Sponsored by:
Senator DONALD NORCROSS
District 5 (Camden and Gloucester)
Assemblyman GILBERT "WHIP" L. WILSON
District 5 (Camden and Gloucester)
Assemblyman ANGEL FUENTES
District 5 (Camden and Gloucester)

Co-Sponsored by:
Senator Ruiz and Assemblyman Conaway

SYNOPSIS
Establishes New Jersey Food Access Initiative; funds initiative with certain sales tax revenue from urban enterprise zones for five years.

CURRENT VERSION OF TEXT
As reported by the Senate Budget and Appropriations Committee on November 10, 2011, with amendments.

(Sponsorship Updated As Of: 1/10/2012)
AN ACT concerning funding of the 'New Jersey' Food Access
Initiative with 'certain' sales tax revenue ', supplementing Title
34 of the Revised Statutes' and amending P.L.2001, c.347 and

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

1. (New section) Sections 1 through 6 of this act shall be
known and may be cited as the “Fresh Food Access Act.”

2. (New section) [as] As used in this act:

“Authority” means the New Jersey Economic Development
Authority.

“Initiative” means the New Jersey [food access initiative] Food
Access Initiative' created pursuant to 'Section' section' 3 of
P.L. , c. (C. ) (pending before the Legislature as this bill).

“Loan fund” means the food access loan fund, created within the
'New Jersey food access' initiative.

“Grant fund” means the food access grant fund, created within
the 'New Jersey food access' initiative.

3. (New section) a. The authority shall establish the New
Jersey [food access initiative] Food Access Initiative' . The
initiative shall provide loan and grant [funds] moneys' to assist
businesses in providing fresh and healthy foods in areas of the State
where there is a demonstrated lack of availability of such foods.
The initiative will specifically target areas where infrastructure
costs and credit needs are often unmet by conventional financing
institutions.

b. The authority shall be responsible for administering the
initiative. The authority may administer the [program] initiative' on
its own or through partnership with a private institution.

c. The initiative shall seek additional sources of non-State
capital including federal, local and private funding sources.

4. (New section) a. The authority shall establish, within the
initiative, a food access loan fund to provide financing to businesses
that sell fresh and healthy foods in areas of the State where there is
a demonstrated lack of availability of such food.

b. The authority shall be responsible for administering the loan
fund. It may administer the loan program on its own or through
partnership with a private institution.

EXPLANATION – Matter enclosed in bold-faced brackets [thus] in the above bill is
not enacted and is intended to be omitted in the law.

Matter underlined thus is new matter.
Matter enclosed in superscript numerals has been adopted as follows:
Senate SBA committee amendments adopted November 10, 2011.
c. "[In order to] To' be eligible for loan funding, a business
\'[must] shall' be located in the State and lack access to traditional
sources of financing at the rates offered by the initiative.

d. Factors 'that the authority shall use' in determining which
applicants receive loans and the amount of the loan shall include,
but not be limited to:

(1) The need of the area where the business will be located for
access to fresh food;

(2) The number of jobs to be created by the project;

(3) Potential for repayment of the loan; and

(4) The 'likelihood that the applicant's receipt of a loan will
enable the' development of a sustainable business that will not
require program assistance in the future.

5. (New section) a. The authority shall establish a food access
grant fund within the '[New Jersey food access]' initiative '[. The
food access grant fund] from which the authority' shall
'administer' award' grants to approved recipients of food access
loans.

b. The authority shall be responsible for administering the
grant fund. It may administer the 'grant' program on its own or
through partnership with a private institution.

c. Food access grant money may be provided as direct funding
to a business or may be granted as a subsidy to loan loss reserves or
interest rate subsidies to improve the terms of a loan issued through
the loan fund.

d. Grants shall only be provided to approved recipients of food
access loans.

e. The authority shall award grants based on factors including,
but not limited to:

(1) The need of the area to be served for access to fresh food;

(2) The number of jobs to be created by the project;

(3) Potential repayment of the initiative loan; and

(4) The 'likelihood that the applicant's receipt of a loan will
enable the' development of a sustainable business that will not
require program assistance in the future.

6. (New section) The revenue dedicated to the authority
pursuant to section 11 of P.L.2001, c.347 (C.52:27H-66.6) and
section 21 of P.L.1983, '[C.303] c.303' (C.52:27H-80) shall be
directed to the initiative as follows:

a. Eighty percent of the revenue directed to the authority
'pursuant to subsection c. of section 11 of P.L.2001, c.347
(C.52:27H-66.6) and section 21 of P.L.1983, c.303 (C.52:27H-80)'
shall be deposited into the '[food access] loan' fund '[, an amount
equal to 4% of the gross amount of all revenues received from the
taxation of retail sales made by certified sellers from business
locations in designated enterprise zones'.

b. Twenty percent of the revenue directed to the authority
pursuant to subsection c. of section 11 of P.L.2001, c.347
(C.52:27H-66.6) and section 21 of P.L.1983, c.303 (C.52:27H-80)'
shall be deposited into the 'food access' grant fund ', an amount
equal to 1% of the gross amount of all revenues received from the
taxation of retail sales made by certified sellers from business
locations in designated enterprise zones'.

c. Any money deposited into the loan fund pursuant to this
section shall be redepósited into the initiative upon
repayment by the borrower. The reinvestment of funds moneys shall be in the same ratio as the original
distribution deposits, with 80% of the repayment going
deposited into the loan fund and 20% of the repayment being
deposited into the grant fund.

7. Section 11 of P.L.2001, c.347 (C.52:27H-66.6) is amended
to read as follows:

11. a. Notwithstanding the provisions of any law, rule,
regulation or order to the contrary, the designation of an enterprise
zone by the authority pursuant to P.L.1983, c.303 (C.52:27H-60 et
seq.), which is located in a municipality in which the annual
average of unemployed persons is equal to or greater than 2,000, or
the municipal average annual unemployment rate exceeds the State
average annual unemployment rate, or an enterprise zone which is
located in a municipality contiguous to a municipality in which an
enterprise zone is designated pursuant to P.L.1983, c.303 (C.52:27H-60 et seq.) and in which the annual average of
unemployed persons is equal to or greater than 2,000 or the
municipal average annual unemployment rate exceeds the State
average annual unemployment rate, shall, following the expiration
of the third five-year period during which the State shall have
collected reduced rate revenues within the zone as provided in
subsection c. of section 21 of P.L.1983, c.303 (C.52:27H-80), be
extended by the authority, on a one-time basis, for a period of 16
years, within 90 days after the effective date of P.L.2001, c.347
(C.52:27H-66.2 et al.), or within 90 days after the expiration of that
third five-year period, whichever is later.

b. During the 90-day period provided for in subsection a. of
this section, the authority shall notify all qualified businesses in the
enterprise zone that the benefits authorized by sections 16 through
20 of P.L.1983, c.303 (C.52:27H-75 through C.52:27H-79) shall be
extended to qualified businesses in the enterprise zone commencing
with the designation of the extended enterprise zone and continuing
as long as a zone retains its designation as an extended enterprise
zone.
c. Notwithstanding any other provisions of any law, rule or regulation to the contrary, 90 days after the expiration of the period provided for in subsection c. of section 21 of P.L.1983, c.303 (C.52:27H-80), except as provided in subsection b. of section 6 of P.L.1996, c.124 (C.13:1E-116.6), and after first depositing 10 percent of the gross amount of all revenues received from the taxation of retail sales made by certified vendors from business locations in an extended enterprise zone designated pursuant to subsection a. of this section, to which this exemption shall apply into the account created in the name of the authority in the enterprise zone assistance fund pursuant to section 29 of P.L.1983, c.303 (C.52:27H-88); and depositing the next five percent for a period of five consecutive calendar years 60 consecutive months beginning with the first month next following the effective date of P.L. , c. (C. ) (pending before the Legislature as this bill) into the account of the New Jersey Economic Development Authority for the purpose of funding the New Jersey Food Access Initiative, the remaining 90 percent shall be deposited immediately upon collection by the Department of the Treasury, provided however, that for the 60 consecutive months beginning with the first month next following the effective date of P.L. , c. (C. ) (pending before the Legislature as this bill), the remaining 85 percent shall be deposited immediately upon collection by the Department of the Treasury, as follows:

(1) In the first five-year period during which the State shall have collected reduced rate revenues within the extended enterprise zone, all such revenues shall be deposited in the enterprise zone assistance fund created pursuant to section 29 of P.L.1983, c.303 (C.52:27H-88);

(2) In the second five-year period during which the State shall have collected reduced rate revenues within the extended enterprise zone, 66 2/3% of all those revenues shall be deposited in the enterprise zone assistance fund, and 33 1/3% shall be deposited in the General Fund;

(3) In the third five-year period during which the State shall have collected reduced rate revenues within the extended enterprise zone, 33 1/3% of all those revenues shall be deposited in the enterprise zone assistance fund, and 66 2/3% shall be deposited in the General Fund;

(4) In the final year during which the State shall have collected reduced rate revenues within the extended enterprise zone, but not to exceed the life of the enterprise zone, all those revenues shall be deposited in the General Fund.

The revenues required to be deposited in the enterprise zone assistance fund under this section shall be used for the purposes of that fund and for the uses prescribed in section 29 of P.L.1983,
c.303 (C.52:27H-88), subject to annual appropriations being made for those purposes and uses.

d. The designation as an extended enterprise zone pursuant to this section shall terminate if the authority determines that the municipality in which the zone is located fails to meet the criteria of subsection a. of this section for three consecutive years. Any enterprise zone which loses its designation as an extended enterprise zone pursuant to this subsection shall be eligible to re-apply to the authority for designation as an extended enterprise zone pursuant to the provisions of P.L.1983, c.303 (C.52:27H-60 et seq.). If the authority approves its application, an urban enterprise zone designation may be extended to the applicant in accordance with the schedules set forth in P.L.1983, c.303 (C.52:27H-60 et seq.), beginning at the point where the enterprise zone was located on such schedules on the effective date of P.L.2001, c.347 (C.52:27H-66.2 et al.).

(cf: P.L.2001, c.347, s.11)

8. Section 21 of P.L.1983, c.303 (C.52:27H-80) is amended to read as follows:


Any seller, which is a qualified business having a place of business located in a designated enterprise zone or in a designated UEZ-impacted business district, may apply to the Director of the Division of Taxation in the Department of the Treasury for certification pursuant to this section. The director shall certify a seller if the director shall find that the seller owns or leases and regularly operates a place of business located in the designated enterprise zone or in the designated UEZ-impacted business district for the purpose of making retail sales, that items are regularly exhibited and offered for retail sale at that location, and that the place of business is not utilized primarily for the purpose of catalogue or mail order sales. The certification under this section shall remain in effect during the time the business retains its status as a qualified business meeting the eligibility criteria of section 27
of P.L.1983, c.303 (C.52:27H-86). However, the director may at any time revoke a certification granted pursuant to this section if the director shall determine that the seller no longer complies with the provisions of this section.

Notwithstanding the provisions of this act to the contrary, except as may otherwise be provided by section 7 of P.L.1983, c.303 (C.52:27H-66), the authority may, in its discretion, determine if the provisions of this section shall apply to any enterprise zone designated after the effective date of P.L.1985, c.142 (C.52:27H-66 et al.); provided, however, that the authority may make such a determination only where the authority finds that the award of an exemption of 50 percent of the tax imposed under the "Sales and Use Tax Act," P.L.1966, c.30 (C.54:32B-1 et seq.) will not have any adverse economic impact upon any other urban enterprise zone.

Notwithstanding any other provisions of law to the contrary, except as provided in subsection b. of section 6 of P.L.1996, c.124 (C.13:1E-116.6), after first depositing 10 percent of the gross amount of all revenues received from the taxation of retail sales made by certified sellers from business locations in designated enterprise zones to which this exemption shall apply into the account created in the name of the authority in the enterprise zone assistance fund pursuant to section 29 of P.L.1983, c.303 (C.52:27H-88); and depositing the next five percent for a period of five consecutive calendar years into the account of the New Jersey Economic Development Authority for the purpose of funding the New Jersey Food Access Initiative, the remaining 90 percent shall be deposited immediately upon collection by the Department of the Treasury, provided however, that for the 60 consecutive months beginning with the first month next following the effective date of P.L.1985, c.142 (C.52:27H-66 et al.) (pending before the Legislature as this bill), the remaining 85 percent shall be deposited immediately upon collection by the Department of the Treasury, as follows:

a. In the first five-year period during which the State shall have collected reduced rate revenues within an enterprise zone, all such revenues shall be deposited in the enterprise zone assistance fund created pursuant to section 29 of P.L.1983, c.303 (C.52:27H-88);

b. In the second five-year period during which the State shall have collected reduced rate revenues within an enterprise zone, 66 2/3% of all those revenues shall be deposited in the enterprise zone assistance fund, and 33 1/3% shall be deposited in the General Fund;

c. In the third five-year period during which the State shall have collected reduced rate revenues within an enterprise zone, 33 1/3% of all those revenues shall be deposited in the enterprise zone...
assistance fund, and 66 2/3% shall be deposited in the General Fund;

d. In the final five-year period during which the State shall have collected reduced rate revenues within an enterprise zone, but not to exceed the life of the enterprise zone, all those revenues shall be deposited in the General Fund.

Commencing on the effective date of P.L.1993, c.144, all revenues in any enterprise zone to which the provisions of this section have been extended prior to the enactment of P.L.1993, c.144 shall be deposited into the enterprise zone assistance fund until there shall have been deposited all revenues into that fund for a total of five full years, as set forth in subsection a. of this section.

The State Treasurer then shall proceed to deposit funds into the enterprise zone assistance fund according to the schedule set forth in subsections b. through d. of this section, beginning at the point where the enterprise zone was located on that schedule on the effective date of P.L.1993, c.144. No enterprise zone shall receive the deposit benefit granted by any one subsection of this section for more than five cumulative years.

The revenues required to be deposited in the enterprise zone assistance fund under this section shall be used for the purposes of that fund and for the uses prescribed in section 29 of P.L.1983, c.303 (C.52:27H-88), subject to annual appropriations being made for those purposes and uses.

(cf: P.L.2011, c.49, s.15)

9. (New section) The executive director of the authority shall promulgate any rules and regulations pursuant to the “Administrative Procedure Act” P.L.1968, c.410 (C.52:14B-1 et seq.) that the executive director determines are necessary to effectuate the provisions of this act.

10. (New section) The authority shall file a report to the Legislature at least six months prior to the end of the five year funding period for the initiative pursuant to section 2 of P.L.1991, c.164 (C.52:14-19.1) on or before the last day of the 54th month next following the effective date of P.L. 1991, c. (C. ) (pending before the Legislature as this bill). The report shall evaluate the effectiveness of the initiative. It shall include the number of loan and grant applicants, the number and size of all grant and loan awards, the performance of the loan portfolio over time, the number of jobs created, the square footage of retail created, and any other factors that the authority finds useful in evaluating the performance of the initiative.

11. This act shall take effect on the 30th day following enactment.