

# ASSEMBLY, No. 5522

## STATE OF NEW JERSEY 220th LEGISLATURE

INTRODUCED JUNE 5, 2023

**Sponsored by:**

**Assemblyman REGINALD W. ATKINS**

**District 20 (Union)**

**Assemblyman JAMES J. KENNEDY**

**District 22 (Middlesex, Somerset and Union)**

**Assemblyman STERLEY S. STANLEY**

**District 18 (Middlesex)**

**SYNOPSIS**

Establishes "Climate Catalytic Capital Fund" in EDA; appropriates \$13 million from societal benefits charge to fund.

**CURRENT VERSION OF TEXT**

As introduced.



1 AN ACT establishing the Climate Catalytic Capital Fund in the New  
2 Jersey Economic Development Authority, amending and  
3 supplementing P.L.1974, c.80, and making an appropriation.

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

7  
8 1. Section 5 of P.L.1974, c.80 (C.34:1B-5) is amended to read  
9 as follows:

10 5. The authority shall have the following powers:

11 a. To adopt bylaws for the regulation of its affairs and the  
12 conduct of its business;

13 b. To adopt and have a seal and to alter the same at pleasure;

14 c. To sue and be sued;

15 d. To acquire in the name of the authority by purchase or  
16 otherwise, on such terms and conditions and such manner as it may  
17 deem proper, or by the exercise of the power of eminent domain in  
18 the manner provided by the "Eminent Domain Act of 1971,"  
19 P.L.1971, c.361 (C.20:3-1 et seq.), any lands or interests therein or  
20 other property which it may determine is reasonably necessary for  
21 any project; provided, however, that the authority in connection  
22 with any project shall not take by exercise of the power of eminent  
23 domain any real property except upon consent thereto given by  
24 resolution of the governing body of the municipality in which such  
25 real property is located; and provided further that the authority shall  
26 be limited in its exercise of the power of eminent domain in  
27 connection with any project in qualifying municipalities as defined  
28 under the provisions of P.L.1978, c.14 (C.52:27D-178 et seq.), or to  
29 municipalities which had a population, according to the latest  
30 federal decennial census, in excess of 10,000;

31 e. To enter into contracts with a person upon such terms and  
32 conditions as the authority shall determine to be reasonable,  
33 including, but not limited to, reimbursement for the planning,  
34 designing, financing, construction, reconstruction, improvement,  
35 equipping, furnishing, operation and maintenance of the project and  
36 to pay or compromise any claims arising therefrom;

37 f. To establish and maintain reserve and insurance funds with  
38 respect to the financing of the project or the school facilities project  
39 and any project financed pursuant to the "Municipal Rehabilitation  
40 and Economic Recovery Act," P.L.2002, c.43 (C.52:27BBB-1 et  
41 al.);

42 g. To sell, convey or lease to any person all or any portion of a  
43 project for such consideration and upon such terms as the authority  
44 may determine to be reasonable;

**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       h. To mortgage, pledge or assign or otherwise encumber all or  
2 any portion of a project, or revenues, whenever it shall find such  
3 action to be in furtherance of the purposes of this act, P.L.2000,  
4 c.72 (C.18A:7G-1 et al.), the "Municipal Rehabilitation and  
5 Economic Recovery Act," P.L.2002, c.43 (C.52:27BBB-1 et al.),  
6 P.L.2007, c.137 (C.52:18A-235 et al.), and sections 3 through 18 of  
7 P.L.2009, c.90 (C.52:27D-489c et al.);
- 8       i. To grant options to purchase or renew a lease for any of its  
9 projects on such terms as the authority may determine to be  
10 reasonable;
- 11       j. To contract for and to accept any gifts or grants or loans of  
12 funds or property or financial or other aid in any form from the  
13 United States of America or any agency or instrumentality thereof,  
14 or from the State or any agency, instrumentality or political  
15 subdivision thereof, or from any other source and to comply,  
16 subject to the provisions of P.L.1974, c.80 (C.34:1B-1 et seq.),  
17 section 6 of P.L.2001, c.401 (C.34:1B-4.1), P.L.2000, c.72  
18 (C.18A:7G-1 et al.), the "Municipal Rehabilitation and Economic  
19 Recovery Act," P.L.2002, c.43 (C.52:27BBB-1 et al.), and  
20 P.L.2007, c.137 (C.52:18A-235 et al.), with the terms and  
21 conditions thereof;
- 22       k. In connection with any action undertaken by the authority in  
23 the performance of its duties and any application for assistance or  
24 commitments therefor and modifications thereof, to require and  
25 collect such fees and charges as the authority shall determine to be  
26 reasonable, including but not limited to fees and charges for the  
27 authority's administrative, organizational, insurance, operating,  
28 legal, and other expenses;
- 29       l. To adopt, amend and repeal regulations to carry out the  
30 provisions of P.L.1974, c.80 (C.34:1B-1 et seq.), section 6 of  
31 P.L.2001, c.401 (C.34:1B-4.1), P.L.2000, c.72 (C.18A:7G-1 et al.),  
32 the "Municipal Rehabilitation and Economic Recovery Act,"  
33 P.L.2002, c.43 (C.52:27BBB-1 et al.), and P.L.2007, c.137  
34 (C.52:18A-235 et al.);
- 35       m. To acquire, purchase, manage and operate, hold and dispose  
36 of real and personal property or interests therein, take assignments  
37 of rentals and leases and make and enter into all contracts, leases,  
38 agreements and arrangements necessary or incidental to the  
39 performance of its duties;
- 40       n. To purchase, acquire and take assignments of notes,  
41 mortgages and other forms of security and evidences of  
42 indebtedness;
- 43       o. To purchase, acquire, attach, seize, accept or take title to any  
44 project or school facilities project by conveyance or by foreclosure,  
45 and sell, lease, manage or operate any project or school facilities

1 project for a use specified in this act, P.L.2000, c.72 (C.18A:7G-1  
2 et al.), the "Municipal Rehabilitation and Economic Recovery Act,"  
3 P.L.2002, c.43 (C.52:27BBB-1 et al.), P.L.2007, c.137 (C.52:18A-  
4 235 et al.), and sections 3 through 18 of P.L.2009, c.90 (C.52:27D-  
5 489c et al.);

6 p. To borrow money and to issue bonds of the authority and to  
7 provide for the rights of the holders thereof, as provided in  
8 P.L.1974, c.80 (C.34:1B-1 et seq.), section 6 of P.L.2001, c.401  
9 (C.34:1B-4.1), P.L.2000, c.72 (C.18A:7G-1 et al.), the "Municipal  
10 Rehabilitation and Economic Recovery Act," P.L.2002, c.43  
11 (C.52:27BBB-1 et al.), P.L.2007, c.137 (C.52:18A-235 et al.), and  
12 sections 3 through 18 of P.L.2009, c.90 (C.52:27D-489c et al.);

13 q. To extend credit or make loans to any person for the  
14 planning, designing, acquiring, constructing, reconstructing,  
15 improving, equipping and furnishing of a project or school facilities  
16 project, which credits or loans may be secured by loan and security  
17 agreements, mortgages, leases and any other instruments, upon such  
18 terms and conditions as the authority shall deem reasonable,  
19 including provision for the establishment and maintenance of  
20 reserve and insurance funds, and to require the inclusion in any  
21 mortgage, lease, contract, loan and security agreement or other  
22 instrument, of such provisions for the construction, use, operation  
23 and maintenance and financing of a project or school facilities  
24 project as the authority may deem necessary or desirable;

25 r. To guarantee up to 90% of the amount of a loan to a person,  
26 if the proceeds of the loan are to be applied to the purchase and  
27 installation, in a building devoted to industrial or commercial  
28 purposes, or in an office building, of an energy improvement  
29 system;

30 s. To employ consulting engineers, architects, attorneys, real  
31 estate counselors, appraisers, and such other consultants and  
32 employees as may be required in the judgment of the redevelopment  
33 utility to carry out the purposes of P.L.1974, c.80 (C.34:1B-1 et  
34 seq.), section 6 of P.L.2001, c.401 (C.34:1B-4.1), P.L.2000, c.72  
35 (C.18A:7G-1 et al.), the "Municipal Rehabilitation and Economic  
36 Recovery Act," P.L.2002, c.43 (C.52:27BBB-1 et al.), P.L.2007,  
37 c.137 (C.52:18A-235 et al.), and sections 3 through 18 of P.L.2009,  
38 c.90 (C.52:27D-489c et al.), and to fix and pay their compensation  
39 from funds available to the redevelopment utility therefor, all  
40 without regard to the provisions of Title 11A of the New Jersey  
41 Statutes;

42 t. To do and perform any acts and things authorized by  
43 P.L.1974, c.80 (C.34:1B-1 et seq.), section 6 of P.L.2001, c.401  
44 (C.34:1B-4.1), P.L.2000, c.72 (C.18A:7G-1 et al.), the "Municipal  
45 Rehabilitation and Economic Recovery Act," P.L.2002, c.43  
46 (C.52:27BBB-1 et al.), P.L.2007, c.137 (C.52:18A-235 et al.), and  
47 sections 3 through 18 of P.L.2009, c.90 (C.52:27D-489c et al.),

- 1 under, through or by means of its own officers, agents and  
2 employees, or by contract with any person;
- 3 u. To procure insurance against any losses in connection with  
4 its property, operations or assets in such amounts and from such  
5 insurers as it deems desirable;
- 6 v. To do any and all things necessary or convenient to carry out  
7 its purposes and exercise the powers given and granted in P.L.1974,  
8 c.80 (C.34:1B-1 et seq.), section 6 of P.L.2001, c.401 (C.34:1B-  
9 4.1), P.L.2000, c.72 (C.18A:7G-1 et al.), the "Municipal  
10 Rehabilitation and Economic Recovery Act," P.L.2002, c.43  
11 (C.52:27BBB-1 et al.), P.L.2007, c.137 (C.52:18A-235 et al.), and  
12 sections 3 through 18 of P.L.2009, c.90 (C.52:27D-489c et al.);
- 13 w. To construct, reconstruct, rehabilitate, improve, alter, equip,  
14 maintain or repair or provide for the construction, reconstruction,  
15 improvement, alteration, equipping or maintenance or repair of any  
16 development property and lot, award and enter into construction  
17 contracts, purchase orders and other contracts with respect thereto,  
18 upon such terms and conditions as the authority shall determine to  
19 be reasonable, including, but not limited to, reimbursement for the  
20 planning, designing, financing, construction, reconstruction,  
21 improvement, equipping, furnishing, operation and maintenance of  
22 any such development property and the settlement of any claims  
23 arising therefrom and the establishment and maintenance of reserve  
24 funds with respect to the financing of such development property;
- 25 x. When authorized by the governing body of a municipality  
26 exercising jurisdiction over an urban growth zone, to construct,  
27 cause to be constructed or to provide financial assistance to projects  
28 in an urban growth zone which shall be exempt from the terms and  
29 requirements of the land use ordinances and regulations, including,  
30 but not limited to, the master plan and zoning ordinances, of such  
31 municipality;
- 32 y. To enter into business employment incentive agreements as  
33 provided in the "Business Employment Incentive Program Act,"  
34 P.L.1996, c.26 (C.34:1B-124 et al.);
- 35 z. To enter into agreements or contracts, execute instruments,  
36 and do and perform all acts or things necessary, convenient or  
37 desirable for the purposes of the redevelopment utility to carry out  
38 any power expressly provided pursuant to P.L.1974, c.80 (C.34:1B-  
39 1 et seq.), P.L.2000, c.72 (C.18A:7G-1 et al.), and P.L.2007, c.137  
40 (C.52:18A-235 et al.), including, but not limited to, entering into  
41 contracts with the State Treasurer, the Commissioner of Education,  
42 districts, the New Jersey Schools Development Authority, and any  
43 other entity which may be required in order to carry out the  
44 provisions of P.L.2000, c.72 (C.18A:7G-1 et al.), P.L.2007, c.137  
45 (C.52:18A-235 et al.), and sections 3 through 18 of P.L.2009, c.90  
46 (C.52:27D-489c et al.);
- 47 aa. (Deleted by amendment, P.L.2007, c.137);

1       bb. To make and contract to make loans to local units to finance  
2 the cost of school facilities projects and to acquire and contract to  
3 acquire bonds, notes or other obligations issued or to be issued by  
4 local units to evidence the loans, all in accordance with the  
5 provisions of P.L.2000, c.72 (C.18A:7G-1 et al.), and P.L.2007,  
6 c.137 (C.52:18A-235 et al.);

7       cc. Subject to any agreement with holders of its bonds issued to  
8 finance a project or school facilities project, obtain as security or to  
9 provide liquidity for payment of all or any part of the principal of  
10 and interest and premium on the bonds of the authority or for the  
11 purchase upon tender or otherwise of the bonds, lines of credit,  
12 letters of credit, reimbursement agreements, interest rate exchange  
13 agreements, currency exchange agreements, interest rate floors or  
14 caps, options, puts or calls to hedge payment, currency, rate, spread  
15 or similar exposure or similar agreements, float agreements,  
16 forward agreements, insurance contract, surety bond, commitment  
17 to purchase or sell bonds, purchase or sale agreement, or  
18 commitments or other contracts or agreements, and other security  
19 agreements or instruments in any amounts and upon any terms as  
20 the authority may determine and pay any fees and expenses required  
21 in connection therewith;

22       dd. To charge to and collect from local units, the State and any  
23 other person, any fees and charges in connection with the  
24 authority's actions undertaken with respect to school facilities  
25 projects, including, but not limited to, fees and charges for the  
26 authority's administrative, organization, insurance, operating and  
27 other expenses incident to the financing of school facilities projects;

28       ee. To make loans to refinance solid waste facility bonds through  
29 the issuance of bonds or other obligations and the execution of any  
30 agreements with counties or public authorities to effect the  
31 refunding or rescheduling of solid waste facility bonds, or otherwise  
32 provide for the payment of all or a portion of any series of solid  
33 waste facility bonds. Any county or public authority refunding or  
34 rescheduling its solid waste facility bonds pursuant to this  
35 subsection shall provide for the payment of not less than fifty  
36 percent of the aggregate debt service for the refunded or  
37 rescheduled debt of the particular county or public authority for the  
38 duration of the loan; except that, whenever the solid waste facility  
39 bonds to be refinanced were issued by a public authority and the  
40 county solid waste facility was utilized as a regional county solid  
41 waste facility, as designated in the respective adopted district solid  
42 waste management plans of the participating counties as approved  
43 by the department prior to November 10, 1997, and the utilization  
44 of the facility was established pursuant to tonnage obligations set  
45 forth in their respective interdistrict agreements, the public  
46 authority refunding or rescheduling its solid waste facility bonds  
47 pursuant to this subsection shall provide for the payment of a  
48 percentage of the aggregate debt service for the refunded or

1 rescheduled debt of the public authority not to exceed the  
2 percentage of the specified tonnage obligation of the host county for  
3 the duration of the loan. Whenever the solid waste facility bonds  
4 are the obligation of a public authority, the relevant county shall  
5 execute a deficiency agreement with the authority, which shall  
6 provide that the county pledges to cover any shortfall and to pay  
7 deficiencies in scheduled repayment obligations of the public  
8 authority. All costs associated with the issuance of bonds pursuant  
9 to this subsection may be paid by the authority from the proceeds of  
10 these bonds. Any county or public authority is hereby authorized to  
11 enter into any agreement with the authority necessary, desirable or  
12 convenient to effectuate the provisions of this subsection.

13 The authority shall not issue bonds or other obligations to effect  
14 the refunding or rescheduling of solid waste facility bonds after  
15 December 31, 2002. The authority may refund its own bonds issued  
16 for the purposes herein at any time;

17 ff. To pool loans for any local government units that are  
18 refunding bonds and do and perform any and all acts or things  
19 necessary, convenient or desirable for the purpose of the authority  
20 to achieve more favorable interest rates and terms for those local  
21 governmental units;

22 gg. To finance projects approved by the board, provide staff  
23 support to the board, oversee and monitor progress on the part of  
24 the board in carrying out the revitalization, economic development  
25 and restoration projects authorized pursuant to the "Municipal  
26 Rehabilitation and Economic Recovery Act," P.L.2002, c.43  
27 (C.52:27BBB-1 et al.) and otherwise fulfilling its responsibilities  
28 pursuant thereto;

29 hh. To offer financial assistance to qualified film production  
30 companies as provided in the "New Jersey Film Production  
31 Assistance Act," P.L.2003, c.182 (C.34:1B-178 et al.);

32 ii. To finance or develop private or public parking facilities or  
33 structures, which may include the use of solar photovoltaic  
34 equipment, in municipalities qualified to receive State aid pursuant  
35 to the provisions of P.L.1978, c.14 (C.52:27D-178 et seq.) and  
36 municipalities that contain areas designated pursuant to P.L.1985,  
37 c.398 (C.52:18A-196 et al.) as Planning Area 1 (Metropolitan),  
38 Planning Area 2 (Suburban), or a town center, and to provide  
39 appropriate assistance, including but not limited to, extensions of  
40 credit, loans, and guarantees, to municipalities qualified to receive  
41 State aid pursuant to the provisions of P.L.1978, c.14 (C.52:27D-  
42 178 et seq.) and municipalities that contain areas designated  
43 pursuant to P.L.1985, c.398 (C.52:18A-196 et seq.) as Planning  
44 Area 1 (Metropolitan), Planning Area 2 (Suburban), or a town  
45 center, and their agencies and instrumentalities or to private entities  
46 whose projects are located in those municipalities, in order to  
47 facilitate the financing and development of parking facilities or  
48 structures in such municipalities. The authority may serve as the

1 issuing agent of bonds to finance the undertaking of a project for  
2 the purposes of this subsection;

3     jj. To make grants for the planning, designing, acquiring,  
4 constructing, reconstructing, improving, equipping, and furnishing  
5 of a project, including, but not limited to, grants for working capital  
6 and meeting payroll requirements, upon such terms and conditions  
7 as the authority shall deem reasonable, during periods of emergency  
8 declared by the Governor and for the duration of economic  
9 disruptions due to the emergency; **[and]**

10     kk. To purchase and lease real property at a nominal rate when it  
11 would result in a net economic benefit to the State, enhance access  
12 to employment and investment for underserved populations, or  
13 increase investment and employment in high-growth technology  
14 sectors; and

15     ll. To establish and maintain a "Climate Catalytic Capital Fund"  
16 pursuant to sections 2 and 3 of P.L. c. (C. ) (pending  
17 before the Legislature as this bill).

18

19     2. (New section) a. There is established in the New Jersey  
20 Economic Development Authority a "Climate Catalytic Capital  
21 Fund" in a trust account, separate and apart from other funds, which  
22 the authority shall administer and maintain. The purpose of the  
23 fund shall be to provide grants and loans to residents, local  
24 government units, and businesses in the State to:

25         (1) promote remedies for the disproportionate impact of pollution  
26 and the effects of climate change on certain populations in the  
27 State; (2) to leverage private capital investment in environmental  
28 beneficial technology development and deployment, including  
29 project planning;

30         (3) reduce greenhouse gas emissions and enable the adoption of  
31 measures to combat negative impacts of climate change;

32         (4) facilitate the electrification of the transportation sector and  
33 the use of sustainable alternative fuels in aviation;

34         (5) enable improvements in energy management and efficiency  
35 to reduce greenhouse gas emissions from the building sector;

36         (6) expand the deployment of clean energy generation and  
37 energy storage capacity;

38         (7) implement energy efficiency and weatherization measures for  
39 low- to moderate-income households;

40         (8) optimize the economic, health, social, and environmental  
41 value of community-scale infrastructure for resilience and energy  
42 equity; and

43         (9) facilitate the increased deployment of advanced clean energy  
44 technology in the State.

45     b. The authority shall establish a Climate Catalytic Capital Fund  
46 Oversight Committee, appointed by the executive committee of the  
47 authority in a form and manner of its choosing, to manage the fund.

48     c. The fund shall be credited with:



1 (1) any monies that may be appropriated to the fund from the  
2 societal benefits charge collected pursuant to section 12 of  
3 P.L.1999, c.23 (C.48:3-60), notwithstanding the provisions of  
4 paragraph (3) of subsection a. of section 12 of P.L.1999, c.23  
5 (C.48:3-60), or any rule, regulation, or order adopted pursuant  
6 thereto to the contrary;

7 (2) any federal funds that may be used for the purposes specified  
8 in this section;

9 (3) charitable gifts, grants, and contributions, as well as loans,  
10 from individuals, corporations, university endowments, and  
11 philanthropic foundations;

12 (4) any additional monies made available by the authority for the  
13 purposes of the fund;

14 (5) any additional monies received by the authority from any  
15 public or private sources for the purposes of the fund; and

16 (6) earnings and interest derived from financing eligible projects,  
17 including moneys obtained from the payment of interest assessed  
18 on, and the repayment of principal of, any loans.

19 d. The authority shall hold, manage, and, through the Division  
20 of Investment in the Department of the Treasury, invest and reinvest  
21 monies in the fund and credit all income earned thereon to the fund  
22 in the same manner as provided by law for the investment of  
23 pension and retirement funds administered by the State.

24 e. Moneys in the fund shall be used only for the following  
25 purposes:

26 (1) to evaluate and coordinate financing for qualified projects  
27 and clean energy technologies related to the purposes specified  
28 under subsection a. of this section;

29 (2) to provide financing for qualified projects;

30 (3) to facilitate efficient tax equity markets for qualified projects;

31 (4) to secure private investment capital for the financing of  
32 qualified projects; and

33 (5) to administer the fund and activities of the authority in  
34 carrying out the provisions of this act, provided that not more than  
35 five percent of the annual expenditures from the fund shall be used  
36 for administrative purposes.

37 f. Moneys in the fund shall not be used for a project to install  
38 new equipment that uses fossil fuels or improve the efficiency of  
39 existing equipment that uses fossil fuels.

40 g. Expenditures from the fund may be made only with the  
41 approval of the Climate Catalytic Capital Fund Oversight  
42 Committee.

43 h. In each fiscal year, at least 40 percent of the expenditures  
44 from the fund shall be used for qualified projects in communities  
45 with predominantly low- to moderate-income households, as  
46 determined by the authority, except if there are insufficient  
47 applications for qualified projects in low- to moderate-income  
48 communities.

1 i. The Climate Catalytic Capital Fund Oversight Committee's  
2 financial records shall be subject to an annual audit by an  
3 independent auditor who is a certified public accountant and is  
4 selected by the executive director of the authority. Each annual  
5 audit report shall be posted and maintained on the authority's  
6 Internet website.

7  
8 3. Notwithstanding the provisions of paragraph (3) of subsection  
9 a. of section 12 of P.L.1999, c.23 (C.48:3-60), or any rule,  
10 regulation, or order adopted pursuant thereto, to the contrary, there  
11 is appropriated the sum of \$13,000,000 from the societal benefits  
12 charge collected pursuant to section 12 of P.L.1999, c.23 (C.48:3-  
13 60) to the New Jersey Economic Development Authority to be  
14 credited into the "Climate Catalytic Capital Fund," established  
15 pursuant section 2 of P.L. , c. (C. ) (pending before the  
16 Legislature as this bill), to be used for the purposes set forth in  
17 section 2 of P.L. , c. (C. ) (pending before the Legislature  
18 as this bill).

19  
20 4. This act shall take effect on the 60th day after the date of  
21 enactment, but the New Jersey Economic Development Authority  
22 may take such anticipatory administrative action in advance thereof  
23 as shall be necessary for the implementation of this act.

#### 24 25 26 STATEMENT

27  
28 This bill would establish a "Climate Catalytic Capital Fund"  
29 (fund) in the New Jersey Economic Development Authority (EDA),  
30 and would appropriate \$13 million in funds collected from the  
31 societal benefits charge (a surcharge on electricity bills) to the fund.

32 The fund would be used to provide grants and loans to State  
33 residents, local governments, and businesses to finance projects that  
34 reduce greenhouse gas emissions, promote environmental justice  
35 with respect to air pollution, or have certain other aims, as  
36 enumerated in subsection a. of section 2 of the bill. The bill would  
37 require the executive committee of the EDA to appoint a Climate  
38 Catalytic Capital Fund Oversight Committee, which would manage  
39 the fund. The bill would also require that, in each fiscal year, at  
40 least 40 percent of the expenditures from the fund be for qualified  
41 projects in communities with predominantly low- to moderate-  
42 income households, as determined by the EDA.