelopment and Growth Grant program for the  
39 purpose of encouraging redevelopment projects in **【qualifying**  
40 **economic redevelopment and growth grant incentive】** smart growth  
41 areas that do not qualify as such areas solely by virtue of being a  
42 transit village, through the provision of incentive grants to  
43 reimburse developers for certain project financing gap costs.

44 b. (1) A developer that submits an application for a State  
45 incentive grant shall indicate on the application whether it is also  
46 applying for a local incentive grant.

47 (2) When an applicant indicates it is also applying for a local  
48 incentive grant, the authority shall forward a copy of the application

1 to the municipality wherein the redevelopment project is to be  
2 located for approval by municipal ordinance.

3 c. An application for a State incentive grant shall be reviewed  
4 and approved by the authority.  
5 (cf: P.L.2010, c.10, s.5)

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

9 6. a. Up to the limits established in subsection b. of this section  
10 and in accordance with a redevelopment incentive grant agreement,  
11 the State Treasurer shall pay to the developer incremental State  
12 revenues directly realized from businesses operating on the  
13 redevelopment project premises from the following taxes: the  
14 Corporation Business Tax Act (1945), P.L.1945, c.162 (C.54:10A-1  
15 et seq.), the tax imposed on marine insurance companies pursuant to  
16 R.S.54:16-1 et seq., the tax imposed on insurers generally, pursuant  
17 to P.L.1945, c.132 (C.54:18A-1 et seq.), the public utility franchise  
18 tax, public utilities gross receipts tax and public utility excise tax  
19 imposed on sewerage and water corporations pursuant to P.L.1940,  
20 c.5 (C.54:30A-49 et seq.), the tax derived from net profits from  
21 business, a distributive share of partnership income, or a pro rata  
22 share of S corporation income under the "New Jersey Gross Income  
23 Tax Act," N.J.S.54A:1-1 et seq., the tax derived from a business at  
24 the site of a redevelopment project that is required to collect the tax  
25 pursuant to the "Sales and Use Tax Act," P.L.1966, c.30 (C.54:32B-  
26 1 et seq.), the tax imposed pursuant to P.L.1966, c.30 (C.54:32B-1  
27 et seq.) from the purchase of materials used for the remediation, the  
28 construction of new structures, or the construction of new  
29 residences at the site of a redevelopment project, the hotel and  
30 motel occupancy fee imposed pursuant to section 1 of P.L.2003,  
31 c.114 (C.54:32D-1), or the portion of the fee imposed pursuant to  
32 section 3 of P.L.1968, c.49 (C.46:15-7) derived from the sale of real  
33 property at the site of the redevelopment project and paid to the  
34 State Treasurer for use by the State, that is not credited to the  
35 "Shore Protection Fund" or the "Neighborhood Preservation  
36 Nonlapsing Revolving Fund" ("New Jersey Affordable Housing  
37 Trust Fund") pursuant to section 4 of P.L.1968, c.49 (C.46:15-8).

38 b. Up to 75 percent of the projected annual incremental  
39 revenues may be pledged towards the State portion of an incentive  
40 grant, except that up to 100 percent of the projected annual  
41 incremental revenues collected pursuant to the "Sales and Use Tax  
42 Act," P.L.1966, c.30 (C.54:32B-1 et seq.) may be pledged towards  
43 the State portion of an incentive grant in the case of a  
44 redevelopment project that includes a supermarket or grocery store  
45 located in a municipality that lacks adequate access to affordable  
46 and nutritious food in the judgment of the Chief Executive Officer  
47 of the authority.

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.2010, c.10, s.6)

15  
16 4. Section 7 of P.L.2009, c.90 (C.52:27D-489g) is amended to  
17 read as follows:

18 7. a. Up to the limits established in subsection b. of this  
19 section, and in accordance with a redevelopment incentive grant  
20 agreement, the municipality shall pay to the developer incremental  
21 eligible revenues directly realized from activities or business  
22 operations on the redevelopment project premises and may also pay  
23 eligible revenues derived from the project and the project area.

24 b. Up to 75 percent of the incremental local revenues collected  
25 pursuant to paragraphs 1, 3, 4, 5, 7, 8, 9, and 10 of subsection d. of  
26 section 11 of P.L.2009, c.90 (C.52:27D-489k) may be pledged  
27 towards the municipal portion, if any, of an incentive grant, up to  
28 100 percent of the incremental local revenues collected pursuant to  
29 paragraph 2 of subsection d. of section 11 of P.L.2009, c.90  
30 (C.52:27D-489k) may be pledged towards the municipal portion, if  
31 any, of an incentive grant, and up to 100 percent of the incremental  
32 local revenues collected pursuant to paragraph 6 of subsection d. of  
33 section 11 of P.L.2009, c.90 (C.52:27D-489k) may be pledged  
34 towards the municipal portion, if any, of an incentive grant in the  
35 case of a redevelopment project that includes a supermarket or  
36 grocery store located in a municipality that lacks adequate access to  
37 affordable and nutritious food in the judgment of the Chief  
38 Executive Officer of the authority.

39 c. All administrative costs associated with the local incentive  
40 grant shall be assessed to the applicant and be retained by the  
41 municipality from its annual payments to the developer.

42 (cf: P.L.2010, c.10, s.7)

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

46 8. a. (1) The **【New Jersey Economic Development Authority】**  
47 authority, in consultation with the State Treasurer, shall promulgate

1 an incentive grant application form and procedure for the Economic  
2 Redevelopment and Growth Grant program.

3 (2) (a) The Local Finance Board, in consultation with the [New  
4 Jersey Economic Development Authority] authority, shall develop  
5 a minimum standard incentive grant application form for municipal  
6 Economic Redevelopment and Growth Grant programs.

7 (b) Through regulation, the [Economic Development Authority]  
8 authority shall establish standards for redevelopment projects  
9 seeking State or local incentive grants based on the green building  
10 manual prepared by the Commissioner of Community Affairs  
11 pursuant to section 1 of P.L.2007, c.132 (C.52:27D-130.6),  
12 regarding the use of renewable energy, energy-efficient technology,  
13 and non-renewable resources in order to reduce environmental  
14 degradation and encourage long-term cost reduction. Prior to and  
15 until the green building manual has been adopted by the  
16 Commissioner of Community Affairs, redevelopment projects  
17 seeking State or local incentive grants shall meet the National  
18 Green Building Standard ICC 700-2008, which was approved by the  
19 American National Standards Institute as an American National  
20 Standard on January 29, 2009.

21 b. Within each incentive grant application, a developer shall  
22 certify information concerning:

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

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

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

29 (4) estimates of the revenue increment base, the eligible  
30 revenues for the project, and the assumptions upon which those  
31 estimates are made.

32 c. (1) With regard to State tax revenues proposed to be pledged  
33 for an incentive grant the authority and the State Treasurer shall  
34 review the redevelopment project costs, evaluate and validate the  
35 project financing gap estimated by the developer, and conduct a  
36 State fiscal impact analysis to ensure that the overall public  
37 assistance provided to the project will result in net positive benefits  
38 to the State including, without limitation, both direct and indirect  
39 economic benefits and non-financial community revitalization  
40 objectives.

41 (2) With regard to local incremental revenues proposed to be  
42 pledged for an incentive grant the authority and the Local Finance  
43 Board shall review the redevelopment project costs, and except with  
44 respect to an application by a municipal redeveloper, evaluate and  
45 validate the financing gap projected by the developer, and conduct a  
46 local fiscal impact analysis to ensure that the overall public  
47 assistance provided to the project will result in net positive benefits  
48 to the municipality wherein the redevelopment project is located



1 including, without limitation, both direct and indirect economic  
2 benefits and non-financial community revitalization objectives.

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 (cf: P.L. 2010, c.10, s.8)

11  
12 6. Section 9 of P.L.2009, c.90 (C.52:27D-489i) is amended to  
13 read as follows:

14 9. a. The authority is authorized to enter into a redevelopment  
15 incentive grant agreement with a developer for any redevelopment  
16 project located within a [qualifying economic redevelopment and  
17 growth grant incentive] smart growth area that does not qualify as  
18 such area solely by virtue of being a transit village.

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

23 c. The Chief Executive Officer of the [New Jersey Economic  
24 Development Authority] authority, in consultation with the State  
25 Treasurer shall negotiate the terms and conditions of any  
26 redevelopment incentive grant agreement on behalf of the State.

27 d. The redevelopment incentive grant agreement shall specify  
28 the amount of the incentive grant to be awarded the developer, the  
29 frequency of payments, and the length of time, which shall not  
30 exceed 20 years, during which that reimbursement shall be granted.  
31 The authority shall have the discretion to require the holdback of  
32 grant amounts in amounts not to exceed 20 percent to the extent  
33 necessary to protect against refunds of eligible revenues, and to  
34 determine the priority of the use of eligible sales tax revenues  
35 collected pursuant to subsection a. of section 6 of P.L.2009, c.90  
36 (C.52:27D-489f) between and among various programs  
37 administered by the authority including, without limitation, the  
38 Brownfield Reimbursement program created in the Brownfield and  
39 Contaminated Site Remediation Act, P.L.1993, c.139 (C.58:10B-1  
40 et seq.), based on the particular financing needs of the project.

41 Except for redevelopment incentive grant agreements with a  
42 municipal redeveloper, in no event shall the combined amount of  
43 the reimbursements under redevelopment incentive grant  
44 agreements with the State or municipality exceed [20 percent of the  
45 total cost of the project. For the purposes of calculating the total  
46 cost of all projects, the cost of infrastructure improvements in the  
47 public right-of-way and publicly owned facilities shall not be

1 included. The amount of the redevelopment incentive grant for a  
2 municipal redeveloper may include] the [total cost of such  
3 infrastructure improvements and publicly owned facilities]  
4 maximum incentive amount.

5 e. The authority and the State Treasurer may enter into a  
6 redevelopment incentive grant agreement only if they make a  
7 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 [New Jersey  
12 Economic Development Authority] authority and the State  
13 Treasurer.

14 f. In deciding whether or not to recommend entering into a  
15 redevelopment incentive grant agreement and in negotiating a  
16 redevelopment agreement with a developer, the Chief Executive  
17 Officer of the [New Jersey Economic Development Authority]  
18 authority shall consider the following factors:

- 19 (1) the economic feasibility of the redevelopment project;
- 20 (2) the extent of economic and related social distress in the  
21 municipality and the area to be affected by the redevelopment  
22 project;
- 23 (3) the degree to which the redevelopment project will advance  
24 State, regional and local development and planning strategies;
- 25 (4) the likelihood that the redevelopment project shall, upon  
26 completion, be capable of generating new tax revenue in an amount  
27 in excess of the amount necessary to reimburse the developer for  
28 project costs incurred as provided in the redevelopment incentive  
29 grant agreement;
- 30 (5) the relationship of the redevelopment project to a  
31 comprehensive local development strategy, including other major  
32 projects undertaken within the municipality;
- 33 (6) the need of the redevelopment incentive grant agreement to  
34 the viability of the redevelopment project; and
- 35 (7) the degree to which the redevelopment project enhances and  
36 promotes job creation and economic development.

37 g. (1) A developer that has entered into a redevelopment  
38 incentive grant agreement with the authority and the State Treasurer  
39 pursuant to this section may, upon notice to and consent of the  
40 authority and the State Treasurer, pledge and assign as security or  
41 support for any loan or bond, any or all of its right, title and interest  
42 in and to such agreements and in the incentive grants payable  
43 thereunder, and the right to receive same, along with the rights and  
44 remedies provided to the developer under such agreement. Any  
45 such assignment shall be an absolute assignment for all purposes,  
46 including the federal 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.2010, c.10, s.9)

14  
15 7. Section 11 of P.L.2009, c.90 (C.52:27D-489k) is amended to  
16 read as follows:

17 11. a. The governing body of a municipality is authorized to  
18 enter into a redevelopment incentive grant agreement with a  
19 developer, which shall not be effective until adopted by ordinance,  
20 for any redevelopment project located within a [qualifying  
21 economic redevelopment and growth grant incentive] smart growth  
22 area.

23 b. The redevelopment incentive grant agreement shall specify  
24 the amount of the incentive grant to be awarded the developer, the  
25 frequency of payments, and the length of time, which shall not  
26 exceed 20 years, during which that reimbursement shall be granted.  
27 The authority shall have the discretion to require the holdback of  
28 grant amounts in amounts not to exceed 20 percent to the extent  
29 necessary to protect against refunds of eligible revenues, and to  
30 determine the priority of the use of eligible sales tax revenues  
31 collected pursuant to subsection a. of section 6 of P.L.2009, c.90  
32 (C.52:27D-489f) between and among various programs  
33 administered by the authority including, without limitation, the  
34 Brownfield Reimbursement program created in the Brownfield and  
35 Contaminated Site Remediation Act, P.L.1993, c.139 (C.58:10B-1  
36 et seq.), based on the particular financing needs of the project.  
37 Except for redevelopment incentive grants with a municipal  
38 redeveloper, in no event shall the combined amount of the  
39 reimbursements under redevelopment incentive grant agreements  
40 with the State or municipality exceed [20 percent of the total cost  
41 of the project. For the purposes of calculating the total cost of all  
42 projects, the cost of infrastructure improvements in the public right-  
43 of-way and publicly owned facilities shall not be included. The  
44 amount of the redevelopment incentive grant for a municipal  
45 redeveloper may include] the [total cost of such infrastructure  
46 improvements and publicly owned facilities] maximum incentive  
47 amount.

1 c. The municipality may enter into a redevelopment incentive  
2 grant agreement only if the chief financial officer of the  
3 municipality makes a finding that the incremental revenues to be  
4 realized from the redevelopment project will be in excess of the  
5 amount necessary to reimburse the developer for its project  
6 financing gap. Such finding shall be based upon appropriate  
7 documentation and calculations supporting the decision.

8 d. Within a [qualifying economic redevelopment and growth  
9 grant incentive] smart growth area a municipality that has entered  
10 into a local redevelopment incentive grant agreement may pledge  
11 eligible revenues it is authorized to collect as follows:

12 (1) incremental payments in lieu of taxes, with respect to  
13 property located in the district, made pursuant to the "Five-Year  
14 Exemption and Abatement Law," P.L.1991, c.441 (C.40A:21-1 et  
15 seq.), or the "Long Term Tax Exemption Law," P.L.1991, c.431  
16 (C.40A:20-1 et al.);

17 (2) incremental revenues collected from payroll taxes, with  
18 respect to business activities carried on within the area, pursuant to  
19 section 15 of P.L.1970, c.326 (C.40:48C-15);

20 (3) incremental revenue from lease payments made to the  
21 municipality, the developer, or the developer's successors with  
22 respect to property located in the area;

23 (4) incremental revenue collected from parking taxes derived  
24 from parking facilities located within the area pursuant to section 7  
25 of P.L.1970, c.326 (C.40:48C-7);

26 (5) incremental admissions and sales taxes derived from the  
27 operation of a public facility within the area pursuant to section 1 of  
28 P.L.2007, c.302 (C.40:48G-1);

29 (6) (a) incremental sales and excise taxes which are derived  
30 from activities within the area and which are rebated to or retained  
31 by the municipality pursuant to the "New Jersey Urban Enterprise  
32 Zones Act," P.L.1983, c.303 (C.52:27H-60 et seq.) or any other law  
33 providing for such rebate or retention;

34 (b) within Planning Area 1 (Metropolitan) under the State  
35 Development and Redevelopment Plan adopted pursuant to the  
36 "State Planning Act," sections 1 through 12 of P.L.1985, c.398  
37 (C.52:18A-196 et seq.), a municipality may impose the entire State  
38 sales tax on business activities within a redevelopment project  
39 located in an urban enterprise zone that would ordinarily be entitled  
40 to collect reduced rate revenues under section 21 of P.L.1983, c.303  
41 (C.52:27H-80), and pledge the excess revenues to a local  
42 redevelopment incentive grant agreement;

43 (7) incremental parking revenue collected, pursuant to section 7  
44 of P.L.1970, c.326 (C.40:48C-7), from public parking facilities built  
45 as part of a redevelopment project, except for public parking  
46 facilities owned by parking authorities pursuant to the "Parking  
47 Authority Law," P.L.1948, c.198 (C.40:11A-1 et seq.);

1 (8) incremental revenues collected, pursuant to section 3 of  
2 P.L.2003, c.114 (C.40:48F-1), P.L.1981, c.77 (C.40:48E-1 et seq.),  
3 or P.L.1947, c.71 (C.40:48-8.15 et seq.), from hotel and motel  
4 taxes;

5 (9) upon approval by the Local Finance Board, other  
6 incremental municipal revenues that may become available;

7 (10) the property tax increment.

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

14 e. (1) In calculating the general tax rate of a municipality each  
15 year, the aggregate amount of the incremental ratable value over the  
16 property tax increment base in the redevelopment project area that  
17 is pledged as part of a redevelopment incentive grant agreement  
18 shall be excluded from the ratable base of a municipality.

19 (2) The amount of property tax increment not pledged toward a  
20 redevelopment incentive grant agreement shall be allocated  
21 pursuant to the normal tax rate distribution.

22 The full incremental value of a project area shall be included in  
23 the value used for county and regional school tax apportionment  
24 until such time that the Director of the Division of Taxation in the  
25 Department of the Treasury can certify that property tax  
26 management systems are capable of handling the technical and legal  
27 requirements of treating parcels in areas of redevelopment as  
28 exempt from county and regional school apportionment.

29 f. In addition to the incremental revenues that may be pledged  
30 in subsection d. of this section, any amount of tax proceeds  
31 collected from the tax on the rental of motor vehicles pursuant to  
32 section 20 of P.L.2009, c.90 (C.40:48H-2), may be included in a  
33 redevelopment incentive grant agreement with a developer,  
34 regardless of whether or not the redevelopment project area is  
35 within or outside of the designated industrial zone from which the  
36 tax on the rental of motor vehicles is collected.

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

46 (2) Any pledge of incentive grants made by the developer shall  
47 be valid and binding from the time when the pledge is made and  
48 filed in the office of the municipal clerk. The incentive grants so

pledged and thereafter received by the developer shall immediately be subject to the lien of the pledge without any physical delivery thereof or further act, and the lien of any pledge shall be valid and binding as against all parties having claims of any kind in tort, contract, or otherwise against the developer irrespective of whether the parties have notice thereof. Neither the redevelopment incentive grant agreement nor any other instrument by which a pledge under this section is created need be filed or recorded except with the municipality.

(cf: P.L.2010, c.10, s.10)

8. This act shall take effect immediately, but the provisions of P.L. , c. (C. ) (pending before the Legislature as this bill) shall not be construed as affecting terms of any contract or agreement in effect as of the effective date of P.L. , c. .

#### STATEMENT

This bill amends provisions the New Jersey Economic Stimulus Act of 2009 (“Act”) concerning the Economic Redevelopment and Growth Grant program established under the Act. The bill provides that the contributed capital paid by a developer shall include the appraised value of existing improvements and shall not be less than 20% of the total redevelopment project costs.

The bill deletes the provision allowing a government or a redevelopment agency, as defined in section 3 of P.L.1992, c.79 (C.40A:12A-3), to be considered a developer and instead provides that a municipal redeveloper may be considered a developer under the Act.

The bill increases incentive grants provided under the Act from 20 percent of project costs to a maximum incentive amount of 35 percent of project costs and allow grants of 100 percent of cost of public infrastructure improvements and 100 percent of value of land dedicated to open space including remediation thereof.

The bill would increase the amount of incremental revenues that can be applied to grants from 75 percent to 100 percent in the case of: (1) sales taxes paid within a project that includes a supermarket or grocery store located in a city that lacks adequate access to affordable and nutritious food, and (2) municipal payroll taxes.

The bill increases the type of local revenues of 75 percent that can be applied to grants to include: (1) certain payments in lieu of taxes, with respect to property located in the area; (2) revenue from lease payments made to the municipality, the developer, or the developer's successors with respect to property located in the area; (3) revenue collected from parking taxes derived from parking facilities; (4) admissions and sales taxes derived from the operation of a public facility within the area; (5) certain parking revenue (6)

1 incremental revenues from certain hotel and motel taxes; (7) upon  
2 as approved by the Local Finance Board, other incremental  
3 municipal revenues that may become available; and (8) the property  
4 tax increment.

5 The bill also provides that, concerning redevelopment incentive  
6 grant agreements between the New Jersey Economic Development  
7 Authority (“authority”) and a developer and between a municipality  
8 and a developer, the authority shall have discretion to require the  
9 holdback of grant amounts not exceeding 20 percent to the extent  
10 necessary to protect against refunds of eligible revenues, and to  
11 determine the priority of the use of eligible sales tax revenues  
12 collected pursuant to subsection a. of section 6 of P.L.2009, c.90  
13 (C.52:27D-489f) between and among various programs  
14 administered by the authority including, without limitation, the  
15 Brownfield Reimbursement program created in the Brownfield and  
16 Contaminated Site Remediation Act, P.L.1993, c.139 (C.58:10B-1  
17 et seq.), based on the particular financing needs of the project.

18 The bill requires that, until the green building manual has been  
19 adopted by the Commissioner of Community Affairs,  
20 redevelopment projects seeking State or local incentive grants shall  
21 meet the National Green Building Standard ICC 700-2008, which  
22 was approved by the American National Standards Institute as an  
23 American National Standard on January 29, 2009.

24 The bill clarifies that the net benefits test to be undertaken with  
25 regard to State tax revenues to be pledged for an incentive grant  
26 under the Act shall determine whether the benefits are of a positive  
27 value to the State and that such test may take into account indirect  
28 economic benefits and non-financial community revitalization  
29 objectives.

30 Finally, the bill adds the following definitions to the Act:

- 31 • “Ancillary infrastructure project” means public structures or  
32 improvements that are located outside the project area of a  
33 redevelopment project, provided a developer has  
34 demonstrated that the redevelopment project would not be  
35 economically viable without such improvements.
- 36 • “Developer contributed capital” means any and all capital  
37 contributed by a developer toward the costs of a  
38 redevelopment project.
- 39 • “Infrastructure improvements in the public right-of-way”  
40 mean public structures or improvements located in the public  
41 right of way that are located within a project area or that  
42 constitute an ancillary infrastructure project or a major  
43 transit facility.
- 44 • “Major transit facility” means a train station or bus terminal  
45 located along on a commuter rail line or bus route operated  
46 by New Jersey Transit Corporation or the National Railroad  
47 Passenger Corporation (Amtrak), that is undertaken as part  
48 of a redevelopment project and that is located within or

1 directly adjacent to the project area, provided a developer  
2 has demonstrated that the redevelopment project would not  
3 be economically viable without such facility.

- 4 • “Maximum incentive amount” means 35 percent of the total  
5 redevelopment project costs, except that the costs incurred in  
6 connection with the construction, reconstruction,  
7 rehabilitation or improvement of infrastructure  
8 improvements or the dedication of land to open space and  
9 any remediation thereof may be funded up to 100 percent.
- 10 • "Municipal redeveloper" means a municipal government or a  
11 redevelopment agency, as defined in section 3 of P.L.1992,  
12 c.79 (C.40A:12A-3), acting on behalf of a municipal  
13 government that is an applicant for a redevelopment  
14 incentive grant agreement.
- 15 • “Smart growth area" means an area designated pursuant to  
16 P.L.1985, c.398 (C.52:18A-196 et al.) as Planning Area 1  
17 (Metropolitan), Planning Area 2 (Suburban), a designated  
18 center, or a designated growth center in an endorsed plan; a  
19 smart growth area and planning area designated in a master  
20 plan adopted by the New Jersey Meadowlands Commission  
21 pursuant to subsection (i) of section 6 of P.L.1968, c.404  
22 (C.13:17-6); a growth area designated in the comprehensive  
23 management plan prepared and adopted by the Pinelands  
24 Commission pursuant to section 7 of the Pinelands  
25 Protection Act, P.L.1979, c.111 (C.13:18A-8); an urban  
26 enterprise zone designated pursuant to P.L.1983, c.303  
27 (C.52:27H-60 et seq.) or P.L.2001, c.347 (C.52:27H-66.2 et  
28 al.); an area determined to be in need of redevelopment  
29 pursuant to P.L.1992, c.79 (C.40A:12A-1 et al.) and  
30 approved by the Department of Community Affairs; or  
31 similar areas designated by the Department of  
32 Environmental Protection.
- 33 • “Total redevelopment project cost” means the total cost  
34 incurred in connection with the redevelopment project  
35 including, without limitation, remediation costs, soft costs  
36 and capitalized interest paid to third parties, but excluding  
37 any costs for which the project has received other State or  
38 local funding.