LEGISLATIVE FISCAL ESTIMATE
SENATE, No. 3993
STATE OF NEW JERSEY
219th LEGISLATURE

DATED: AUGUST 16, 2021

SUMMARY

Synopsis:	Revises various provisions of "New Jersey Economic Recovery Act of 2020" and other economic development programs; establishes New Jersey Innovation Fellows Program; appropriates $10 million.
Type of Impact:	Indeterminate fiscal net impact on State General Fund and Property Tax Relief Fund; potential revenue increase to certain local governments.
Agencies Affected:	Department of Agriculture. Department of Community Affairs. Department of Labor and Workforce Development. Department of the Treasury. New Jersey Economic Development Authority. Certain Local Governments.

Office of Legislative Services Estimate

Fiscal Impact	Multi-Year Lifespan of Incentive Awards
State Expenditure Increase	$10,000,000
Direct State Revenue Loss	Indeterminate
Indirect State Revenue Gain	Indeterminate
State Opportunity Cost	Indeterminate
Indirect Local Revenue Gain	Indeterminate
Local Opportunity Cost	Indeterminate

- The Office of Legislative Services (OLS) is unable to ascertain whether the bill will have a positive or negative fiscal net impact on the State. The inability to determine the direction and magnitude of the fiscal net impact is rooted in the fact that the bill modifies various existing incentive programs. Each program has its own set of provisions that set forth eligibility requirements; thus, due to the scope of the bill and the uniqueness of each incentive program, the OLS cannot reasonably determine the number of projects that may newly materialize and receive incentives because of the bill's enactment.

- The State fiscal net impact is calculated by adding the indeterminate direct revenue loss from awarding additional incentive amounts 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 amounts will catalyze.

BILL DESCRIPTION

This bill revises various provisions of the New Jersey Economic Recovery Act of 2020 and establishes the New Jersey Innovation Fellows Program within the New Jersey Economic Development Authority

The bill provides that fellowship grants through the New Jersey Innovation Fellows program, which generally may not exceed $350,000 per team, to be used as income replacement for entrepreneurs who leave the workforce to open and operate the business. The bill appropriates $10 million from the General Fund to support the program.

The bill changes credit award calculations and qualifications under the New Jersey Aspire Program and the New Jersey Emerge Program, but does not alter the overall $1.1 billion annual tax credit cap split between these two programs.

The bill changes credit award calculations and qualifications under the Historic Property Reinvestment Program, generally to make more projects eligible and increase the size of tax credits awarded for some projects, while capping the tax credits for certain larger projects.

The bill changes credit award calculations under the Brownfields Redevelopment Incentive Program, generally to make more projects eligible and increase the size of tax credits awarded for some projects, but does not alter the overall $50 million tax credit cap. The bill also allows credits to be applied against insurance premiums taxes.

The bill reduces the minimum amount of tax credits that a potential purchaser may bid for through the competitive auction under the New Jersey Innovation Evergreen Program. The bill also reduces the minimum amount that a potential purchaser of tax credits is required to pay for tax credits, from 85 percent to 75 percent of the dollar value of the credits. The bill does not modify the $60 million annual tax credit cap or the $300 million total cap.

The bill revises various eligibility requirements governing the Food Desert Relief Program. The bill also allows the authority to award grants to other eligible entities to support initiatives to strengthen the food security of residents in food desert communities. The bill does not alter the $40 million annual tax credit cap. The bill also allows credits to be applied against insurance premiums taxes.

The bill amends various eligibility requirements of the Main Street Recovery Finance Program. The bill requires the authority to undertake a disparity study as part of the program. The bill allows the authority to provide grants to for-profit and non-profit entities that provide technical assistance to microbusinesses.

The bill provides that up to $350 million in tax credits, which credits were originally allocated for the New Jersey Aspire Program and the Emerge Program, would instead be made available for qualified offshore wind projects. If the authority awards less than the annual limitation of tax credits under the New Jersey Aspire Program and the Emerge Program, then the uncommitted credits would be made available to qualified offshore wind projects and New Jersey studio partners. The bill also provides that beginning in fiscal year 2025, additional tax credits would be made available to New Jersey studio partners.

The bill increases the amount of the film production tax credit to 35 percent of the qualified film production expenses incurred by the taxpayer. The bill also extends the period in which film production credits may be claimed to those expenses incurred before July 1, 2034.

The bill makes various additional changes to other programs of the New Jersey Economic Recovery Act of 2020, including, but not limited to, eligibility requirements, grant awards, clarifications, reviews, and technical changes. Information concerning those changes and additional details of the incentive programs established by the bill may be found in the Assembly Appropriations Committee and Senate Budget and Appropriations Committee statements.

FISCAL ANALYSIS

EXECUTIVE BRANCH

None received.

OFFICE OF LEGISLATIVE SERVICES

The OLS is unable to ascertain whether the bill will have a positive or negative fiscal net impact on the State. The inability to determine the direction and magnitude of the fiscal net impact is rooted in the fact that the bill modifies various existing incentive programs. Each program has its own set of provisions that set forth eligibility requirements; thus, due to the scope of the bill and the uniqueness of each incentive program, the OLS cannot reasonably determine the number of projects that may newly materialize and receive incentives because of the bill's enactment.

Instead, the OLS recognizes that the direct revenue impact of this bill will likely materialize through additional credits being awarded that otherwise would not have under the original New Jersey Economic Recovery Act of 2020. The bill largely does not change the $14.4 billion in tax credits authorized under that act. However, the bill would alter the allocation of that cap among the different incentive programs, which may or may not increase overall utilization. Additionally, various provisions across all covered programs are to be modified in a way that will likely allow more projects to qualify for assistance.

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 Cost: State expenditures will increase by $10 million reflecting an appropriation to support the New Jersey Innovation Fellows Program. Further increases in direct State costs could materialize if additional funding is allocated to continue the program after the initial $10 million appropriation is exhausted. The amount of this increase is unknown, but will depend upon the timing and number of qualifying applicants for the program. The State will also incur an indeterminate one-time direct cost to conduct a disparity study of the relative availability of capital and related banking resources for small businesses and microbusinesses that are women- and minority-owned business enterprises in this State.

Direct State Revenue Loss: The OLS cannot quantify the precise direct revenue loss the bill will impose on the State. Many of the bill's provisions would likely increase the number of projects that would be eligible for various incentives, or would increase the amount of the incentive awarded for some projects, thus potentially increasing direct State revenue loss. Other provisions would make the programs more restrictive or less generous, offsetting that increase to an extent. The net effect of these changes remains uncertain and will depend upon participation in various programs. Most of the tax credit programs modified by the bill remain temporally limited and subject to the same global cap on tax credit awards over a seven-year period as exists in current law. Consequently, the net direct revenue impact of the bill's revisions to all programs subject to the global cap could only be negative if the State had been destined to underspend the global cap under the current law.

The bill will likely increase the total amount of tax credits awarded under the film and digital media incentive program, because the program is subject to only annual caps on the award of tax credits but not the global cap.

The revenue reduction from any financial assistance provided may extend past the years allotted for each program, however, as carry forward provisions and tax credit transfer certificates may be redeemable outside that timeframe. The authority has the ability to recapture or rescind incentive awards under certain circumstances. Those provisions may offset, at least in part, future revenue losses.

Indirect State and Local Revenue Gain: Imperfect information on the number and attributes of projects that, under the bill, might newly qualify or fail to qualify for incentive awards precludes the OLS from quantifying the bill's indirect revenue gain to the State and local governments. For reasons laid out below, the OLS cannot project whether the bill's indirect fiscal State benefits will exceed its direct State revenue loss.

Analytical Framework: Like any government expenditure, economic development incentive awards inject new spending into the economy. Once businesses and individuals receive payments that would otherwise not be received 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 business facility improvements, which then appreciate the property's value; or additional State sales and use tax collections from construction workers employed in a business facility improvement spending their resultant income on taxable goods and services.

Indirect State fiscal effects offset the State's direct revenue loss from 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 subsidy amount. 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, additional 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: It is unclear whether the bill's indirect fiscal State benefits will exceed its direct State revenue loss.

The OLS expects this bill to lead to the authority issuing additional incentive awards under existing incentive programs. It is uncertain, however, whether the additional incentive awards will generate indirect fiscal benefits to the State that will exceed the direct State revenue loss resulting from those incentive awards. For two reasons, however, the OLS expects that the indirect fiscal benefits will be less than the direct State revenue loss. First, not all of the authority's financial assistance programs addressed in this bill are subject to some form of a net benefit test calculation. The traditional calculation is intended to ensure that the authority will award incentives only to capital projects that are estimated to generate indirect State revenue equal to at least 110 percent of an inducement's direct State revenue loss. However, some programs alter that net benefit test requirement or exclude it entirely. In addition, not all of the programs require that the financial assistance be instrumental to project execution. As a result, the bill allows for projects to receive financial assistance that will happen irrespective of the receipt of the State assistance. Whenever that happens, none of a project's indirect fiscal benefits can be causally attributed to the assistance.

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

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

State Opportunity Costs: Given the State's finite resources and its balanced budget requirement, the decision to pursue new incentive programs as well as enhance existing incentive programs 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 bill, 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 additional incentive awards—or the direct State revenue loss from awarding the additional incentives minus the additional incentives' indirect State fiscal effects—and that of the foregone road construction investment.

Section: *Revenue, Finance and Appropriations*

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

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