

ASSEMBLY BUDGET COMMITTEE

STATEMENT TO

ASSEMBLY, No. 4558

STATE OF NEW JERSEY

DATED: JUNE 26, 2024

The Assembly Budget Committee reports favorably Assembly Bill No. 4558.

This bill establishes the "Next New Jersey Program" within the New Jersey Economic Development Authority (EDA) and modifies certain provisions of the "New Jersey Economic Recovery Act of 2020," P.L.2020, c.156 (C.34:1B-269 et al.).

The purpose of the Next New Jersey Program would be to attract new investment to New Jersey in the artificial intelligence (or "AI") industry and AI-related industries, create new jobs and economic opportunities, and to position New Jersey as a leader in the innovation economy.

Under the program, the EDA would provide tax credits to eligible businesses, following approval of an application by the EDA, to eligible AI businesses. Eligible AI businesses would include a business or division that is primarily engaged in the artificial intelligence industry or large-scale artificial intelligence data center industry. A business would be considered primarily engaged in such an industry if at least 50 percent of the business's employees are engaged in AI-related activities, or at least 50 percent of the business's revenue is generated from AI-related activities. The bill defines "artificial intelligence" or "AI" to mean the development of software and hardware, and the end-use application of technologies that are able to perform tasks normally requiring human intelligence, including, but not limited to, visual perception, speech recognition, decision-making, translation between languages, and generative artificial intelligence, which generates new content in response to user inputs of data.

The bill provides that an eligible business that executes a project agreement with the EDA pursuant to the provisions of the Next New Jersey Program may receive tax credits as authorized under the project agreement. The bill defines "project" to mean a capital investment at a qualified business facility and an employment commitment specified in the eligible business's project agreement. The bill defines "qualified business facility" to mean any building, complex of buildings, or structural components of buildings, and all machinery and equipment located therein, used in connection with the operation of an eligible business.

Under the bill, the amount of the tax credit allowed for a particular project would equal to the lesser of: (1) the product of 0.1 percent of the eligible business's total capital investment multiplied by the number of new full-time jobs; (2) 25 percent of the eligible business's total capital investment; or (3) \$250 million.

The bill provides that up to \$500 million in tax credits, originally allocated for the New Jersey Aspire Program and the Emerge Program, be made available to eligible AI businesses under the Next New Jersey Program. Additionally, the bill provides that if the EDA awards less than the annual limitation of tax credits under the New Jersey Aspire Program and the Emerge Program, then the uncommitted credits would also be made available to eligible AI businesses under the Next New Jersey Program.

FISCAL IMPACT:

The Office of Legislative Services (OLS) cannot determine whether the bill will have a positive or negative net fiscal impact on the State. The bill may produce an indeterminate revenue gain to those municipalities in which eligible businesses are located if the Next New Jersey Program extends financial assistance to business projects that would not be undertaken absent the assistance and if the business projects involve-value increasing improvements to taxable real estate.

On the other hand, it is unclear whether the bill will have a positive or negative fiscal net impact on the State. Conceptually, the State fiscal net impact is calculated by adding the direct revenue loss from awarding tax credits to and their opportunity costs (the fiscal benefits the State foregoes as spending is redirected from 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. Thus, while the bill authorizes a minimum of \$500 million in tax credits to be made available for the Next New Jersey Program, this represents only one aspect of the bill's potential fiscal impact.

The direct revenue loss to the State from Next New Jersey Program tax credit awards and any indirect revenue gain that may accrue to the State cannot be quantified. The inability to determine the direction and magnitude of the fiscal impact is rooted in imperfect information on the number and attributes of projects that, under the bill, might qualify for Next New Jersey Program tax credits. The bill requires an eligible business to satisfy a series of eligibility requirements to receive a tax credit award. Most notably, the business or a division thereof must be primarily engaged in the artificial intelligence industry or the large-scale artificial intelligence data center industry, make a minimum capital investment of \$100 million at a qualified business facility, and provide a minimum of 100 new full-

time jobs. The OLS cannot predict how many businesses will satisfy these criteria.

Any additional incentive awards, however, will add to the \$1.7 billion in tax credits that the Economic Development Authority has already approved under the New Jersey Aspire Program and the Emerge Program, as of May 31, 2024. The OLS notes that any revenue loss will be: a) temporally limited, since the authority will only consider applications received prior to March 1, 2029, and b) spread out over several years because the bill allows unused tax credits to be taken in any of the next 10 tax periods following the tax period in which the tax credit is issued.