

Title 34.
Chapter 1B.
Part XX. (New)
"Next New Jersey
Program Act"
Supporting
Artificial
Intelligence
Development
§§1-9
C.34:1B-394
to 34:1B-402

P.L. 2024, CHAPTER 49, *approved July 25, 2024*
Senate, No. 3432

1 AN ACT concerning the development of artificial intelligence
2 innovations, ventures, and facilities, and amending and
3 supplementing P.L.2020, c.156.

4

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

7

8 1. (New section) P.L. , c. (C.) (pending before the
9 Legislature as this bill) shall be known and may be cited as the
10 "Next New Jersey Program Act."

11

12 2. (New section) As used in P.L. , c. (C.) (pending
13 before the Legislature as this bill):

14 "Affiliate" means an entity that directly or indirectly controls, is
15 under common control with, or is controlled by an eligible business.
16 Control exists in all cases in which the entity is a member of a
17 controlled group of corporations as defined pursuant to section 1563
18 of the federal Internal Revenue Code (26 U.S.C. s.1563) or the
19 entity is an organization in a group of organizations under common
20 control that is subject to the regulations applicable to organizations
21 pursuant to subsection (b) or (c) of section 414 of the federal
22 Internal Revenue Code (26 U.S.C. s.414). An eligible business may
23 establish by clear and convincing evidence, as determined by the
24 authority, that control exists in situations involving lesser
25 percentages of ownership than required by the above referenced
26 federal statutes if the eligible business shall have control, at a
27 minimum, of all aspects of compliance with this program. An
28 affiliate of an eligible business may contribute towards the capital
29 investment requirement and may satisfy the requirement for site
30 control during construction and the eligibility period, but in no
31 event shall the tax credit certificate be issued to any affiliate.

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 "AI data center" means a facility specifically to handle the
2 demanding computational needs of artificial intelligence
3 applications, designed for tasks like machine learning training, deep
4 learning algorithms, and complex data analysis, whose services are
5 the storage, management, and processing of digital data; that is used
6 to house: computer and network systems, including associated
7 components such as servers, network equipment and appliances,
8 telecommunications, and data storage systems; systems for
9 monitoring and managing infrastructure performance; Internet-
10 related equipment and services; data communications connections;
11 environmental controls; fire protection systems; and security
12 systems and services specifically for artificial intelligence
13 applications.

14 "Artificial intelligence" or "AI" means the development of
15 software and hardware, and the end-use application of technologies
16 that are able to perform tasks normally requiring human
17 intelligence, including, but not limited to, visual perception, speech
18 recognition, decision-making, translation between languages, and
19 generative artificial intelligence, which generates new content in
20 response to user inputs of data.

21 "Authority" means the New Jersey Economic Development
22 Authority established by section 4 of P.L.1974, c.80 (C.34:1B-4).

23 "Board" means the Board of the New Jersey Economic
24 Development Authority, established by section 4 of P.L.1974, c.80
25 (C.34:1B-4).

26 "Building services" means any cleaning or routine building
27 maintenance work, including but not limited to sweeping,
28 vacuuming, floor cleaning, cleaning of rest rooms, collecting refuse
29 or trash, window cleaning, securing, patrolling, or other work in
30 connection with the care or securing of an existing building,
31 including services typically provided by a door-attendant or
32 concierge. "Building services" shall not include any skilled
33 maintenance work, professional services, or other public work for
34 which a contractor is required to pay the "prevailing wage" as
35 defined in section 2 of P.L.1963, c.150 (C.34:11-56.26).

36 "Business" means an applicant proposing to own or lease
37 premises in a qualified business facility that is: a corporation that is
38 subject to the tax imposed pursuant to section 5 of P.L.1945, c.162
39 (C.54:10A-5), sections 2 and 3 of P.L.1945, c.132 (C.54:18A-2 and
40 C.54:18A-3), section 1 of P.L.1950, c.231 (C.17:32-15), or
41 N.J.S.17B:23-5, or is a partnership, S corporation, limited liability
42 company, or non-profit corporation. A business shall include an
43 affiliate of the business if that business applies for a credit based
44 upon any capital investment made by or full-time employees of an
45 affiliate. If the business or tenant is a cooperative or part of a
46 cooperative, then the cooperative may qualify for credits by
47 counting the full-time employees and capital investments of its
48 member organizations, and the cooperative may distribute credits to

1 its member organizations. If the business or tenant is a cooperative
2 that leases to its member organizations, the lease shall be treated as
3 a lease to an affiliate or affiliates.

4 "Capital investment" means expenses that a business or an
5 affiliate of the business incurs, or is incurred on behalf of the
6 business or affiliate by its landlord, following its submission of an
7 application to the authority pursuant to section 5 of P.L. , c.
8 (C.) (pending before the Legislature as this bill), but prior to
9 the project completion date, as shall be defined in the project
10 agreement, for: a. site preparation and construction, repair,
11 renovation, improvement, equipping, or furnishing on real property
12 or of a building, structure, facility, or improvement to real property;
13 b. obtaining and installing furnishings and machinery, apparatus, or
14 equipment, including but not limited to computer systems,
15 hardware, software, and equipment and material goods subject to
16 bonus depreciation under sections 168 and 179 of the federal
17 Internal Revenue Code (26 U.S.C. ss.168 and 179), for the
18 operation of a business on real property or in a building, structure,
19 facility, or improvement to real property; or any combination of the
20 foregoing.

21 "Commitment period" means a period that is no less than two
22 times the eligibility period specified in the project agreement
23 entered into pursuant to section 6 of P.L. , c. (C.) (pending
24 before the Legislature as this bill).

25 "Eligibility period" means the period in which an eligible
26 business may claim a tax credit under the program, beginning with
27 the tax period in which the authority accepts certification of the
28 eligible business that it has met the capital investment and
29 employment requirements of the program and extending thereafter
30 for a term of five years.

31 "Eligible business" means any business that satisfies the criteria
32 set forth in section 4 of P.L. , c. (C.) (pending before the
33 Legislature as this bill) at the time of application for tax credits
34 under the program.

35 "Eligible position" or "full-time job" means a full-time position
36 in a business in this State which a business has filled with a full-
37 time employee who is paid no less than 120 percent of the median
38 salary for the county in which the project is located and for which
39 the business provides employee health benefits under a group health
40 plan as defined under section 14 of P.L.1997, c.146 (C.17B:27-54),
41 a health benefits plan as defined under section 1 of P.L.1992, c.162
42 (C.17B:27A-17), or a policy or contract of health insurance
43 covering more than one person issued pursuant to Article 2 of
44 Chapter 27 of Title 17B of the New Jersey Statutes; provided,
45 however, the requirement that employee health benefits are to be
46 provided shall be deemed to be satisfied if the benefits are provided
47 by the business or pursuant to a collective bargaining agreement, no
48 later than 90 days of employee start date, under a health benefits

1 plan authorized pursuant to State or federal law. An eligible
2 position shall not include an independent contractor or a consultant.

3 "Full-time employee" means a person:

4 a. who is employed by a business for consideration for at least
5 35 hours a week, or who renders any other standard of service
6 generally accepted by custom or practice as full-time employment,
7 and whose wages are subject to withholding as provided in the
8 "New Jersey Gross Income Tax Act," N.J.S.54A:1-1 et seq.; or

9 b. who is employed by a professional employer organization
10 pursuant to an employee leasing agreement between the business
11 and the professional employer organization, pursuant to P.L.2001,
12 c.260 (C.34:8-67 et seq.) for at least 35 hours a week, or who
13 renders any other standard of service generally accepted by custom
14 or practice as full-time employment, and whose wages are subject
15 to withholding as provided in the "New Jersey Gross Income Tax
16 Act," N.J.S.54A:1-1 et seq.; or

17 c. who is a resident of another State, but whose income is not
18 subject to the "New Jersey Gross Income Tax Act," N.J.S.54A:1-1
19 et seq., due to a reciprocity agreement with the other state, or who
20 is a partner of a business who works for the partnership for at least
21 35 hours a week, or who renders any other standard of service
22 generally accepted by custom or practice as full-time employment,
23 and whose distributive share of income, gain, loss, or deduction, or
24 whose guaranteed payments, or any combination thereof, is subject
25 to the payment of estimated taxes, as provided in the "New Jersey
26 Gross Income Tax Act," N.J.S.54A:1-1 et seq., due to a reciprocity
27 agreement with the other state.

28 A "full-time employee" shall include, but shall not be limited to,
29 an employee that has been hired by way of a labor union hiring hall
30 or its equivalent. 35 hours of employment per week in the State
31 shall constitute one "full-time employee," regardless of whether or
32 not the hours of work were performed by one or more persons.

33 "Full-time employee" shall not include any person who works as
34 an independent contractor or on a consulting basis for the business
35 or a contract worker.

36 "Minimum environmental and sustainability standards" means
37 standards established by the authority in accordance with the green
38 building manual prepared by the Commissioner of Community
39 Affairs pursuant to section 1 of P.L.2007, c.132 (C.52:27D-130.6),
40 regarding the use of renewable energy, energy-efficient technology,
41 and non-renewable resources to reduce environmental degradation
42 and encourage long-term cost reduction.

43 "New full-time job" means an eligible position created by a
44 business, following approval of such business's application by the
45 board, that did not previously exist in this State. For the purposes
46 of determining the number of new full-time jobs, the eligible
47 positions of an affiliate shall be considered eligible positions of the
48 business.

1 "Partnership" means an entity classified as a partnership for
2 federal income tax purposes.

3 "Professional employer organization" means an employee leasing
4 company registered with the Department of Labor and Workforce
5 Development pursuant to P.L.2001, c.260 (C.34:8-67 et seq.).

6 "Program" means the Next New Jersey Program established by
7 section 3 of P.L. , c. (C.) (pending before the Legislature as
8 this bill).

9 "Project" means the capital investment at a qualified business
10 facility and the employment commitment pursuant to the project
11 agreement.

12 "Project agreement" means the contract executed between an
13 eligible business and the authority pursuant to section 6 of P.L. ,
14 c. (C.) (pending before the Legislature as this bill), which
15 sets forth the terms and conditions under which the eligible business
16 may receive the tax credits authorized pursuant to the program.

17 "Qualified business facility" means any building, complex of
18 buildings, or structural components of buildings, and all machinery
19 and equipment located therein, used in connection with the
20 operation of an eligible business.

21 "Technology startup company" means a for-profit business
22 located in the State that has been in operation fewer than seven
23 years and is developing or possesses a proprietary technology or
24 business method of a high technology or life science-related
25 product, process, or service, which proprietary technology or
26 business method the business intends to move to commercialization.
27 The business shall be deemed to have begun operation on the date
28 that the business first hired at least one employee in a full-time
29 position.

30

31 3. (New section) a. The Next New Jersey Program is hereby
32 established as a program under the jurisdiction of the New Jersey
33 Economic Development Authority. The authority shall administer
34 the program to attract new investment to New Jersey in key
35 industries, create new jobs and economic opportunities, and
36 position New Jersey as a leader in the innovation economy. The
37 board may approve the award of tax credits to an eligible business
38 upon application of the chief executive officer, or equivalent
39 officer, of the eligible business and following the payment of fees,
40 subject to the limitations set forth in subsection b. of this section.

41 b. The value of all tax credits approved by the authority for
42 businesses eligible pursuant to section 4 of P.L. , c. (C.)
43 (pending before the Legislature as this bill) shall be subject to the
44 limitations set forth in section 98 of P.L.2020, c.156 (C.34:1B-362).

45

46 4. (New section) a. Beginning on the effective date of P.L. ,
47 c. (C.) (pending before the Legislature as this bill), but prior
48 to March 1, 2029, to be eligible for tax credits under the program, a

1 business's chief executive officer, or equivalent officer, shall
2 demonstrate to the authority at the time of application that:

3 (1) the business will make, acquire, or lease a capital investment
4 at the qualified business facility equal to or greater than the
5 applicable amount set forth in subsection b. of this section;

6 (2) the business will create new full-time jobs in the State in an
7 amount equal to or greater than the applicable number set forth in
8 subsection c. of this section;

9 (3) the business or its division is primarily engaged in the
10 artificial intelligence industry or the large-scale artificial
11 intelligence data center industry. A business or its division shall be
12 considered to be primarily engaged in an industry set forth herein if
13 more than 50 percent of the business's employees are engaged in
14 AI-related activities or more than 50 percent of the business's
15 revenue is generated from AI-related activities, or both; provided,
16 however, the use of AI applications in the furtherance of a
17 business's own operations shall not be considered in determining
18 whether a business or division is primarily engaged in artificial
19 intelligence or large-scale artificial intelligence data centers. AI-
20 related activities include, but are not limited to: developing new AI
21 algorithms and techniques, such as machine learning, natural
22 language processing, and computer vision; creating AI-powered
23 software and hardware products for various applications; medical
24 AI modelling or programing; development of AI chatbots for
25 customer service; AI development for vehicles, and collecting,
26 storing, and managing the vast amount of data needed to train and
27 use AI models;

28 (4) the business will enter into a collaborative relationship,
29 evidenced by the provision of price concessions, artificial
30 intelligence support services, or other measures determined
31 appropriate by the authority, with New Jersey-based public or
32 private research universities or technology startup companies, or
33 both;

34 (5) the qualified business facility shall be in compliance with
35 minimum environmental and sustainability standards;

36 (6) for construction contracts valued in excess of \$2,000, the
37 project shall comply with the authority's affirmative action
38 requirements, adopted pursuant to section 4 of P.L.1979, c.303
39 (C.34:1B-5.4); and

40 (7) each worker employed to perform construction work in
41 connection with a capital improvement or building services work at
42 the qualified business facility shall be paid not less than the
43 prevailing wage rate for the worker's craft or trade, as determined
44 by the Commissioner of Labor and Workforce Development
45 pursuant to P.L.1963, c.150 (C.34:11-56.25 et seq.) and P.L.2005,
46 c.379 (C.34:11-56.58 et seq.).

1 b. The minimum capital investment at the qualified business
2 facility required to be eligible under the program shall be
3 \$100,000,000.

4 c. The minimum number of new full-time jobs in the State
5 required to be eligible under the program shall be 100 new full-time
6 jobs.

7 d. The chief executive officer of the business, or an equivalent
8 officer, shall certify that all factual representations made by the
9 business to the authority pursuant to subsection a. of this section are
10 true under the penalty of perjury.

11 e. A business shall not be awarded a tax credit pursuant to the
12 program if the business receives a tax credit pursuant to the
13 "Emerge Program Act," sections 68 through 81 of P.L.2020, c.156
14 (C.34:1B-336 et al.), or section 6 of P.L.2010, c.57 (C.34:1B-
15 209.4), relating to the same capital investment and employees that
16 qualify the business for a tax credit under the program.

17 f. A business eligible pursuant to this section may submit an
18 application to the authority in accordance with the provisions of
19 section 5 of P.L. , c. (C.) (pending before the Legislature
20 as this bill) on or after the effective date of P.L. , c. (C.)
21 (pending before the Legislature as this bill) but prior to March 1,
22 2029.

23

24 5. (New section) a. A business that meets the eligibility
25 criteria in section 4 of P.L. , c. (C.) (pending before the
26 Legislature as this bill) and is seeking tax credits for a project under
27 the program shall submit an application for approval of the project
28 to the authority in a form and manner prescribed by the authority.

29 b. (1) Before the board may consider an eligible business's
30 application for tax credits, the authority shall confirm with the
31 Department of Labor and Workforce Development, the Department
32 of Environmental Protection, and the Department of the Treasury
33 whether the eligible business is in substantial good standing with
34 the respective department, or, if necessary, has entered into an
35 agreement with the respective department that includes a practical
36 corrective action plan for the eligible business. The business entity
37 shall certify that contractors or subcontractors that will perform
38 work at the qualified business facility: are registered as required by
39 "The Public Works Contractor Registration Act," P.L.1999, c.238
40 (C.34:11-56.48 et seq.); have not been debarred by the Department
41 of Labor and Workforce Development from engaging in or bidding
42 on Public Works Contracts in the State; and possess a tax clearance
43 certificate issued by the Division of Taxation in the Department of
44 the Treasury. The authority may also contract with an independent
45 third party to perform a background check on the eligible business.

46 c. An eligible business shall pay to the authority the full
47 amount of the direct costs of an analysis concerning the eligible
48 business's application for a tax credit, which a third party retained

1 by the authority performs, if the authority deems such retention to
2 be necessary. The authority shall have the discretion to waive all or
3 a portion of the costs of application for a small business.

4 d. If at any time during the eligibility period the authority
5 determines that the eligible business made a material
6 misrepresentation on the eligible business's application, the eligible
7 business shall forfeit all tax credits awarded under the program,
8 which shall be in addition to any other criminal or civil penalties to
9 which the business and the officer may be subject.

10 e. If circumstances require an eligible business to amend its
11 application to the authority, then the chief executive officer of the
12 eligible business, or an equivalent officer, shall certify to the
13 authority that the information provided in its amended application is
14 true under the penalty of perjury.

15 f. Nothing shall preclude a business from applying for tax
16 credits under the program for more than one project pursuant to one
17 or more applications.

18

19 6. (New section) a. Following board approval, within a time
20 established by the authority and prior to the authority and an
21 eligible business executing a project agreement, the eligible
22 business shall demonstrate that it has obtained site plan approval
23 and has committed financing for, and established site control of, the
24 qualified business facility. The chief executive officer of the
25 business, or an equivalent officer, shall certify that all factual
26 representations made by the business to the authority pursuant to
27 this subsection are true under the penalty of perjury.

28 b. Following approval by the board and compliance with the
29 provisions of subsection a. of this section, but before the issuance of
30 tax credits, the authority shall require an eligible business to enter
31 into a project agreement. The terms of the project agreement shall
32 be consistent with the eligibility requirements of section 4 of P.L. c.
33 (C.) (pending before the Legislature as this bill), and shall
34 include, but not be limited to, the following:

35 (1) a detailed description of the proposed project that will result
36 in job creation, and the number of new full-time jobs that are
37 approved for tax credits;

38 (2) any personnel information that will enable the authority to
39 administer the program;

40 (3) a requirement that the eligible business maintain the project
41 at a location in New Jersey for the commitment period and a
42 provision to permit the authority to recapture all or part of any tax
43 credits awarded, at its discretion, if the eligible business does not
44 maintain the project at a location in New Jersey for the commitment
45 period;

46 (4) a requirement that the eligible business maintain the number
47 of new full-time jobs, or the salaries thereof, to which the eligible
48 business certified at the commencement of the eligibility period and

1 a provision to permit the authority to proportionally reduce the tax
2 credit award in any tax period in which the number of new full-
3 time jobs, or the salaries thereof, is reduced below the new full-time
4 jobs to which the eligible business certified at the commencement
5 of the eligibility period;

6 (5) a method for the eligible business to certify that it has met
7 the capital investment and employment requirements of the program
8 set forth in subsections b. and c. of section 4 of P.L. , c.
9 (C.) (pending before the Legislature as this bill) and to report
10 annually to the authority the number of new full-time jobs, and the
11 salaries thereof, for which the tax credits are to be allowed;

12 (6) representations that the eligible business is in substantial
13 good standing with the Department of Environmental Protection,
14 the Department of Labor and Workforce Development, and the
15 Department of the Treasury or has entered into an agreement with
16 the departments that includes a practical corrective action plan, and
17 the project complies with all applicable laws, and specifically, that
18 the project does not violate any environmental law;

19 (7) a provision permitting an audit of the payroll records of the
20 business from time to time, as the authority deems necessary;

21 (8) a provision that the chief executive officer of the authority
22 receives annual reports from the eligible business and that allows
23 the authority to confirm that the eligible business is in substantial
24 good standing with the Department of Environmental Protection,
25 the Department of Labor and Workforce Development, and the
26 Department of the Treasury, or has entered into an agreement with
27 the respective department that includes a practical corrective action
28 plan. As part of the annual reports required by this paragraph, the
29 eligible business shall confirm that each contractor or subcontractor
30 performing work at the qualified business facility: is registered as
31 required by "The Public Works Contractor Registration Act,"
32 P.L.1999, c.238 (C.34:11-56.48 et seq.); has not been debarred by
33 the Department of Labor and Workforce Development from
34 engaging in or bidding on Public Works Contracts in the State; and
35 possesses a tax clearance certificate issued by the Division of
36 Taxation in the Department of the Treasury. If the eligible business
37 does not submit the report required under this paragraph, if the
38 Department of Environmental Protection, the Department of Labor
39 and Workforce Development, and the Department of the Treasury
40 advises that the eligible business is neither in substantial good
41 standing nor has entered into a practical corrective action plan, or if
42 the eligible business fails to confirm that each contractor or
43 subcontractor is in compliance with this paragraph, then the eligible
44 business may forfeit the issuance of tax credits, pending resolution
45 of the underlying violations or other issues;

46 (9) a requirement for the eligible business to engage in on-site
47 consultations with the Division of Workplace Safety and Health in
48 the Department of Health;

1 (10) a provision permitting the authority to amend the
2 agreement; and

3 (11) a provision establishing the conditions under which the
4 authority, the eligible business, or both, may terminate the
5 agreement.

6 c. (1) The authority may recapture all or part of a tax credit
7 awarded if an eligible business does not remain in compliance with
8 the requirements of a project agreement for the duration of the
9 commitment period. A recapture pursuant to this subsection may
10 include interest on the recapture amount, at a rate equal to the
11 statutory rate for corporate business or insurance premiums tax
12 deficiencies, plus any statutory penalties, and all costs incurred by
13 the authority and the Division of Taxation in the Department of the
14 Treasury in connection with the pursuit of the recapture, including,
15 but not limited to, counsel fees, court costs, and other costs of
16 collection. Failure of the eligible business to meet any program
17 criteria shall constitute a default and shall result in the recapture of
18 all or part of the tax credit awarded.

19 (2) If all or part of a tax credit sold or assigned pursuant to
20 section 8 of P.L. , c. (C.) (pending before the Legislature
21 as this bill) is subject to recapture, then the authority shall pursue
22 recapture from the eligible business and not from the purchaser or
23 assignee of the tax credit transfer certificate. The purchaser or
24 assignee of a tax credit transfer certificate shall be subject to any
25 limitations and conditions that apply to the use of the tax credits by
26 the eligible business.

27 (3) Any funds recaptured pursuant to this subsection, including
28 penalties and interest, shall be deposited into the General Fund.

29 d. A business may include an affiliate for any period, provided
30 that the business provides a valid tax clearance certificate for the
31 affiliate and a verification of the nature of the affiliate relationship
32 during the relevant period, and provided further that the affiliate
33 provides acceptable responses to the authority's legal disclosures
34 inquiries, as determined by the authority. A formal modification of
35 the authority's approval of the project agreement shall not be
36 necessary to add or remove an affiliate after approval or execution
37 of the project agreement.

38 e. A business may change its name filed with the authority by
39 providing a copy of the filed amendment to the certificate of
40 incorporation or formation, as the case may be, of the business and
41 a valid tax clearance certificate with the business's new name. A
42 formal modification of the authority's approval shall not be
43 necessary to change a business's name after approval or execution
44 of the project agreement.

45
46 7. (New section) a. Upon completion of the capital investment
47 and employment requirements of the program, an eligible business
48 shall submit to the authority certifications evidencing that the

1 eligible business has satisfied the conditions relating to the capital
2 investment and employment requirements of the project agreement
3 with supporting evidence satisfactory to the authority. The chief
4 executive officer of the business, or an equivalent officer, shall
5 certify that all factual representations made by the business to the
6 authority pursuant to this subsection are true under the penalty of
7 perjury.

8 b. (1) In accordance with the project agreement, beginning
9 upon the receipt of occupancy permits for any portion of the
10 project, or upon any other event evidencing project completion as
11 set forth in the project agreement, an eligible business shall be
12 allowed a tax credit in an amount determined pursuant to paragraph
13 (2) of this subsection. No more than the amount of tax credits equal
14 to the total credit amount awarded under the program divided by the
15 duration of the eligibility period in years may be taken in any tax
16 period.

17 (2) The amount of the tax credit allowed under the program to
18 an eligible business shall be the lesser of:

19 (a) the product of 0.1 percent of the eligible business's total
20 capital investment multiplied by the number of new full-time jobs;

21 (b) 25 percent of the eligible business's total capital investment;
22 or

23 (c) \$250,000,000.

24 c. (1) An eligible business which is awarded tax credits under
25 the program shall submit annually, no later than the date indicated
26 in the project agreement, commencing in the year in which the grant
27 of tax credits is issued and for the remainder of the commitment
28 period, a report that indicates that the eligible business continues to
29 maintain the number of new full-time jobs, and the salaries thereof,
30 specified in the project agreement. As part of the annual report
31 required pursuant to this subsection, an eligible business shall
32 provide to the authority a copy of its applicable New Jersey tax
33 return showing business income and withholdings as a condition of
34 its continuation in the program, and the quarterly wage report
35 required under R.S.43:21-14 submitted to the Department of Labor
36 and Workforce Development, together with an annual payroll report
37 showing: the new full-time jobs which were created in accordance
38 with the project agreement and the new full-time jobs created
39 during each subsequent year of the commitment period. The failure
40 of an eligible business to submit to the authority a copy of its
41 annual payroll report or submit the quarterly wage report in
42 accordance with the provisions of this subsection during the
43 eligibility period shall result in the forfeiture of the award for that
44 year. An eligible business shall explain, in the reports required by
45 this subsection, the reason for any discrepancies between the annual
46 payroll report submitted by the eligible business and the quarterly
47 wage report. The chief executive officer of the eligible business, or
48 an equivalent officer, shall certify that the information provided

1 pursuant to this paragraph is true under the penalty of perjury.
2 Claims, records, or statements submitted by an eligible business to
3 the authority in order to receive tax credits shall not be considered
4 claims, records, or statements made in connection with State tax
5 laws.

6 (2) Upon receipt and review of each report submitted during the
7 eligibility period, the authority shall provide to the eligible business
8 and the director a certificate of compliance indicating the amount of
9 tax credits that the eligible business may apply against its tax
10 liability. The authority shall pro rate the tax credit for the first and
11 last years of the eligibility period based on the number of full
12 months the project was certified in the year the eligible business
13 first certifies.

14 d. (1) Upon receipt by the director of the certificate of
15 compliance, the director shall allow the eligible business a tax
16 credit. The eligible business may apply the credit allowed by the
17 director against the eligible business's tax liability for the tax period
18 in which the director allowed the tax credit, or may carry forward
19 the credit for use by the eligible business in any of the next 10
20 successive tax periods, which credit shall expire thereafter.

21 (2) The amount of credit allowed may be applied against the tax
22 liability otherwise due pursuant to section 5 of P.L.1945, c.162
23 (C.54:10A-5), sections 2 and 3 of P.L.1945, c.132 (C.54:18A-2 and
24 C.54:18A-3), section 1 of P.L.1950, c.231 (C.17:32-15), or
25 N.J.S.17B:23-5.

26 (3) The director shall prescribe the order of priority of the
27 application of the credit allowed under this section and any other
28 credits allowed by law against the tax imposed under section 5 of
29 P.L.1945, c.162 (C.54:10A-5). The amount of a credit applied
30 under this section against the tax imposed pursuant to section 5 of
31 P.L.1945, c.162 (C.54:10A-5) for a privilege period, together with
32 any other credits allowed by law, shall not reduce the tax liability to
33 an amount less than the statutory minimum provided in subsection
34 (e) of section 5 of P.L.1945, c.162 (C.54:10A-5).

35 e. An eligible business shall forfeit the credit amount for any
36 tax period for which the eligible business's documentation remains
37 uncertified as of the date for certification indicated in the project
38 agreement, although credit amounts for the remainder of the years
39 of the eligibility period shall remain available to the eligible
40 business.

41 f. If, in any tax period, the number of new employees in
42 eligible positions, or the salaries thereof, drops below 80 percent of
43 the number of new employees in eligible positions specified in the
44 project agreement or required as a condition of program eligibility
45 pursuant to section 4 of P.L. , c. (C.) (pending before the
46 Legislature as this bill), whichever is greater, then the eligible
47 business shall forfeit its tax credit amount for that tax period and
48 each subsequent tax period, until the first tax period for which

1 documentation demonstrating the restoration of the number of new
2 employees in eligible positions, or the salaries thereof, to 80 percent
3 of the number specified in the project agreement or required as a
4 condition of program eligibility pursuant to section 4 of P.L. , c.
5 (C.) (pending before the Legislature as this bill), whichever is
6 greater, is reviewed and approved by the authority.
7

8 8. (New section) a. An eligible business may apply to the
9 director and the chief executive officer of the authority for a tax
10 credit transfer certificate, within three years of the tax period in
11 which the director allows the eligible business a tax credit, in lieu of
12 any amount of the tax credit against the eligible business's State tax
13 liability. The tax credit transfer certificate, upon receipt thereof by
14 the eligible business from the director and the chief executive
15 officer of the authority, may be sold or assigned, in an amount not
16 less than \$25,000, within three years of the tax period in which the
17 eligible business receives the tax credit transfer certificate from the
18 director, to another person that may have a tax liability pursuant to
19 section 5 of P.L.1945, c.162 (C.54:10A-5), sections 2 and 3 of
20 P.L.1945, c.132 (C.54:18A-2 and 54:18A-3), section 1 of P.L.1950,
21 c.231 (C.17:32-15), or N.J.S.17B:23-5. A purchaser or assignee of
22 a tax credit transfer certificate pursuant to this section shall apply
23 the transferred credit against the same tax for which the eligible
24 business was approved a tax credit under the program. The tax
25 credit transfer certificate provided to the eligible business shall
26 include a statement waiving the eligible business's right to claim
27 the credit that the eligible business has elected to sell or assign.

28 b. The eligible business shall not sell or assign a tax credit
29 transfer certificate allowed under this section for consideration
30 received by the eligible business of less than 85 percent of the
31 transferred credit amount before considering any further
32 discounting to present value which shall be permitted. The tax
33 credit transfer certificate issued to the eligible business by the
34 director shall be subject to any limitations and conditions imposed
35 on the application of State tax credits pursuant to P.L. , c.
36 (C.) (pending before the Legislature as this bill) and any other
37 terms and conditions that the director may prescribe.

38 c. A purchaser or assignee of a tax credit transfer certificate
39 pursuant to this section shall not make any subsequent transfers,
40 assignments, or sales of the tax credit transfer certificate.

41 d. The authority shall publish on its Internet website the
42 following information concerning each tax credit transfer certificate
43 approved by the authority and the director pursuant to this section:

44 (1) the name of the transferrer;

45 (2) the name of the transferee;

46 (3) the value of the tax credit transfer certificate;

47 (4) the State tax against which the transferee may apply the tax
48 credit; and

1 (5) the consideration received by the transferrer.

2
3 9. (New section) Notwithstanding the provisions of the
4 "Administrative Procedure Act," P.L.1968, c.410 (C.52:14B-1 et
5 seq.) to the contrary, the chief executive officer of the authority
6 shall adopt, immediately, upon filing with the Office of
7 Administrative Law, such rules and regulations as the chief
8 executive officer deems necessary to implement the provisions of
9 sections P.L. , c. (C.) (pending before the Legislature as this
10 bill), which rules and regulations shall be effective for a period not
11 to exceed 365 days after the date of the filing. Before the
12 expiration of the rules and regulations, the chief executive officer
13 shall amend, adopt, or readopt the rules and regulations in
14 accordance with the requirements of the "Administrative Procedure
15 Act," P.L.1968, c.410 (C.52:14B-1 et seq.).

16
17 10. Section 98 of P.L.2020, c.156 (C.34:1B-362) is amended to
18 read as follows:

19 98. a. The combined value of all tax credits awarded under the
20 "Historic Property Reinvestment Act," sections 2 through 8 of
21 P.L.2020, c.156 (C.34:1B-270 through 34:1B-276); the
22 "Brownfields Redevelopment Incentive Program Act," sections 9
23 through 19 of P.L.2020, c.156 (C.34:1B-277 through 34:1B-287);
24 the "New Jersey Innovation Evergreen Act," sections 20 through 34
25 of P.L.2020, c.156 (C.34:1B-288 through 34:1B-302); the "Food
26 Desert Relief Act," sections 35 through 42 of P.L.2020, c.156
27 (C.34:1B-303 through 34:1B-310); the "New Jersey Community-
28 Anchored Development Act," sections 43 through 53 of P.L.2020,
29 c.156 (C.34:1B-311 through 34:1B-321); the "New Jersey Aspire
30 Program Act," sections 54 through 67 of P.L.2020, c.156 (C.34:1B-
31 322 through 34:1B-335); the "Emerge Program Act," sections 68
32 through 81 of P.L.2020, c.156 (C.34:1B-336 et al.); section 6 of
33 P.L.2010, c.57 (C.34:1B-209.4)【, and】; the "Cultural Arts
34 Incentives Program Act," P.L.2023, c.197 (C.34:1B-383 et al.); and
35 the "Next New Jersey Program Act," P.L. , c. (C.) (pending
36 before the Legislature as this bill) shall not exceed an overall cap of
37 \$11.5 billion over a nine-year period, subject to the conditions and
38 limitations set forth in this section. Of this \$11.5 billion, \$2.5
39 billion shall be reserved for transformative projects approved under
40 the Aspire Program.

41 b. (1) The total value of tax credits awarded under any
42 constituent program of the "New Jersey Economic Recovery Act of
43 2020," P.L.2020, c.156 (C.34:1B-269 et al.) 【and】, the "Cultural
44 Arts Incentives Program Act," P.L.2023, c.197 (C.34:1B-383 et al.),
45 and the "Next New Jersey Program Act," P.L. , c. (C.)
46 (pending before the Legislature as this bill), shall be subject to the
47 following limitations, except as otherwise provided in subsection c.
48 of this section:

1 (a) for tax credits awarded under the "Historic Property
2 Reinvestment Act," sections 2 through 8 of P.L.2020, c.156
3 (C.34:1B-270 through 34:1B-276), the total value of tax credits
4 annually awarded during each of the first six years of the nine-year
5 period shall not exceed \$50 million;

6 (b) for tax credits awarded under the "Brownfields
7 Redevelopment Incentive Program Act," sections 9 through 19 of
8 P.L.2020, c.156 (C.34:1B-277 through 34:1B-287), the total value
9 of tax credits annually awarded during each of the first six years of
10 the nine-year period shall not exceed \$50 million;

11 (c) for tax credits awarded under the "New Jersey Innovation
12 Evergreen Act," sections 20 through 34 of P.L.2020, c.156
13 (C.34:1B-288 through 34:1B-302), the total value of tax credits
14 annually awarded during each of the first six years of the nine-year
15 period shall not exceed \$60 million and the total value of tax credits
16 awarded over the entirety of the nine-year period shall not exceed
17 \$300,000,000;

18 (d) for tax credits awarded under the "Food Desert Relief Act,"
19 sections 35 through 42 of P.L.2020, c.156 (C.34:1B-303 through
20 34:1B-310), the total value of tax credits annually awarded during
21 each of the first six years of the nine-year period shall not exceed
22 \$40 million;

23 (e) for tax credits awarded under the "New Jersey Community-
24 Anchored Development Act," sections 43 through 53 of P.L.2020,
25 c.156 (C.34:1B-311 through 34:1B-321), and the "Cultural Arts
26 Incentives Program Act," P.L.2023, c.197 (C.34:1B-383 et al.), the
27 total value of tax credits awarded during the nine-year period shall
28 not exceed \$1,200,000,000; provided, however, tax credits shall not
29 be available under the "New Jersey Community-Anchored
30 Development Act," sections 43 through 53 of P.L.2020, c.156
31 (C.34:1B-311 through 34:1B-321), until January 1, 2026.
32 Beginning January 1, 2026, the authority shall annually award tax
33 credits under the "New Jersey Community-Anchored Development
34 Act," sections 43 through 53 of P.L.2020, c.156 (C.34:1B-311
35 through 34:1B-321), valuing no greater than \$130 million for
36 projects located in the 13 northern counties of the State, and the
37 authority shall annually award tax credits valuing no greater than
38 \$70 million for projects located in the eight southern counties of the
39 State. If during any year of operation of the "New Jersey
40 Community-Anchored Development Act," sections 43 through 53 of
41 P.L.2020, c.156 (C.34:1B-311 through 34:1B-321), the authority
42 awards tax credits pursuant to the program in an amount less than
43 the annual limitation for projects located in northern counties or
44 southern counties, as applicable, the uncommitted portion of the
45 annual limitation shall be available to be deployed by the authority
46 in a subsequent year without consideration to the county in which a
47 project is located;

1 (f) for tax credits awarded under the "New Jersey Aspire
2 Program Act," sections 54 through 67 of P.L.2020, c.156 (C.34:1B-
3 322 through 34:1B-335), and the "Emerge Program Act," sections
4 68 through 81 of P.L.2020, c.156 (C.34:1B-336 et al.), not
5 including tax credits awarded for transformative projects, the total
6 value of tax credits annually awarded during each of the first six
7 years of the nine-year period shall not exceed \$1.1 billion. If the
8 authority awards tax credits in an amount less than the annual
9 limitation, then the uncommitted portion of the annual limitation
10 shall be made available for qualified offshore wind projects
11 awarded under section 6 of P.L.2010, c.57 (C.34:1B-209.4),
12 pursuant to subparagraph (h) of this paragraph, projects awarded a
13 tax credit pursuant to the "Next New Jersey Program Act," P.L. _____,
14 c. _____ (pending before the Legislature as this bill), pursuant
15 to subparagraph (k) of this paragraph, or New Jersey studio partners
16 and New Jersey film-lease production companies awarded under
17 sections 1 and 2 of P.L.2018, c.56 (C.54:10A-5.39b and C.54A:4-
18 12b), pursuant to subparagraph (i) of this paragraph and subsection
19 d. of this section. During each of the first six years of the nine-year
20 period, the authority shall annually award tax credits valuing no
21 greater than \$715 million for projects located in the northern
22 counties of the State, and the authority shall annually award tax
23 credits valuing no greater than \$385 million for projects located in
24 the southern counties of the State under the "New Jersey Aspire
25 Program Act," sections 54 through 67 of P.L.2020, c.156 (C.34:1B-
26 322 through 34:1B-335), and the "Emerge Program Act," sections
27 68 through 81 of P.L.2020, c.156 (C.34:1B-336 et al.). If during
28 any of the first six years of the nine-year period, the authority
29 awards tax credits under the "New Jersey Aspire Program Act,"
30 sections 54 through 67 of P.L.2020, c.156 (C.34:1B-322 through
31 34:1B-335), and the "Emerge Program Act," sections 68 through 81
32 of P.L.2020, c.156 (C.34:1B-336 et al.), in an amount less than the
33 annual limitation for projects located in northern counties or
34 southern counties, as applicable, the uncommitted portion of the
35 annual limitation shall be available to be deployed by the authority
36 in a subsequent year, provided that the uncommitted portion of tax
37 credits shall be awarded for projects located in the applicable
38 geographic area, except that (i) after the completion of the third
39 year of the nine-year period, the authority may deploy 50 percent of
40 the uncommitted portion of tax credits for any previous year
41 without consideration to the county in which a project is located;
42 and (ii) after the completion of the sixth year of the nine-year
43 period, the authority may deploy all available tax credits, including
44 the uncommitted portion of the annual limitation for any previous
45 year, without consideration to the county in which a project is
46 located;

47 (g) except as provided in subparagraph (j) of this paragraph, for
48 tax credits awarded for transformative projects under the "New

1 Jersey Aspire Program Act," sections 54 through 67 of P.L.2020,
2 c.156 (C.34:1B-322 through 34:1B-335), the total value of tax
3 credits awarded during the nine-year period shall not exceed \$2.5
4 billion. The total value of tax credits awarded for transformative
5 projects in a given year shall not be subject to an annual limitation,
6 except that the total value of tax credits awarded to any
7 transformative project shall not exceed \$400 million;

8 (h) from the tax credits made available, pursuant to
9 subparagraph (f) of this paragraph, to the "New Jersey Aspire
10 Program Act," sections 54 through 67 of P.L.2020, c.156 (C.34:1B-
11 322 through 34:1B-335), and the "Emerge Program Act," sections
12 68 through 81 of P.L.2020, c.156 (C.34:1B-336 et al.), not
13 including tax credits awarded for transformative projects, an
14 amount not to exceed \$350,000,000 shall be made available for
15 qualified offshore wind projects awarded a credit pursuant to
16 section 6 of P.L.2010, c.57 (C.34:1B-209.4) during the first three
17 years of the nine-year period;

18 (i) beginning in fiscal year 2023, from the tax credits made
19 available, pursuant to subparagraph (f) of this paragraph, to the
20 "New Jersey Aspire Program Act," sections 54 through 67 of
21 P.L.2020, c.156 (C.34:1B-322 through 34:1B-335), and the
22 "Emerge Program Act," sections 68 through 81 of P.L.2020, c.156
23 (C.34:1B-336 et al.), not including tax credits awarded for
24 transformative projects, additional amounts shall be made available
25 for New Jersey studio partners and New Jersey film-lease
26 production companies pursuant to sections 1 and 2 of P.L.2018,
27 c.56 (C.54:10A-5.39b and C.54A:4-12b); **[and]**

28 (j) beginning in fiscal year 2024, from the tax credits made
29 available, pursuant to subparagraph (f) of this paragraph, to the
30 "New Jersey Aspire Program Act," sections 54 through 67 of
31 P.L.2020, c.156 (C.34:1B-322 through 34:1B-335) and the "Emerge
32 Program Act," sections 68 through 81 of P.L.2020, c.156 (C.34:1B-
33 336 et al.), not including tax credits awarded for transformative
34 projects, an amount not to exceed \$500,000,000 may be annually
35 transferred for the award to transformative projects under the "New
36 Jersey Aspire Program Act," sections 54 through 67 of P.L.2020,
37 c.156 (C.34:1B-322 through 34:1B-335), provided that: (i) the
38 remaining allocation of tax credits otherwise available for
39 transformative projects, pursuant to subparagraph (g) of this
40 paragraph, is less than \$1,000,000,000; and (ii) the authority board
41 determines that the transfer of tax credits is warranted based on
42 such criteria as the authority deems appropriate, which may include
43 the criteria set forth in paragraph (2) of this subsection. If a transfer
44 of tax credits is made pursuant to this subparagraph, the authority
45 shall award no greater than 65 percent of the tax credits transferred
46 pursuant to this subparagraph to transformative projects located in
47 the northern counties of the State and no greater than 35 percent of
48 the tax credits transferred pursuant to this subparagraph to

1 transformative projects located in the southern counties of the State;
2 and

3 (k) beginning in fiscal year 2025, from the tax credits made
4 available, pursuant to subparagraph (f) of this paragraph, to the
5 "New Jersey Aspire Program Act," sections 54 through 67 of
6 P.L.2020, c.156 (C.34:1B-322 through 34:1B-335) and the "Emerge
7 Program Act," sections 68 through 81 of P.L.2020, c.156 (C.34:1B-
8 336 et al.), but not including tax credits awarded for transformative
9 projects, an amount not to exceed \$500,000,000 shall be made
10 available for projects awarded a tax credit pursuant to the "Next
11 New Jersey Program Act," P.L. , c. (C.) (pending before
12 the Legislature as this bill).

13 (2) The authority may in any given year determine that it is in
14 the State's interest to approve an amount of tax credits in excess of
15 the annual limitations set forth in paragraph (1) of this subsection,
16 but in no event more than \$200,000,000 in excess of the annual
17 limitation, upon a determination by the authority board that such
18 increase is warranted based on specific criteria that may include:

19 (i) the increased demand for opportunities to create or retain
20 employment and investment in the State as indicated by the volume
21 of project applications and the amount of tax credits being sought
22 by those applications;

23 (ii) the need to protect the State's economic position in the event
24 of an economic downturn;

25 (iii) the quality of project applications and the net economic
26 benefit to the State and municipalities associated with those
27 applications;

28 (iv) opportunities for project applications to strengthen or protect
29 the competitiveness of the State under the prevailing market
30 conditions;

31 (v) enhanced access to employment and investment for
32 underserved populations in distressed municipalities and qualified
33 incentives tracts;

34 (vi) increased investment and employment in high-growth
35 technology sectors and in projects that entail collaboration with
36 education institutions in the State;

37 (vii) increased development proximate to mass transit facilities;

38 (viii) any other factor deemed relevant by the authority.

39 c. In the event that the authority in any year approves projects
40 for tax credits in an amount less than the annual limitations set forth
41 in paragraph (1) of subsection b. of this section, then the
42 uncommitted portion of the annual limitation shall be available to
43 be deployed by the authority in future years for projects under the
44 same program; provided however, that in no event shall the
45 aggregate amount of tax credits approved be in excess of the overall
46 cap of \$11.5 billion, and in no event shall the uncommitted portion
47 of the annual limitation for any previous year be deployed after the
48 conclusion of the nine-year period.

1 d. Notwithstanding the provisions of any other law to the
2 contrary, the uncommitted balance of the total value of tax credits
3 authorized for award by the authority pursuant to subparagraph (f)
4 of paragraph (1) of subsection b. of this section to the "New Jersey
5 Aspire Program Act," sections 54 through 67 of P.L.2020, c.156
6 (C.34:1B-322 et seq.), and the "Emerge Program Act," sections 68
7 through 81 of P.L.2020, c.156 (C.34:1B-336 et al.), shall be made
8 available for tax credits allowed to New Jersey studio partners and
9 New Jersey film-lease production companies pursuant to sections 1
10 and 2 of P.L.2018, c.56 (C.54:10A-5.39b and C.54A:4-12b). The
11 value of tax credits, including tax credits allowed through the
12 granting of tax credit transfer certificates, made available to New
13 Jersey studio partners and New Jersey film-lease production
14 companies pursuant to this subsection shall be as follows:

15 (1) in fiscal year 2023, \$250,000,000 for New Jersey studio
16 partners and \$250,000,000 for New Jersey film-lease production
17 companies;

18 (2) in fiscal year 2024, \$250,000,000 for New Jersey studio
19 partners and \$250,000,000 for New Jersey film-lease production
20 companies; and

21 (3) in fiscal year 2025, \$250,000,000 for New Jersey studio
22 partners and \$250,000,000 for New Jersey film-lease production
23 companies.

24 If the value of tax credits, including tax credits allowed through
25 the granting of tax credit transfer certificates, approved to New
26 Jersey studio partners and New Jersey film-lease production
27 companies in any fiscal year pursuant to this subsection is less than
28 the cumulative total amount of tax credits permitted to be approved
29 in that fiscal year, the authority shall certify the amount of the
30 remaining tax credits available for approval to each such category
31 in that fiscal year, and shall increase the cumulative total amount of
32 tax credits permitted to be approved for New Jersey studio partners
33 and New Jersey film-lease production companies in the subsequent
34 fiscal year by the certified amount remaining for each such category
35 from the prior fiscal year.

36 (cf: P.L.2023, c.197, s.13)

37

38 11. This act shall take effect immediately.

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40

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STATEMENT

42

43 This bill establishes the "Next New Jersey Program" within the
44 New Jersey Economic Development Authority (EDA) and modifies
45 certain provisions of the "New Jersey Economic Recovery Act of
46 2020," P.L.2020, c.156 (C.34:1B-269 et al.).

47 The purpose of the Next New Jersey Program would be to attract
48 new investment to New Jersey in the artificial intelligence (or "AI")

1 industry and AI-related industries, create new jobs and economic
2 opportunities, and to position New Jersey as a leader in the
3 innovation economy.

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

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

30 Under the bill, the amount of the tax credit allowed for a
31 particular project would equal to the lesser of: (1) the product of
32 0.1 percent of the eligible business's total capital investment
33 multiplied by the number of new full-time jobs; (2) 25 percent of
34 the eligible business's total capital investment; or (3) \$250 million.

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

43

44

45

46

47 Establishes Next New Jersey Program for artificial intelligence
48 investments.

CHAPTER 49

AN ACT concerning the development of artificial intelligence innovations, ventures, and facilities, and amending and supplementing P.L.2020, c.156.

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

C.34:1B-394 Short title.

1. P.L.2024, c.49 (C.34:1B-394 et al.) shall be known and may be cited as the "Next New Jersey Program Act."

C.34:1B-395 Definitions.

2. As used in P.L.2024, c.49 (C.34:1B-394 et al.):

"Affiliate" means an entity that directly or indirectly controls, is under common control with, or is controlled by an eligible business. Control exists in all cases in which the entity is a member of a controlled group of corporations as defined pursuant to section 1563 of the federal Internal Revenue Code (26 U.S.C. s.1563) or the entity is an organization in a group of organizations under common control that is subject to the regulations applicable to organizations pursuant to subsection (b) or (c) of section 414 of the federal Internal Revenue Code (26 U.S.C. s.414). An eligible business may establish by clear and convincing evidence, as determined by the authority, that control exists in situations involving lesser percentages of ownership than required by the above referenced federal statutes if the eligible business shall have control, at a minimum, of all aspects of compliance with this program. An affiliate of an eligible business may contribute towards the capital investment requirement and may satisfy the requirement for site control during construction and the eligibility period, but in no event shall the tax credit certificate be issued to any affiliate.

"AI data center" means a facility specifically to handle the demanding computational needs of artificial intelligence applications, designed for tasks like machine learning training, deep learning algorithms, and complex data analysis, whose services are the storage, management, and processing of digital data; that is used to house: computer and network systems, including associated components such as servers, network equipment and appliances, telecommunications, and data storage systems; systems for monitoring and managing infrastructure performance; Internet-related equipment and services; data communications connections; environmental controls; fire protection systems; and security systems and services specifically for artificial intelligence applications.

"Artificial intelligence" or "AI" means 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.

"Authority" means the New Jersey Economic Development Authority established by section 4 of P.L.1974, c.80 (C.34:1B-4).

"Board" means the Board of the New Jersey Economic Development Authority, established by section 4 of P.L.1974, c.80 (C.34:1B-4).

"Building services" means any cleaning or routine building maintenance work, including, but not limited to, sweeping, vacuuming, floor cleaning, cleaning of rest rooms, collecting refuse or trash, window cleaning, securing, patrolling, or other work in connection with the care or securing of an existing building, including services typically provided by a door-attendant or concierge. "Building services" shall not include any skilled maintenance work,

professional services, or other public work for which a contractor is required to pay the "prevailing wage" as defined in section 2 of P.L.1963, c.150 (C.34:11-56.26).

"Business" means an applicant proposing to own or lease premises in a qualified business facility that is: a corporation that is subject to the tax imposed pursuant to section 5 of P.L.1945, c.162 (C.54:10A-5), sections 2 and 3 of P.L.1945, c.132 (C.54:18A-2 and C.54:18A-3), section 1 of P.L.1950, c.231 (C.17:32-15), or N.J.S.17B:23-5, or is a partnership, S corporation, limited liability company, or non-profit corporation. A business shall include an affiliate of the business if that business applies for a credit based upon any capital investment made by or full-time employees of an affiliate. If the business or tenant is a cooperative or part of a cooperative, then the cooperative may qualify for credits by counting the full-time employees and capital investments of its member organizations and the cooperative may distribute credits to its member organizations. If the business or tenant is a cooperative that leases to its member organizations, the lease shall be treated as a lease to an affiliate or affiliates.

"Capital investment" means expenses that a business or an affiliate of the business incurs, or is incurred on behalf of the business or affiliate by its landlord, following its submission of an application to the authority pursuant to section 5 of P.L.2024, c.49 (C.34:1B-398), but prior to the project completion date, as shall be defined in the project agreement, for: site preparation and construction, repair, renovation, improvement, equipping, or furnishing on real property or of a building, structure, facility, or improvement to real property; obtaining and installing furnishings and machinery, apparatus, or equipment, including, but not limited to, computer systems, hardware, software, and equipment and material goods subject to bonus depreciation under sections 168 and 179 of the federal Internal Revenue Code (26 U.S.C. ss.168 and 179), for the operation of a business on real property or in a building, structure, facility, or improvement to real property; or any combination of the foregoing.

"Commitment period" means a period that is no less than two times the eligibility period specified in the project agreement entered into pursuant to section 6 of P.L.2024, c.49 (C.34:1B-399).

"Eligibility period" means the period in which an eligible business may claim a tax credit under the program, beginning with the tax period in which the authority accepts certification of the eligible business that it has met the capital investment and employment requirements of the program and extending thereafter for a term of five years.

"Eligible business" means any business that satisfies the criteria set forth in section 4 of P.L.2024, c.49 (C.34:1B-397) at the time of application for tax credits under the program.

"Eligible position" or "full-time job" means a full-time position in a business in this State which a business has filled with a full-time employee who is paid no less than 120 percent of the median salary for the county in which the project is located and for which the business provides employee health benefits under a group health plan as defined under section 14 of P.L.1997, c.146 (C.17B:27-54), a health benefits plan as defined under section 1 of P.L.1992, c.162 (C.17B:27A-17), or a policy or contract of health insurance covering more than one person issued pursuant to Article 2 of Chapter 27 of Title 17B of the New Jersey Statutes, provided, however, the requirement that employee health benefits are to be provided shall be deemed to be satisfied if the benefits are provided by the business or pursuant to a collective bargaining agreement, no later than 90 days of employee start date, under a health benefits plan authorized pursuant to State or federal law. An eligible position shall not include an independent contractor or a consultant.

"Full-time employee" means a person:

who is employed by a business for consideration for at least 35 hours a week, or who renders any other standard of service generally accepted by custom or practice as full-time

employment, and whose wages are subject to withholding as provided in the "New Jersey Gross Income Tax Act," N.J.S.54A:1-1 et seq.;

who is employed by a professional employer organization pursuant to an employee leasing agreement between the business and the professional employer organization, pursuant to P.L.2001, c.260 (C.34:8-67 et seq.) for at least 35 hours a week, or who renders any other standard of service generally accepted by custom or practice as full-time employment, and whose wages are subject to withholding as provided in the "New Jersey Gross Income Tax Act," N.J.S.54A:1-1 et seq.; or

who is a resident of another State, but whose income is not subject to the "New Jersey Gross Income Tax Act," N.J.S.54A:1-1 et seq., due to a reciprocity agreement with the other state, or who is a partner of a business who works for the partnership for at least 35 hours a week, or who renders any other standard of service generally accepted by custom or practice as full-time employment, and whose distributive share of income, gain, loss, or deduction, or whose guaranteed payments, or any combination thereof, is subject to the payment of estimated taxes, as provided in the "New Jersey Gross Income Tax Act," N.J.S.54A:1-1 et seq., due to a reciprocity agreement with the other state.

A "full-time employee" shall include, but shall not be limited to, an employee that has been hired by way of a labor union hiring hall or its equivalent. 35 hours of employment per week in the State shall constitute one "full-time employee," regardless of whether or not the hours of work were performed by one or more persons.

"Full-time employee" shall not include any person who works as an independent contractor or on a consulting basis for the business or a contract worker.

"Minimum environmental and sustainability standards" means standards established by the authority in accordance with the green building manual prepared by the Commissioner of Community Affairs pursuant to section 1 of P.L.2007, c.132 (C.52:27D-130.6), regarding the use of renewable energy, energy-efficient technology, and non-renewable resources to reduce environmental degradation and encourage long-term cost reduction.

"New full-time job" means an eligible position created by a business, following approval of such business's application by the board, that did not previously exist in this State. For the purposes of determining the number of new full-time jobs, the eligible positions of an affiliate shall be considered eligible positions of the business.

"Partnership" means an entity classified as a partnership for federal income tax purposes.

"Professional employer organization" means an employee leasing company registered with the Department of Labor and Workforce Development pursuant to P.L.2001, c.260 (C.34:8-67 et seq.).

"Program" means the Next New Jersey Program established by section 3 of P.L.2024, c.49 (C.34:1B-396).

"Project" means the capital investment at a qualified business facility and the employment commitment pursuant to the project agreement.

"Project agreement" means the contract executed between an eligible business and the authority pursuant to section 6 P.L.2024, c.49 (C.34:1B-399), which sets forth the terms and conditions under which the eligible business may receive the tax credits authorized pursuant to the program.

"Qualified business facility" means 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.

"Technology startup company" means a for-profit business located in the State that has been in operation fewer than seven years and is developing or possesses a proprietary technology or business method of a high technology or life science-related product, process, or service, which proprietary technology or business method the business intends to move to commercialization. The business shall be deemed to have begun operation on the date that the business first hired at least one employee in a full-time position.

C.34:1B-396 "Next New Jersey Program" established.

3. a. The Next New Jersey Program is hereby established as a program under the jurisdiction of the New Jersey Economic Development Authority. The authority shall administer the program to attract new investment to New Jersey in key industries, create new jobs and economic opportunities, and position New Jersey as a leader in the innovation economy. The board may approve the award of tax credits to an eligible business upon application of the chief executive officer, or equivalent officer, of the eligible business and following the payment of fees, subject to the limitations set forth in subsection b. of this section.

b. The value of all tax credits approved by the authority for businesses eligible pursuant to section 4 of P.L.2024, c.49 (C.34:1B-397) shall be subject to the limitations set forth in section 98 of P.L.2020, c.156 (C.34:1B-362).

C.34:1B-397 Tax credit eligibility requirements, artificial intelligence.

4. a. Beginning on the effective date of P.L.2024, c.49 (C.34:1B-394 et al.), but prior to March 1, 2029, to be eligible for tax credits under the program, a business's chief executive officer, or equivalent officer, shall demonstrate to the authority at the time of application that:

(1) the business will make, acquire, or lease a capital investment at the qualified business facility equal to or greater than the applicable amount set forth in subsection b. of this section;

(2) the business will create new full-time jobs in the State in an amount equal to or greater than the applicable number set forth in subsection c. of this section;

(3) the business or its division is primarily engaged in the artificial intelligence industry or the large-scale artificial intelligence data center industry. A business or its division shall be considered to be primarily engaged in an industry set forth herein if more than 50 percent of the business's employees are engaged in AI-related activities or more than 50 percent of the business's revenue is generated from AI-related activities, or both, provided, however, the use of AI applications in the furtherance of a business's own operations shall not be considered in determining whether a business or division is primarily engaged in artificial intelligence or large-scale artificial intelligence data centers. AI-related activities include, but are not limited to: developing new AI algorithms and techniques, such as machine learning, natural language processing, and computer vision; creating AI-powered software and hardware products for various applications; medical AI modelling or programming; development of AI chatbots for customer service; AI development for vehicles; and collecting, storing, and managing the vast amount of data needed to train and use AI models;

(4) the business will enter into a collaborative relationship, evidenced by the provision of price concessions, artificial intelligence support services, or other measures determined appropriate by the authority, with New Jersey-based public or private research universities or technology startup companies, or both;

(5) the qualified business facility shall be in compliance with minimum environmental and sustainability standards;

(6) for construction contracts valued in excess of \$2,000, the project shall comply with the authority's affirmative action requirements, adopted pursuant to section 4 of P.L.1979, c.303 (C.34:1B-5.4); and

(7) each worker employed to perform construction work in connection with a capital improvement or building services work at the qualified business facility shall be paid not less than the prevailing wage rate for the worker's craft or trade, as determined by the Commissioner of Labor and Workforce Development pursuant to P.L.1963, c.150 (C.34:11-56.25 et seq.) and P.L.2005, c.379 (C.34:11-56.58 et seq.).

b. The minimum capital investment at the qualified business facility required to be eligible under the program shall be \$100,000,000.

c. The minimum number of new full-time jobs in the State required to be eligible under the program shall be 100 new full-time jobs.

d. The chief executive officer of the business, or an equivalent officer, shall certify that all factual representations made by the business to the authority pursuant to subsection a. of this section are true under the penalty of perjury.

e. A business shall not be awarded a tax credit pursuant to the program if the business receives a tax credit pursuant to the "Emerge Program Act," sections 68 through 81 of P.L.2020, c.156 (C.34:1B-336 et al.), or section 6 of P.L.2010, c.57 (C.34:1B-209.4), relating to the same capital investment and employees that qualify the business for a tax credit under the program.

f. A business eligible pursuant to this section may submit an application to the authority in accordance with the provisions of section 5 of P.L.2024, c.49 (C.34:1B-398) on or after the effective date of P.L.2024, c.49 (C.34:1B-394 et al.) but prior to March 1, 2029.

C.34:1B-398 Tax credit eligibility, application, artificial intelligence.

5. a. A business that meets the eligibility criteria in section 4 of P.L.2024, c.49 (C.34:1B-397) and is seeking tax credits for a project under the program shall submit an application for approval of the project to the authority in a form and manner prescribed by the authority.

b. (1) Before the board may consider an eligible business's application for tax credits, the authority shall confirm with the Department of Labor and Workforce Development, the Department of Environmental Protection, and the Department of the Treasury whether the eligible business is in substantial good standing with the respective department, or, if necessary, has entered into an agreement with the respective department that includes a practical corrective action plan for the eligible business. The business entity shall certify that contractors or subcontractors that will perform work at the qualified business facility: are registered as required by "The Public Works Contractor Registration Act," P.L.1999, c.238 (C.34:11-56.48 et seq.); have not been debarred by the Department of Labor and Workforce Development from engaging in or bidding on Public Works Contracts in the State; and possess a tax clearance certificate issued by the Division of Taxation in the Department of the Treasury. The authority may also contract with an independent third party to perform a background check on the eligible business.

c. An eligible business shall pay to the authority the full amount of the direct costs of an analysis concerning the eligible business's application for a tax credit, which a third party retained by the authority performs, if the authority deems such retention to be necessary. The authority shall have the discretion to waive all or a portion of the costs of application for a small business.

d. If at any time during the eligibility period the authority determines that the eligible business made a material misrepresentation on the eligible business's application, the eligible

business shall forfeit all tax credits awarded under the program, which shall be in addition to any other criminal or civil penalties to which the business and the officer may be subject.

e. If circumstances require an eligible business to amend its application to the authority, then the chief executive officer of the eligible business, or an equivalent officer, shall certify to the authority that the information provided in its amended application is true under the penalty of perjury.

f. Nothing shall preclude a business from applying for tax credits under the program for more than one project pursuant to one or more applications.

C.34:1B-399 Eligible business, tax credits, site plan approval, committed financing, control, facility.

6. a. Following board approval, within a time established by the authority and prior to the authority and an eligible business executing a project agreement, the eligible business shall demonstrate that it has obtained site plan approval and has committed financing for, and established site control of, the qualified business facility. The chief executive officer of the business, or an equivalent officer, shall certify that all factual representations made by the business to the authority pursuant to this subsection are true under the penalty of perjury.

b. Following approval by the board and compliance with the provisions of subsection a. of this section, but before the issuance of tax credits, the authority shall require an eligible business to enter into a project agreement. The terms of the project agreement shall be consistent with the eligibility requirements of section 4 of P.L.2024, c.49 (C.34:1B-397), and shall include, but not be limited to, the following:

(1) a detailed description of the proposed project that will result in job creation, and the number of new full-time jobs that are approved for tax credits;

(2) any personnel information that will enable the authority to administer the program;

(3) a requirement that the eligible business maintain the project at a location in New Jersey for the commitment period and a provision to permit the authority to recapture all or part of any tax credits awarded, at its discretion, if the eligible business does not maintain the project at a location in New Jersey for the commitment period;

(4) a requirement that the eligible business maintain the number of new full-time jobs, or the salaries thereof, to which the eligible business certified at the commencement of the eligibility period and a provision to permit the authority to proportionally reduce the tax credit award in any tax period in which the number of new full-time jobs, or the salaries thereof, is reduced below the new full-time jobs to which the eligible business certified at the commencement of the eligibility period;

(5) a method for the eligible business to certify that it has met the capital investment and employment requirements of the program set forth in subsections b. and c. of section 4 of P.L.2024, c.49 (C.34:1B-397) and to report annually to the authority the number of new full-time jobs, and the salaries thereof, for which the tax credits are to be allowed;

(6) representations that the eligible business is in substantial good standing with the Department of Environmental Protection, the Department of Labor and Workforce Development, and the Department of the Treasury or has entered into an agreement with the departments that includes a practical corrective action plan, the project complies with all applicable laws, and, specifically, that the project does not violate any environmental law;

(7) a provision permitting an audit of the payroll records of the business from time to time, as the authority deems necessary;

(8) a provision that the chief executive officer of the authority receives annual reports from the eligible business and that allows the authority to confirm that the eligible business is in

substantial good standing with the Department of Environmental Protection, the Department of Labor and Workforce Development, and the Department of the Treasury or has entered into an agreement with the respective department that includes a practical corrective action plan. As part of the annual reports required by this paragraph, the eligible business shall confirm that each contractor or subcontractor performing work at the qualified business facility: is registered as required by "The Public Works Contractor Registration Act," P.L.1999, c.238 (C.34:11-56.48 et seq.); has not been debarred by the Department of Labor and Workforce Development from engaging in or bidding on Public Works Contracts in the State; and possesses a tax clearance certificate issued by the Division of Taxation in the Department of the Treasury. If the eligible business does not submit the report required under this paragraph, if the Department of Environmental Protection, the Department of Labor and Workforce Development, and the Department of the Treasury advise that the eligible business is neither in substantial good standing nor has entered into a practical corrective action plan, or if the eligible business fails to confirm that each contractor or subcontractor is in compliance with this paragraph, then the eligible business may forfeit the issuance of tax credits, pending resolution of the underlying violations or other issues;

(9) a requirement for the eligible business to engage in on-site consultations with the Division of Workplace Safety and Health in the Department of Health;

(10) a provision permitting the authority to amend the agreement; and

(11) a provision establishing the conditions under which the authority, the eligible business, or both, may terminate the agreement.

c. (1) The authority may recapture all or part of a tax credit awarded if an eligible business does not remain in compliance with the requirements of a project agreement for the duration of the commitment period. A recapture pursuant to this subsection may include interest on the recapture amount, at a rate equal to the statutory rate for corporate business or insurance premiums tax deficiencies, plus any statutory penalties, and all costs incurred by the authority and the Division of Taxation in the Department of the Treasury in connection with the pursuit of the recapture, including, but not limited to, counsel fees, court costs, and other costs of collection. Failure of the eligible business to meet any program criteria shall constitute a default and shall result in the recapture of all or part of the tax credit awarded.

(2) If all or part of a tax credit sold or assigned pursuant to section 8 of P.L.2024, c.49 (C.34:1B-401) is subject to recapture, then the authority shall pursue recapture from the eligible business and not from the purchaser or assignee of the tax credit transfer certificate. The purchaser or assignee of a tax credit transfer certificate shall be subject to any limitations and conditions that apply to the use of the tax credits by the eligible business.

(3) Any funds recaptured pursuant to this subsection, including penalties and interest, shall be deposited into the General Fund.

d. A business may include an affiliate for any period, provided that the business provides a valid tax clearance certificate for the affiliate and a verification of the nature of the affiliate relationship during the relevant period and provided further that the affiliate provides acceptable responses to the authority's legal disclosures inquiries, as determined by the authority. A formal modification of the authority's approval of the project agreement shall not be necessary to add or remove an affiliate after approval or execution of the project agreement.

e. A business may change its name filed with the authority by providing a copy of the filed amendment to the certificate of incorporation or formation, as the case may be, of the business and a valid tax clearance certificate with the business's new name. A formal modification of the authority's approval shall not be necessary to change a business's name after approval or execution of the project agreement.

C.34:1B-400 Tax credit eligibility, certifications, capital investment, employment requirements.

7. a. Upon completion of the capital investment and employment requirements of the program, an eligible business shall submit to the authority certifications evidencing that the eligible business has satisfied the conditions relating to the capital investment and employment requirements of the project agreement with supporting evidence satisfactory to the authority. The chief executive officer of the business, or an equivalent officer, shall certify that all factual representations made by the business to the authority pursuant to this subsection are true under the penalty of perjury.

b. (1) In accordance with the project agreement, beginning upon the receipt of occupancy permits for any portion of the project, or upon any other event evidencing project completion as set forth in the project agreement, an eligible business shall be allowed a tax credit in an amount determined pursuant to paragraph (2) of this subsection. No more than the amount of tax credits equal to the total credit amount awarded under the program divided by the duration of the eligibility period in years may be taken in any tax period.

(2) The amount of the tax credit allowed under the program to an eligible business shall be the lesser of:

(a) the product of 0.1 percent of the eligible business's total capital investment multiplied by the number of new full-time jobs;

(b) 25 percent of the eligible business's total capital investment; or

(c) \$250,000,000.

c. (1) An eligible business which is awarded tax credits under the program shall submit annually, no later than the date indicated in the project agreement, commencing in the year in which the grant of tax credits is issued and for the remainder of the commitment period, a report that indicates that the eligible business continues to maintain the number of new full-time jobs, and the salaries thereof, specified in the project agreement. As part of the annual report required pursuant to this subsection, an eligible business shall provide to the authority a copy of its applicable New Jersey tax return showing business income and withholdings as a condition of its continuation in the program, and the quarterly wage report required under R.S.43:21-14 submitted to the Department of Labor and Workforce Development, together with an annual payroll report showing: the new full-time jobs which were created in accordance with the project agreement and the new full-time jobs created during each subsequent year of the commitment period. The failure of an eligible business to submit to the authority a copy of its annual payroll report or submit the quarterly wage report in accordance with the provisions of this subsection during the eligibility period shall result in the forfeiture of the award for that year. An eligible business shall explain, in the reports required by this subsection, the reason for any discrepancies between the annual payroll report submitted by the eligible business and the quarterly wage report. The chief executive officer of the eligible business, or an equivalent officer, shall certify that the information provided pursuant to this paragraph is true under the penalty of perjury. Claims, records, or statements submitted by an eligible business to the authority in order to receive tax credits shall not be considered claims, records, or statements made in connection with State tax laws.

(2) Upon receipt and review of each report submitted during the eligibility period, the authority shall provide to the eligible business and the director a certificate of compliance indicating the amount of tax credits that the eligible business may apply against its tax liability. The authority shall pro rate the tax credit for the first and last years of the eligibility period based on the number of full months the project was certified in the year the eligible business first certifies.

d. (1) Upon receipt by the director of the certificate of compliance, the director shall allow the eligible business a tax credit. The eligible business may apply the credit allowed by the director against the eligible business's tax liability for the tax period in which the director allowed the tax credit, or may carry forward the credit for use by the eligible business in any of the next 10 successive tax periods, which credit shall expire thereafter.

(2) The amount of credit allowed may be applied against the tax liability otherwise due pursuant to section 5 of P.L.1945, c.162 (C.54:10A-5), sections 2 and 3 of P.L.1945, c.132 (C.54:18A-2 and C.54:18A-3), section 1 of P.L.1950, c.231 (C.17:32-15), or N.J.S.17B:23-5.

(3) The director shall prescribe the order of priority of the application of the credit allowed under this section and any other credits allowed by law against the tax imposed under section 5 of P.L.1945, c.162 (C.54:10A-5). The amount of a credit applied under this section against the tax imposed pursuant to section 5 of P.L.1945, c.162 (C.54:10A-5) for a privilege period, together with any other credits allowed by law, shall not reduce the tax liability to an amount less than the statutory minimum provided in subsection (e) of section 5 of P.L.1945, c.162 (C.54:10A-5).

e. An eligible business shall forfeit the credit amount for any tax period for which the eligible business's documentation remains uncertified as of the date for certification indicated in the project agreement, although credit amounts for the remainder of the years of the eligibility period shall remain available to the eligible business.

f. If, in any tax period, the number of new employees in eligible positions, or the salaries thereof, drops below 80 percent of the number of new employees in eligible positions specified in the project agreement or required as a condition of program eligibility pursuant to section 4 of P.L.2024, c.49 (C.34:1B-397), whichever is greater, then the eligible business shall forfeit its tax credit amount for that tax period and each subsequent tax period, until the first tax period for which documentation demonstrating the restoration of the number of new employees in eligible positions, or the salaries thereof, to 80 percent of the number specified in the project agreement or required as a condition of program eligibility pursuant to section 4 of P.L.2024, c.49 (C.34:1B-397), whichever is greater, is reviewed and approved by the authority.

C.34:1B-401 Eligible business, tax credit transfer certificate.

8. a. An eligible business may apply to the director and the chief executive officer of the authority for a tax credit transfer certificate, within three years of the tax period in which the director allows the eligible business a tax credit, in lieu of any amount of the tax credit against the eligible business's State tax liability. The tax credit transfer certificate, upon receipt thereof by the eligible business from the director and the chief executive officer of the authority, may be sold or assigned, in an amount not less than \$25,000, within three years of the tax period in which the eligible business receives the tax credit transfer certificate from the director, to another person that may have a tax liability pursuant to section 5 of P.L.1945, c.162 (C.54:10A-5), sections 2 and 3 of P.L.1945, c.132 (C.54:18A-2 and 54:18A-3), section 1 of P.L.1950, c.231 (C.17:32-15), or N.J.S.17B:23-5. A purchaser or assignee of a tax credit transfer certificate pursuant to this section shall apply the transferred credit against the same tax for which the eligible business was approved a tax credit under the program. The tax credit transfer certificate provided to the eligible business shall include a statement waiving the eligible business's right to claim the credit that the eligible business has elected to sell or assign.

b. The eligible business shall not sell or assign a tax credit transfer certificate allowed under this section for consideration received by the eligible business of less than 85 percent of the transferred credit amount before considering any further discounting to present value which shall be permitted. The tax credit transfer certificate issued to the eligible business by the

director shall be subject to any limitations and conditions imposed on the application of State tax credits pursuant to P.L.2024, c.49 (C.34:1B-394 et al.) and any other terms and conditions that the director may prescribe.

c. A purchaser or assignee of a tax credit transfer certificate pursuant to this section shall not make any subsequent transfers, assignments, or sales of the tax credit transfer certificate.

d. The authority shall publish on its Internet website the following information concerning each tax credit transfer certificate approved by the authority and the director pursuant to this section:

- (1) the name of the transferrer;
- (2) the name of the transferee;
- (3) the value of the tax credit transfer certificate;
- (4) the State tax against which the transferee may apply the tax credit; and
- (5) the consideration received by the transferrer.

C.34:1B-402 Rules, regulations.

9. Notwithstanding the provisions of the "Administrative Procedure Act," P.L.1968, c.410 (C.52:14B-1 et seq.) to the contrary, the chief executive officer of the authority shall adopt, immediately, upon filing with the Office of Administrative Law, such rules and regulations as the chief executive officer deems necessary to implement the provisions of sections P.L.2024, c.49 (C.34:1B-394 et al.), which rules and regulations shall be effective for a period not to exceed 365 days after the date of the filing. Before the expiration of the rules and regulations, the chief executive officer shall amend, adopt, or readopt the rules and regulations in accordance with the requirements of the "Administrative Procedure Act," P.L.1968, c.410 (C.52:14B-1 et seq.).

10. Section 98 of P.L.2020, c.156 (C.34:1B-362) is amended to read as follows:

C.34:1B-362 Combined value, all tax credits.

98. a. The combined value of all tax credits awarded under the "Historic Property Reinvestment Act," sections 2 through 8 of P.L.2020, c.156 (C.34:1B-270 through 34:1B-276); the "Brownfields Redevelopment Incentive Program Act," sections 9 through 19 of P.L.2020, c.156 (C.34:1B-277 through 34:1B-287); the "New Jersey Innovation Evergreen Act," sections 20 through 34 of P.L.2020, c.156 (C.34:1B-288 through 34:1B-302); the "Food Desert Relief Act," sections 35 through 42 of P.L.2020, c.156 (C.34:1B-303 through 34:1B-310); the "New Jersey Community-Anchored Development Act," sections 43 through 53 of P.L.2020, c.156 (C.34:1B-311 through 34:1B-321); the "New Jersey Aspire Program Act," sections 54 through 67 of P.L.2020, c.156 (C.34:1B-322 through 34:1B-335); the "Emerge Program Act," sections 68 through 81 of P.L.2020, c.156 (C.34:1B-336 et al.); section 6 of P.L.2010, c.57 (C.34:1B-209.4); the "Cultural Arts Incentives Program Act," P.L.2023, c.197 (C.34:1B-383 et al.); and the "Next New Jersey Program Act," P.L.2024, c.49 (C.34:1B-362 et seq.) shall not exceed an overall cap of \$11.5 billion over a nine-year period, subject to the conditions and limitations set forth in this section. Of this \$11.5 billion, \$2.5 billion shall be reserved for transformative projects approved under the Aspire Program.

b. (1) The total value of tax credits awarded under any constituent program of the "New Jersey Economic Recovery Act of 2020," P.L.2020, c.156 (C.34:1B-269 et al.), the "Cultural Arts Incentives Program Act," P.L.2023, c.197 (C.34:1B-383 et al.), and the "Next New Jersey Program Act," P.L.2024, c.49 (C.34:1B-362 et seq.), shall be subject to the following limitations, except as otherwise provided in subsection c. of this section:

(a) for tax credits awarded under the "Historic Property Reinvestment Act," sections 2 through 8 of P.L.2020, c.156 (C.34:1B-270 through 34:1B-276), the total value of tax credits annually awarded during each of the first six years of the nine-year period shall not exceed \$50 million;

(b) for tax credits awarded under the "Brownfields Redevelopment Incentive Program Act," sections 9 through 19 of P.L.2020, c.156 (C.34:1B-277 through 34:1B-287), the total value of tax credits annually awarded during each of the first six years of the nine-year period shall not exceed \$50 million;

(c) for tax credits awarded under the "New Jersey Innovation Evergreen Act," sections 20 through 34 of P.L.2020, c.156 (C.34:1B-288 through 34:1B-302), the total value of tax credits annually awarded during each of the first six years of the nine-year period shall not exceed \$60 million and the total value of tax credits awarded over the entirety of the nine-year period shall not exceed \$300,000,000;

(d) for tax credits awarded under the "Food Desert Relief Act," sections 35 through 42 of P.L.2020, c.156 (C.34:1B-303 through 34:1B-310), the total value of tax credits annually awarded during each of the first six years of the nine-year period shall not exceed \$40 million;

(e) for tax credits awarded under the "New Jersey Community-Anchored Development Act," sections 43 through 53 of P.L.2020, c.156 (C.34:1B-311 through 34:1B-321), and the "Cultural Arts Incentives Program Act," P.L.2023, c.197 (C.34:1B-383 et al.), the total value of tax credits awarded during the nine-year period shall not exceed \$1,200,000,000; provided, however, tax credits shall not be available under the "New Jersey Community-Anchored Development Act," sections 43 through 53 of P.L.2020, c.156 (C.34:1B-311 through 34:1B-321), until January 1, 2026. Beginning January 1, 2026, the authority shall annually award tax credits under the "New Jersey Community-Anchored Development Act," sections 43 through 53 of P.L.2020, c.156 (C.34:1B-311 through 34:1B-321), valuing no greater than \$130 million for projects located in the 13 northern counties of the State, and the authority shall annually award tax credits valuing no greater than \$70 million for projects located in the eight southern counties of the State. If during any year of operation of the "New Jersey Community-Anchored Development Act," sections 43 through 53 of P.L.2020, c.156 (C.34:1B-311 through 34:1B-321), the authority awards tax credits pursuant to the program in an amount less than the annual limitation for projects located in northern counties or southern counties, as applicable, the uncommitted portion of the annual limitation shall be available to be deployed by the authority in a subsequent year without consideration to the county in which a project is located;

(f) for tax credits awarded under the "New Jersey Aspire Program Act," sections 54 through 67 of P.L.2020, c.156 (C.34:1B-322 through 34:1B-335), and the "Emerge Program Act," sections 68 through 81 of P.L.2020, c.156 (C.34:1B-336 et al.), not including tax credits awarded for transformative projects, the total value of tax credits annually awarded during each of the first six years of the nine-year period shall not exceed \$1.1 billion. If the authority awards tax credits in an amount less than the annual limitation, then the uncommitted portion of the annual limitation shall be made available for qualified offshore wind projects awarded under section 6 of P.L.2010, c.57 (C.34:1B-209.4), pursuant to subparagraph (h) of this paragraph, projects awarded a tax credit pursuant to the "Next New Jersey Program Act," P.L.2024, c.49 (C.34:1B-362 et seq.), pursuant to subparagraph (k) of this paragraph, or New Jersey studio partners, New Jersey film-lease production companies, and taxpayers, other than New Jersey studio partners and New Jersey film-lease production companies awarded under sections 1 and 2 of P.L.2018, c.56 (C.54:10A-5.39b and C.54A:4-12b), pursuant to subparagraph (i) of this paragraph and subsection d. of this section. During each of the first six years of the nine-year period, the authority shall annually award tax credits valuing no

greater than \$715 million for projects located in the northern counties of the State, and the authority shall annually award tax credits valuing no greater than \$385 million for projects located in the southern counties of the State under the "New Jersey Aspire Program Act," sections 54 through 67 of P.L.2020, c.156 (C.34:1B-322 through 34:1B-335), and the "Emerge Program Act," sections 68 through 81 of P.L.2020, c.156 (C.34:1B-336 et al.). If during any of the first six years of the nine-year period, the authority awards tax credits under the "New Jersey Aspire Program Act," sections 54 through 67 of P.L.2020, c.156 (C.34:1B-322 through 34:1B-335), and the "Emerge Program Act," sections 68 through 81 of P.L.2020, c.156 (C.34:1B-336 et al.), in an amount less than the annual limitation for projects located in northern counties or southern counties, as applicable, the uncommitted portion of the annual limitation shall be available to be deployed by the authority in a subsequent year, provided that the uncommitted portion of tax credits shall be awarded for projects located in the applicable geographic area, except that (i) after the completion of the third year of the nine-year period, the authority may deploy 50 percent of the uncommitted portion of tax credits for any previous year without consideration to the county in which a project is located; and (ii) after the completion of the sixth year of the nine-year period, the authority may deploy all available tax credits, including the uncommitted portion of the annual limitation for any previous year, without consideration to the county in which a project is located;

(g) except as provided in subparagraph (j) of this paragraph, for tax credits awarded for transformative projects under the "New Jersey Aspire Program Act," sections 54 through 67 of P.L.2020, c.156 (C.34:1B-322 through 34:1B-335), the total value of tax credits awarded during the nine-year period shall not exceed \$2.5 billion. The total value of tax credits awarded for transformative projects in a given year shall not be subject to an annual limitation, except that the total value of tax credits awarded to any transformative project shall not exceed \$400 million;

(h) from the tax credits made available, pursuant to subparagraph (f) of this paragraph, to the "New Jersey Aspire Program Act," sections 54 through 67 of P.L.2020, c.156 (C.34:1B-322 through 34:1B-335), and the "Emerge Program Act," sections 68 through 81 of P.L.2020, c.156 (C.34:1B-336 et al.), not including tax credits awarded for transformative projects, an amount not to exceed \$350,000,000 shall be made available for qualified offshore wind projects awarded a credit pursuant to section 6 of P.L.2010, c.57 (C.34:1B-209.4) during the first three years of the nine-year period;

(i) beginning in fiscal year 2023, from the tax credits made available, pursuant to subparagraph (f) of this paragraph, to the "New Jersey Aspire Program Act," sections 54 through 67 of P.L.2020, c.156 (C.34:1B-322 through 34:1B-335), and the "Emerge Program Act," sections 68 through 81 of P.L.2020, c.156 (C.34:1B-336 et al.), not including tax credits awarded for transformative projects, additional amounts shall be made available for New Jersey studio partners, New Jersey film-lease production companies, and taxpayers, other than New Jersey studio partners and New Jersey film-lease production companies pursuant to sections 1 and 2 of P.L.2018, c.56 (C.54:10A-5.39b and C.54A:4-12b);

(j) beginning in fiscal year 2024, from the tax credits made available, pursuant to subparagraph (f) of this paragraph, to the "New Jersey Aspire Program Act," sections 54 through 67 of P.L.2020, c.156 (C.34:1B-322 through 34:1B-335) and the "Emerge Program Act," sections 68 through 81 of P.L.2020, c.156 (C.34:1B-336 et al.), not including tax credits awarded for transformative projects, an amount not to exceed \$500,000,000 may be annually transferred for the award to transformative projects under the "New Jersey Aspire Program Act," sections 54 through 67 of P.L.2020, c.156 (C.34:1B-322 through 34:1B-335), provided that: (i) the remaining allocation of tax credits otherwise available for transformative projects,

pursuant to subparagraph (g) of this paragraph, is less than \$1,000,000,000; and (ii) the authority board determines that the transfer of tax credits is warranted based on such criteria as the authority deems appropriate, which may include the criteria set forth in paragraph (2) of this subsection. If a transfer of tax credits is made pursuant to this subparagraph, the authority shall award no greater than 65 percent of the tax credits transferred pursuant to this subparagraph to transformative projects located in the northern counties of the State and no greater than 35 percent of the tax credits transferred pursuant to this subparagraph to transformative projects located in the southern counties of the State; and

(k) beginning in fiscal year 2025, from the tax credits made available, pursuant to subparagraph (f) of this paragraph, to the "New Jersey Aspire Program Act," sections 54 through 67 of P.L.2020, c.156 (C.34:1B-322 through 34:1B-335) and the "Emerge Program Act," sections 68 through 81 of P.L.2020, c.156 (C.34:1B-336 et al.), but not including tax credits awarded for transformative projects, an amount not to exceed \$500,000,000 shall be made available for projects awarded a tax credit pursuant to the "Next New Jersey Program Act," P.L.2024, c.49 (C.34:1B-362 et seq.).

(2) The authority may in any given year determine that it is in the State's interest to approve an amount of tax credits in excess of the annual limitations set forth in paragraph (1) of this subsection, but in no event more than \$200,000,000 in excess of the annual limitation, upon a determination by the authority board that such increase is warranted based on specific criteria that may include:

(i) the increased demand for opportunities to create or retain employment and investment in the State as indicated by the volume of project applications and the amount of tax credits being sought by those applications;

(ii) the need to protect the State's economic position in the event of an economic downturn;

(iii) the quality of project applications and the net economic benefit to the State and municipalities associated with those applications;

(iv) opportunities for project applications to strengthen or protect the competitiveness of the State under the prevailing market conditions;

(v) enhanced access to employment and investment for underserved populations in distressed municipalities and qualified incentives tracts;

(vi) increased investment and employment in high-growth technology sectors and in projects that entail collaboration with education institutions in the State;

(vii) increased development proximate to mass transit facilities;

(viii) any other factor deemed relevant by the authority.

c. In the event that the authority in any year approves projects for tax credits in an amount less than the annual limitations set forth in paragraph (1) of subsection b. of this section, then the uncommitted portion of the annual limitation shall be available to be deployed by the authority in future years for projects under the same program; provided however, that in no event shall the aggregate amount of tax credits approved be in excess of the overall cap of \$11.5 billion, and in no event shall the uncommitted portion of the annual limitation for any previous year be deployed after the conclusion of the nine-year period.

d. Notwithstanding the provisions of any other law to the contrary, the uncommitted balance of the total value of tax credits authorized for award by the authority pursuant to subparagraph (f) of paragraph (1) of subsection b. of this section to the "New Jersey Aspire Program Act," sections 54 through 67 of P.L.2020, c.156 (C.34:1B-322 et seq.), and the "Emerge Program Act," sections 68 through 81 of P.L.2020, c.156 (C.34:1B-336 et al.), shall be made available for tax credits allowed to New Jersey studio partners, New Jersey film-lease production companies, and taxpayers, other than New Jersey studio partners and New Jersey

film-lease production companies pursuant to sections 1 and 2 of P.L.2018, c.56 (C.54:10A-5.39b and C.54A:4-12b). The value of tax credits, including tax credits allowed through the granting of tax credit transfer certificates, made available to New Jersey studio partners, New Jersey film-lease production companies, and taxpayers, other than New Jersey studio partners and New Jersey film-lease production companies pursuant to this subsection shall be as follows:

(1) in fiscal year 2023, \$250,000,000 for New Jersey studio partners and \$250,000,000 for New Jersey film-lease production companies;

(2) in fiscal year 2024, \$250,000,000 for New Jersey studio partners and \$250,000,000 for New Jersey film-lease production companies; and

(3) in fiscal year 2025, \$250,000,000 for New Jersey studio partners, \$250,000,000 for New Jersey film-lease production companies, and \$300,000,000 for taxpayers, other than New Jersey studio partners and New Jersey film-lease production companies.

If the value of tax credits, including tax credits allowed through the granting of tax credit transfer certificates, approved to New Jersey studio partners and New Jersey film-lease production companies in any fiscal year pursuant to this subsection is less than the cumulative total amount of tax credits permitted to be approved in that fiscal year, the authority shall certify the amount of the remaining tax credits available for approval to each such category in that fiscal year, and shall increase the cumulative total amount of tax credits permitted to be approved for New Jersey studio partners and New Jersey film-lease production companies in the subsequent fiscal year by the certified amount remaining for each such category from the prior fiscal year.

11. This act shall take effect immediately.

Approved July 25, 2024.

SENATE, No. 3432

STATE OF NEW JERSEY

221st LEGISLATURE

INTRODUCED JUNE 10, 2024

Sponsored by:

Senator RAJ MUKHERJI

District 32 (Hudson)

Senator TROY SINGLETON

District 7 (Burlington)

Assemblyman CHRIS TULLY

District 38 (Bergen)

Assemblyman WILLIAM B. SAMPSON, IV

District 31 (Hudson)

Assemblyman ROBERT J. KARABINCHAK

District 18 (Middlesex)

Co-Sponsored by:

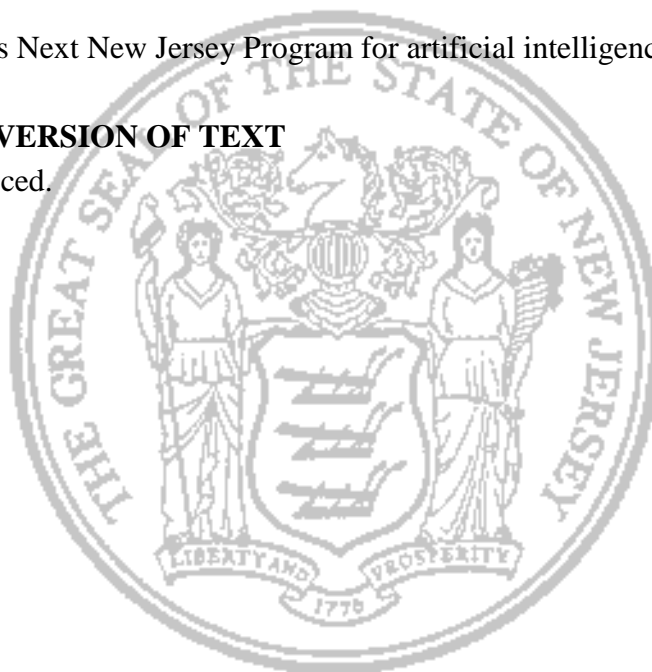
**Senator McKnight, Assemblymen Miller, Atkins, Assemblywomen
Murphy and Speight**

SYNOPSIS

Establishes Next New Jersey Program for artificial intelligence investments.

CURRENT VERSION OF TEXT

As introduced.



(Sponsorship Updated As Of: 6/28/2024)

S3432 MUKHERJI, SINGLETON

2

1 AN ACT concerning the development of artificial intelligence
2 innovations, ventures, and facilities, and amending and
3 supplementing P.L.2020, c.156.

4

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

7

8 1. (New section) P.L. , c. (C.) (pending before the
9 Legislature as this bill) shall be known and may be cited as the
10 "Next New Jersey Program Act."

11

12 2. (New section) As used in P.L. , c. (C.) (pending
13 before the Legislature as this bill):

14 "Affiliate" means an entity that directly or indirectly controls, is
15 under common control with, or is controlled by an eligible business.
16 Control exists in all cases in which the entity is a member of a
17 controlled group of corporations as defined pursuant to section 1563
18 of the federal Internal Revenue Code (26 U.S.C. s.1563) or the
19 entity is an organization in a group of organizations under common
20 control that is subject to the regulations applicable to organizations
21 pursuant to subsection (b) or (c) of section 414 of the federal
22 Internal Revenue Code (26 U.S.C. s.414). An eligible business may
23 establish by clear and convincing evidence, as determined by the
24 authority, that control exists in situations involving lesser
25 percentages of ownership than required by the above referenced
26 federal statutes if the eligible business shall have control, at a
27 minimum, of all aspects of compliance with this program. An
28 affiliate of an eligible business may contribute towards the capital
29 investment requirement and may satisfy the requirement for site
30 control during construction and the eligibility period, but in no
31 event shall the tax credit certificate be issued to any affiliate.

32 "AI data center" means a facility specifically to handle the
33 demanding computational needs of artificial intelligence
34 applications, designed for tasks like machine learning training, deep
35 learning algorithms, and complex data analysis, whose services are
36 the storage, management, and processing of digital data; that is used
37 to house: computer and network systems, including associated
38 components such as servers, network equipment and appliances,
39 telecommunications, and data storage systems; systems for
40 monitoring and managing infrastructure performance; Internet-
41 related equipment and services; data communications connections;
42 environmental controls; fire protection systems; and security
43 systems and services specifically for artificial intelligence
44 applications.

45 "Artificial intelligence" or "AI" means the development of
46 software and hardware, and the end-use application of technologies

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 that are able to perform tasks normally requiring human
2 intelligence, including, but not limited to, visual perception, speech
3 recognition, decision-making, translation between languages, and
4 generative artificial intelligence, which generates new content in
5 response to user inputs of data.

6 "Authority" means the New Jersey Economic Development
7 Authority established by section 4 of P.L.1974, c.80 (C.34:1B-4).

8 "Board" means the Board of the New Jersey Economic
9 Development Authority, established by section 4 of P.L.1974, c.80
10 (C.34:1B-4).

11 "Building services" means any cleaning or routine building
12 maintenance work, including but not limited to sweeping,
13 vacuuming, floor cleaning, cleaning of rest rooms, collecting refuse
14 or trash, window cleaning, securing, patrolling, or other work in
15 connection with the care or securing of an existing building,
16 including services typically provided by a door-attendant or
17 concierge. "Building services" shall not include any skilled
18 maintenance work, professional services, or other public work for
19 which a contractor is required to pay the "prevailing wage" as
20 defined in section 2 of P.L.1963, c.150 (C.34:11-56.26).

21 "Business" means an applicant proposing to own or lease
22 premises in a qualified business facility that is: a corporation that is
23 subject to the tax imposed pursuant to section 5 of P.L.1945, c.162
24 (C.54:10A-5), sections 2 and 3 of P.L.1945, c.132 (C.54:18A-2 and
25 C.54:18A-3), section 1 of P.L.1950, c.231 (C.17:32-15), or
26 N.J.S.17B:23-5, or is a partnership, S corporation, limited liability
27 company, or non-profit corporation. A business shall include an
28 affiliate of the business if that business applies for a credit based
29 upon any capital investment made by or full-time employees of an
30 affiliate. If the business or tenant is a cooperative or part of a
31 cooperative, then the cooperative may qualify for credits by
32 counting the full-time employees and capital investments of its
33 member organizations, and the cooperative may distribute credits to
34 its member organizations. If the business or tenant is a cooperative
35 that leases to its member organizations, the lease shall be treated as
36 a lease to an affiliate or affiliates.

37 "Capital investment" means expenses that a business or an
38 affiliate of the business incurs, or is incurred on behalf of the
39 business or affiliate by its landlord, following its submission of an
40 application to the authority pursuant to section 5 of P.L. , c.
41 (C.) (pending before the Legislature as this bill), but prior to
42 the project completion date, as shall be defined in the project
43 agreement, for: a. site preparation and construction, repair,
44 renovation, improvement, equipping, or furnishing on real property
45 or of a building, structure, facility, or improvement to real property;
46 b. obtaining and installing furnishings and machinery, apparatus, or
47 equipment, including but not limited to computer systems,
48 hardware, software, and equipment and material goods subject to

1 bonus depreciation under sections 168 and 179 of the federal
2 Internal Revenue Code (26 U.S.C. ss.168 and 179), for the
3 operation of a business on real property or in a building, structure,
4 facility, or improvement to real property; or any combination of the
5 foregoing.

6 "Commitment period" means a period that is no less than two
7 times the eligibility period specified in the project agreement
8 entered into pursuant to section 6 of P.L. , c. (C.) (pending
9 before the Legislature as this bill).

10 "Eligibility period" means the period in which an eligible
11 business may claim a tax credit under the program, beginning with
12 the tax period in which the authority accepts certification of the
13 eligible business that it has met the capital investment and
14 employment requirements of the program and extending thereafter
15 for a term of five years.

16 "Eligible business" means any business that satisfies the criteria
17 set forth in section 4 of P.L. , c. (C.) (pending before the
18 Legislature as this bill) at the time of application for tax credits
19 under the program.

20 "Eligible position" or "full-time job" means a full-time position
21 in a business in this State which a business has filled with a full-
22 time employee who is paid no less than 120 percent of the median
23 salary for the county in which the project is located and for which
24 the business provides employee health benefits under a group health
25 plan as defined under section 14 of P.L.1997, c.146 (C.17B:27-54),
26 a health benefits plan as defined under section 1 of P.L.1992, c.162
27 (C.17B:27A-17), or a policy or contract of health insurance
28 covering more than one person issued pursuant to Article 2 of
29 Chapter 27 of Title 17B of the New Jersey Statutes; provided,
30 however, the requirement that employee health benefits are to be
31 provided shall be deemed to be satisfied if the benefits are provided
32 by the business or pursuant to a collective bargaining agreement, no
33 later than 90 days of employee start date, under a health benefits
34 plan authorized pursuant to State or federal law. An eligible
35 position shall not include an independent contractor or a consultant.

36 "Full-time employee" means a person:

37 a. who is employed by a business for consideration for at least
38 35 hours a week, or who renders any other standard of service
39 generally accepted by custom or practice as full-time employment,
40 and whose wages are subject to withholding as provided in the
41 "New Jersey Gross Income Tax Act," N.J.S.54A:1-1 et seq.; or

42 b. who is employed by a professional employer organization
43 pursuant to an employee leasing agreement between the business
44 and the professional employer organization, pursuant to P.L.2001,
45 c.260 (C.34:8-67 et seq.) for at least 35 hours a week, or who
46 renders any other standard of service generally accepted by custom
47 or practice as full-time employment, and whose wages are subject

1 to withholding as provided in the "New Jersey Gross Income Tax
2 Act," N.J.S.54A:1-1 et seq.; or

3 c. who is a resident of another State, but whose income is not
4 subject to the "New Jersey Gross Income Tax Act," N.J.S.54A:1-1
5 et seq., due to a reciprocity agreement with the other state, or who
6 is a partner of a business who works for the partnership for at least
7 35 hours a week, or who renders any other standard of service
8 generally accepted by custom or practice as full-time employment,
9 and whose distributive share of income, gain, loss, or deduction, or
10 whose guaranteed payments, or any combination thereof, is subject
11 to the payment of estimated taxes, as provided in the "New Jersey
12 Gross Income Tax Act," N.J.S.54A:1-1 et seq., due to a reciprocity
13 agreement with the other state.

14 A "full-time employee" shall include, but shall not be limited to,
15 an employee that has been hired by way of a labor union hiring hall
16 or its equivalent. 35 hours of employment per week in the State
17 shall constitute one "full-time employee," regardless of whether or
18 not the hours of work were performed by one or more persons.

19 "Full-time employee" shall not include any person who works as
20 an independent contractor or on a consulting basis for the business
21 or a contract worker.

22 "Minimum environmental and sustainability standards" means
23 standards established by the authority in accordance with the green
24 building manual prepared by the Commissioner of Community
25 Affairs pursuant to section 1 of P.L.2007, c.132 (C.52:27D-130.6),
26 regarding the use of renewable energy, energy-efficient technology,
27 and non-renewable resources to reduce environmental degradation
28 and encourage long-term cost reduction.

29 "New full-time job" means an eligible position created by a
30 business, following approval of such business's application by the
31 board, that did not previously exist in this State. For the purposes
32 of determining the number of new full-time jobs, the eligible
33 positions of an affiliate shall be considered eligible positions of the
34 business.

35 "Partnership" means an entity classified as a partnership for
36 federal income tax purposes.

37 "Professional employer organization" means an employee leasing
38 company registered with the Department of Labor and Workforce
39 Development pursuant to P.L.2001, c.260 (C.34:8-67 et seq.).

40 "Program" means the Next New Jersey Program established by
41 section 3 of P.L. , c. (C.) (pending before the Legislature as
42 this bill).

43 "Project" means the capital investment at a qualified business
44 facility and the employment commitment pursuant to the project
45 agreement.

46 "Project agreement" means the contract executed between an
47 eligible business and the authority pursuant to section 6 of P.L. ,

1 c. (C.) (pending before the Legislature as this bill), which
2 sets forth the terms and conditions under which the eligible business
3 may receive the tax credits authorized pursuant to the program.

4 "Qualified business facility" means any building, complex of
5 buildings, or structural components of buildings, and all machinery
6 and equipment located therein, used in connection with the
7 operation of an eligible business.

8 "Technology startup company" means a for-profit business
9 located in the State that has been in operation fewer than seven
10 years and is developing or possesses a proprietary technology or
11 business method of a high technology or life science-related
12 product, process, or service, which proprietary technology or
13 business method the business intends to move to commercialization.
14 The business shall be deemed to have begun operation on the date
15 that the business first hired at least one employee in a full-time
16 position.

17

18 3. (New section) a. The Next New Jersey Program is hereby
19 established as a program under the jurisdiction of the New Jersey
20 Economic Development Authority. The authority shall administer
21 the program to attract new investment to New Jersey in key
22 industries, create new jobs and economic opportunities, and
23 position New Jersey as a leader in the innovation economy. The
24 board may approve the award of tax credits to an eligible business
25 upon application of the chief executive officer, or equivalent
26 officer, of the eligible business and following the payment of fees,
27 subject to the limitations set forth in subsection b. of this section.

28 b. The value of all tax credits approved by the authority for
29 businesses eligible pursuant to section 4 of P.L. , c. (C.)
30 (pending before the Legislature as this bill) shall be subject to the
31 limitations set forth in section 98 of P.L.2020, c.156 (C.34:1B-362).

32

33 4. (New section) a. Beginning on the effective date of P.L. ,
34 c. (C.) (pending before the Legislature as this bill), but prior
35 to March 1, 2029, to be eligible for tax credits under the program, a
36 business's chief executive officer, or equivalent officer, shall
37 demonstrate to the authority at the time of application that:

38 (1) the business will make, acquire, or lease a capital investment
39 at the qualified business facility equal to or greater than the
40 applicable amount set forth in subsection b. of this section;

41 (2) the business will create new full-time jobs in the State in an
42 amount equal to or greater than the applicable number set forth in
43 subsection c. of this section;

44 (3) the business or its division is primarily engaged in the
45 artificial intelligence industry or the large-scale artificial
46 intelligence data center industry. A business or its division shall be
47 considered to be primarily engaged in an industry set forth herein if
48 more than 50 percent of the business's employees are engaged in

1 AI-related activities or more than 50 percent of the business's
2 revenue is generated from AI-related activities, or both; provided,
3 however, the use of AI applications in the furtherance of a
4 business's own operations shall not be considered in determining
5 whether a business or division is primarily engaged in artificial
6 intelligence or large-scale artificial intelligence data centers. AI-
7 related activities include, but are not limited to: developing new AI
8 algorithms and techniques, such as machine learning, natural
9 language processing, and computer vision; creating AI-powered
10 software and hardware products for various applications; medical
11 AI modelling or programing; development of AI chatbots for
12 customer service; AI development for vehicles, and collecting,
13 storing, and managing the vast amount of data needed to train and
14 use AI models;

15 (4) the business will enter into a collaborative relationship,
16 evidenced by the provision of price concessions, artificial
17 intelligence support services, or other measures determined
18 appropriate by the authority, with New Jersey-based public or
19 private research universities or technology startup companies, or
20 both;

21 (5) the qualified business facility shall be in compliance with
22 minimum environmental and sustainability standards;

23 (6) for construction contracts valued in excess of \$2,000, the
24 project shall comply with the authority's affirmative action
25 requirements, adopted pursuant to section 4 of P.L.1979, c.303
26 (C.34:1B-5.4); and

27 (7) each worker employed to perform construction work in
28 connection with a capital improvement or building services work at
29 the qualified business facility shall be paid not less than the
30 prevailing wage rate for the worker's craft or trade, as determined
31 by the Commissioner of Labor and Workforce Development
32 pursuant to P.L.1963, c.150 (C.34:11-56.25 et seq.) and P.L.2005,
33 c.379 (C.34:11-56.58 et seq.).

34 b. The minimum capital investment at the qualified business
35 facility required to be eligible under the program shall be
36 \$100,000,000.

37 c. The minimum number of new full-time jobs in the State
38 required to be eligible under the program shall be 100 new full-time
39 jobs.

40 d. The chief executive officer of the business, or an equivalent
41 officer, shall certify that all factual representations made by the
42 business to the authority pursuant to subsection a. of this section are
43 true under the penalty of perjury.

44 e. A business shall not be awarded a tax credit pursuant to the
45 program if the business receives a tax credit pursuant to the
46 "Emerge Program Act," sections 68 through 81 of P.L.2020, c.156
47 (C.34:1B-336 et al.), or section 6 of P.L.2010, c.57 (C.34:1B-

1 209.4), relating to the same capital investment and employees that
2 qualify the business for a tax credit under the program.

3 f. A business eligible pursuant to this section may submit an
4 application to the authority in accordance with the provisions of
5 section 5 of P.L. , c. (C.) (pending before the Legislature
6 as this bill) on or after the effective date of P.L. , c. (C.)
7 (pending before the Legislature as this bill) but prior to March 1,
8 2029.

9
10 5. (New section) a. A business that meets the eligibility
11 criteria in section 4 of P.L. , c. (C.) (pending before the
12 Legislature as this bill) and is seeking tax credits for a project under
13 the program shall submit an application for approval of the project
14 to the authority in a form and manner prescribed by the authority.

15 b. (1) Before the board may consider an eligible business's
16 application for tax credits, the authority shall confirm with the
17 Department of Labor and Workforce Development, the Department
18 of Environmental Protection, and the Department of the Treasury
19 whether the eligible business is in substantial good standing with
20 the respective department, or, if necessary, has entered into an
21 agreement with the respective department that includes a practical
22 corrective action plan for the eligible business. The business entity
23 shall certify that contractors or subcontractors that will perform
24 work at the qualified business facility: are registered as required by
25 "The Public Works Contractor Registration Act," P.L.1999, c.238
26 (C.34:11-56.48 et seq.); have not been debarred by the Department
27 of Labor and Workforce Development from engaging in or bidding
28 on Public Works Contracts in the State; and possess a tax clearance
29 certificate issued by the Division of Taxation in the Department of
30 the Treasury. The authority may also contract with an independent
31 third party to perform a background check on the eligible business.

32 c. An eligible business shall pay to the authority the full
33 amount of the direct costs of an analysis concerning the eligible
34 business's application for a tax credit, which a third party retained
35 by the authority performs, if the authority deems such retention to
36 be necessary. The authority shall have the discretion to waive all or
37 a portion of the costs of application for a small business.

38 d. If at any time during the eligibility period the authority
39 determines that the eligible business made a material
40 misrepresentation on the eligible business's application, the eligible
41 business shall forfeit all tax credits awarded under the program,
42 which shall be in addition to any other criminal or civil penalties to
43 which the business and the officer may be subject.

44 e. If circumstances require an eligible business to amend its
45 application to the authority, then the chief executive officer of the
46 eligible business, or an equivalent officer, shall certify to the
47 authority that the information provided in its amended application is
48 true under the penalty of perjury.

1 f. Nothing shall preclude a business from applying for tax
2 credits under the program for more than one project pursuant to one
3 or more applications.

4
5 6. (New section) a. Following board approval, within a time
6 established by the authority and prior to the authority and an
7 eligible business executing a project agreement, the eligible
8 business shall demonstrate that it has obtained site plan approval
9 and has committed financing for, and established site control of, the
10 qualified business facility. The chief executive officer of the
11 business, or an equivalent officer, shall certify that all factual
12 representations made by the business to the authority pursuant to
13 this subsection are true under the penalty of perjury.

14 b. Following approval by the board and compliance with the
15 provisions of subsection a. of this section, but before the issuance of
16 tax credits, the authority shall require an eligible business to enter
17 into a project agreement. The terms of the project agreement shall
18 be consistent with the eligibility requirements of section 4 of P.L.
19 , c. (C.) (pending before the Legislature as this bill), and shall
20 include, but not be limited to, the following:

21 (1) a detailed description of the proposed project that will result
22 in job creation, and the number of new full-time jobs that are
23 approved for tax credits;

24 (2) any personnel information that will enable the authority to
25 administer the program;

26 (3) a requirement that the eligible business maintain the project
27 at a location in New Jersey for the commitment period and a
28 provision to permit the authority to recapture all or part of any tax
29 credits awarded, at its discretion, if the eligible business does not
30 maintain the project at a location in New Jersey for the commitment
31 period;

32 (4) a requirement that the eligible business maintain the number
33 of new full-time jobs, or the salaries thereof, to which the eligible
34 business certified at the commencement of the eligibility period and
35 a provision to permit the authority to proportionally reduce the tax
36 credit award in any tax period in which the number of new full-
37 time jobs, or the salaries thereof, is reduced below the new full-time
38 jobs to which the eligible business certified at the commencement
39 of the eligibility period;

40 (5) a method for the eligible business to certify that it has met
41 the capital investment and employment requirements of the program
42 set forth in subsections b. and c. of section 4 of P.L. , c.
43 (C.) (pending before the Legislature as this bill) and to report
44 annually to the authority the number of new full-time jobs, and the
45 salaries thereof, for which the tax credits are to be allowed;

46 (6) representations that the eligible business is in substantial
47 good standing with the Department of Environmental Protection,
48 the Department of Labor and Workforce Development, and the

1 Department of the Treasury or has entered into an agreement with
2 the departments that includes a practical corrective action plan, and
3 the project complies with all applicable laws, and specifically, that
4 the project does not violate any environmental law;

5 (7) a provision permitting an audit of the payroll records of the
6 business from time to time, as the authority deems necessary;

7 (8) a provision that the chief executive officer of the authority
8 receives annual reports from the eligible business and that allows
9 the authority to confirm that the eligible business is in substantial
10 good standing with the Department of Environmental Protection,
11 the Department of Labor and Workforce Development, and the
12 Department of the Treasury, or has entered into an agreement with
13 the respective department that includes a practical corrective action
14 plan. As part of the annual reports required by this paragraph, the
15 eligible business shall confirm that each contractor or subcontractor
16 performing work at the qualified business facility: is registered as
17 required by "The Public Works Contractor Registration Act,"
18 P.L.1999, c.238 (C.34:11-56.48 et seq.); has not been debarred by
19 the Department of Labor and Workforce Development from
20 engaging in or bidding on Public Works Contracts in the State; and
21 possesses a tax clearance certificate issued by the Division of
22 Taxation in the Department of the Treasury. If the eligible business
23 does not submit the report required under this paragraph, if the
24 Department of Environmental Protection, the Department of Labor
25 and Workforce Development, and the Department of the Treasury
26 advises that the eligible business is neither in substantial good
27 standing nor has entered into a practical corrective action plan, or if
28 the eligible business fails to confirm that each contractor or
29 subcontractor is in compliance with this paragraph, then the eligible
30 business may forfeit the issuance of tax credits, pending resolution
31 of the underlying violations or other issues;

32 (9) a requirement for the eligible business to engage in on-site
33 consultations with the Division of Workplace Safety and Health in
34 the Department of Health;

35 (10) a provision permitting the authority to amend the
36 agreement; and

37 (11) a provision establishing the conditions under which the
38 authority, the eligible business, or both, may terminate the
39 agreement.

40 c. (1) The authority may recapture all or part of a tax credit
41 awarded if an eligible business does not remain in compliance with
42 the requirements of a project agreement for the duration of the
43 commitment period. A recapture pursuant to this subsection may
44 include interest on the recapture amount, at a rate equal to the
45 statutory rate for corporate business or insurance premiums tax
46 deficiencies, plus any statutory penalties, and all costs incurred by
47 the authority and the Division of Taxation in the Department of the
48 Treasury in connection with the pursuit of the recapture, including,

1 but not limited to, counsel fees, court costs, and other costs of
2 collection. Failure of the eligible business to meet any program
3 criteria shall constitute a default and shall result in the recapture of
4 all or part of the tax credit awarded.

5 (2) If all or part of a tax credit sold or assigned pursuant to
6 section 8 of P.L. , c. (C.) (pending before the Legislature
7 as this bill) is subject to recapture, then the authority shall pursue
8 recapture from the eligible business and not from the purchaser or
9 assignee of the tax credit transfer certificate. The purchaser or
10 assignee of a tax credit transfer certificate shall be subject to any
11 limitations and conditions that apply to the use of the tax credits by
12 the eligible business.

13 (3) Any funds recaptured pursuant to this subsection, including
14 penalties and interest, shall be deposited into the General Fund.

15 d. A business may include an affiliate for any period, provided
16 that the business provides a valid tax clearance certificate for the
17 affiliate and a verification of the nature of the affiliate relationship
18 during the relevant period, and provided further that the affiliate
19 provides acceptable responses to the authority's legal disclosures
20 inquiries, as determined by the authority. A formal modification of
21 the authority's approval of the project agreement shall not be
22 necessary to add or remove an affiliate after approval or execution
23 of the project agreement.

24 e. A business may change its name filed with the authority by
25 providing a copy of the filed amendment to the certificate of
26 incorporation or formation, as the case may be, of the business and
27 a valid tax clearance certificate with the business's new name. A
28 formal modification of the authority's approval shall not be
29 necessary to change a business's name after approval or execution
30 of the project agreement.

31

32 7. (New section) a. Upon completion of the capital investment
33 and employment requirements of the program, an eligible business
34 shall submit to the authority certifications evidencing that the
35 eligible business has satisfied the conditions relating to the capital
36 investment and employment requirements of the project agreement
37 with supporting evidence satisfactory to the authority. The chief
38 executive officer of the business, or an equivalent officer, shall
39 certify that all factual representations made by the business to the
40 authority pursuant to this subsection are true under the penalty of
41 perjury.

42 b. (1) In accordance with the project agreement, beginning
43 upon the receipt of occupancy permits for any portion of the
44 project, or upon any other event evidencing project completion as
45 set forth in the project agreement, an eligible business shall be
46 allowed a tax credit in an amount determined pursuant to paragraph
47 (2) of this subsection. No more than the amount of tax credits equal
48 to the total credit amount awarded under the program divided by the

1 duration of the eligibility period in years may be taken in any tax
2 period.

3 (2) The amount of the tax credit allowed under the program to
4 an eligible business shall be the lesser of:

5 (a) the product of 0.1 percent of the eligible business's total
6 capital investment multiplied by the number of new full-time jobs;

7 (b) 25 percent of the eligible business's total capital investment;
8 or

9 (c) \$250,000,000.

10 c. (1) An eligible business which is awarded tax credits under
11 the program shall submit annually, no later than the date indicated
12 in the project agreement, commencing in the year in which the grant
13 of tax credits is issued and for the remainder of the commitment
14 period, a report that indicates that the eligible business continues to
15 maintain the number of new full-time jobs, and the salaries thereof,
16 specified in the project agreement. As part of the annual report
17 required pursuant to this subsection, an eligible business shall
18 provide to the authority a copy of its applicable New Jersey tax
19 return showing business income and withholdings as a condition of
20 its continuation in the program, and the quarterly wage report
21 required under R.S.43:21-14 submitted to the Department of Labor
22 and Workforce Development, together with an annual payroll report
23 showing: the new full-time jobs which were created in accordance
24 with the project agreement and the new full-time jobs created
25 during each subsequent year of the commitment period. The failure
26 of an eligible business to submit to the authority a copy of its
27 annual payroll report or submit the quarterly wage report in
28 accordance with the provisions of this subsection during the
29 eligibility period shall result in the forfeiture of the award for that
30 year. An eligible business shall explain, in the reports required by
31 this subsection, the reason for any discrepancies between the annual
32 payroll report submitted by the eligible business and the quarterly
33 wage report. The chief executive officer of the eligible business, or
34 an equivalent officer, shall certify that the information provided
35 pursuant to this paragraph is true under the penalty of perjury.
36 Claims, records, or statements submitted by an eligible business to
37 the authority in order to receive tax credits shall not be considered
38 claims, records, or statements made in connection with State tax
39 laws.

40 (2) Upon receipt and review of each report submitted during the
41 eligibility period, the authority shall provide to the eligible business
42 and the director a certificate of compliance indicating the amount of
43 tax credits that the eligible business may apply against its tax
44 liability. The authority shall pro rate the tax credit for the first and
45 last years of the eligibility period based on the number of full
46 months the project was certified in the year the eligible business
47 first certifies.

1 d. (1) Upon receipt by the director of the certificate of
2 compliance, the director shall allow the eligible business a tax
3 credit. The eligible business may apply the credit allowed by the
4 director against the eligible business's tax liability for the tax period
5 in which the director allowed the tax credit, or may carry forward
6 the credit for use by the eligible business in any of the next 10
7 successive tax periods, which credit shall expire thereafter.

8 (2) The amount of credit allowed may be applied against the tax
9 liability otherwise due pursuant to section 5 of P.L.1945, c.162
10 (C.54:10A-5), sections 2 and 3 of P.L.1945, c.132 (C.54:18A-2 and
11 C.54:18A-3), section 1 of P.L.1950, c.231 (C.17:32-15), or
12 N.J.S.17B:23-5.

13 (3) The director shall prescribe the order of priority of the
14 application of the credit allowed under this section and any other
15 credits allowed by law against the tax imposed under section 5 of
16 P.L.1945, c.162 (C.54:10A-5). The amount of a credit applied
17 under this section against the tax imposed pursuant to section 5 of
18 P.L.1945, c.162 (C.54:10A-5) for a privilege period, together with
19 any other credits allowed by law, shall not reduce the tax liability to
20 an amount less than the statutory minimum provided in subsection
21 (e) of section 5 of P.L.1945, c.162 (C.54:10A-5).

22 e. An eligible business shall forfeit the credit amount for any
23 tax period for which the eligible business's documentation remains
24 uncertified as of the date for certification indicated in the project
25 agreement, although credit amounts for the remainder of the years
26 of the eligibility period shall remain available to the eligible
27 business.

28 f. If, in any tax period, the number of new employees in
29 eligible positions, or the salaries thereof, drops below 80 percent of
30 the number of new employees in eligible positions specified in the
31 project agreement or required as a condition of program eligibility
32 pursuant to section 4 of P.L. , c. (C.) (pending before the
33 Legislature as this bill), whichever is greater, then the eligible
34 business shall forfeit its tax credit amount for that tax period and
35 each subsequent tax period, until the first tax period for which
36 documentation demonstrating the restoration of the number of new
37 employees in eligible positions, or the salaries thereof, to 80 percent
38 of the number specified in the project agreement or required as a
39 condition of program eligibility pursuant to section 4 of P.L. , c.
40 (C.) (pending before the Legislature as this bill), whichever is
41 greater, is reviewed and approved by the authority.

42
43 8. (New section) a. An eligible business may apply to the
44 director and the chief executive officer of the authority for a tax
45 credit transfer certificate, within three years of the tax period in
46 which the director allows the eligible business a tax credit, in lieu of
47 any amount of the tax credit against the eligible business's State tax
48 liability. The tax credit transfer certificate, upon receipt thereof by

1 the eligible business from the director and the chief executive
2 officer of the authority, may be sold or assigned, in an amount not
3 less than \$25,000, within three years of the tax period in which the
4 eligible business receives the tax credit transfer certificate from the
5 director, to another person that may have a tax liability pursuant to
6 section 5 of P.L.1945, c.162 (C.54:10A-5), sections 2 and 3 of
7 P.L.1945, c.132 (C.54:18A-2 and 54:18A-3), section 1 of P.L.1950,
8 c.231 (C.17:32-15), or N.J.S.17B:23-5. A purchaser or assignee of
9 a tax credit transfer certificate pursuant to this section shall apply
10 the transferred credit against the same tax for which the eligible
11 business was approved a tax credit under the program. The tax
12 credit transfer certificate provided to the eligible business shall
13 include a statement waiving the eligible business's right to claim
14 the credit that the eligible business has elected to sell or assign.

15 b. The eligible business shall not sell or assign a tax credit
16 transfer certificate allowed under this section for consideration
17 received by the eligible business of less than 85 percent of the
18 transferred credit amount before considering any further
19 discounting to present value which shall be permitted. The tax
20 credit transfer certificate issued to the eligible business by the
21 director shall be subject to any limitations and conditions imposed
22 on the application of State tax credits pursuant to P.L. , c.
23 (C.) (pending before the Legislature as this bill) and any other
24 terms and conditions that the director may prescribe.

25 c. A purchaser or assignee of a tax credit transfer certificate
26 pursuant to this section shall not make any subsequent transfers,
27 assignments, or sales of the tax credit transfer certificate.

28 d. The authority shall publish on its Internet website the
29 following information concerning each tax credit transfer certificate
30 approved by the authority and the director pursuant to this section:

- 31 (1) the name of the transferrer;
- 32 (2) the name of the transferee;
- 33 (3) the value of the tax credit transfer certificate;
- 34 (4) the State tax against which the transferee may apply the tax
35 credit; and
- 36 (5) the consideration received by the transferrer.

37
38 9. (New section) Notwithstanding the provisions of the
39 "Administrative Procedure Act," P.L.1968, c.410 (C.52:14B-1 et
40 seq.) to the contrary, the chief executive officer of the authority
41 shall adopt, immediately, upon filing with the Office of
42 Administrative Law, such rules and regulations as the chief
43 executive officer deems necessary to implement the provisions of
44 sections P.L. , c. (C.) (pending before the Legislature as this
45 bill), which rules and regulations shall be effective for a period not
46 to exceed 365 days after the date of the filing. Before the
47 expiration of the rules and regulations, the chief executive officer
48 shall amend, adopt, or readopt the rules and regulations in

1 accordance with the requirements of the "Administrative Procedure
2 Act," P.L.1968, c.410 (C.52:14B-1 et seq.).

3

4 10. Section 98 of P.L.2020, c.156 (C.34:1B-362) is amended to
5 read as follows:

6 98. a. The combined value of all tax credits awarded under the
7 "Historic Property Reinvestment Act," sections 2 through 8 of
8 P.L.2020, c.156 (C.34:1B-270 through 34:1B-276); the
9 "Brownfields Redevelopment Incentive Program Act," sections 9
10 through 19 of P.L.2020, c.156 (C.34:1B-277 through 34:1B-287);
11 the "New Jersey Innovation Evergreen Act," sections 20 through 34
12 of P.L.2020, c.156 (C.34:1B-288 through 34:1B-302); the "Food
13 Desert Relief Act," sections 35 through 42 of P.L.2020, c.156
14 (C.34:1B-303 through 34:1B-310); the "New Jersey Community-
15 Anchored Development Act," sections 43 through 53 of P.L.2020,
16 c.156 (C.34:1B-311 through 34:1B-321); the "New Jersey Aspire
17 Program Act," sections 54 through 67 of P.L.2020, c.156 (C.34:1B-
18 322 through 34:1B-335); the "Emerge Program Act," sections 68
19 through 81 of P.L.2020, c.156 (C.34:1B-336 et al.); section 6 of
20 P.L.2010, c.57 (C.34:1B-209.4) **], and]** ; the "Cultural Arts
21 Incentives Program Act," P.L.2023, c.197 (C.34:1B-383 et al.); and
22 the "Next New Jersey Program Act," P.L. , c. (C.) (pending
23 before the Legislature as this bill) shall not exceed an overall cap of
24 \$11.5 billion over a nine-year period, subject to the conditions and
25 limitations set forth in this section. Of this \$11.5 billion, \$2.5
26 billion shall be reserved for transformative projects approved under
27 the Aspire Program.

28 b. (1) The total value of tax credits awarded under any
29 constituent program of the "New Jersey Economic Recovery Act of
30 2020," P.L.2020, c.156 (C.34:1B-269 et al.) **], and],** the "Cultural
31 Arts Incentives Program Act," P.L.2023, c.197 (C.34:1B-383 et al.),
32 and the "Next New Jersey Program Act," P.L. , c. (C.)
33 (pending before the Legislature as this bill), shall be subject to the
34 following limitations, except as otherwise provided in subsection c.
35 of this section:

36 (a) for tax credits awarded under the "Historic Property
37 Reinvestment Act," sections 2 through 8 of P.L.2020, c.156
38 (C.34:1B-270 through 34:1B-276), the total value of tax credits
39 annually awarded during each of the first six years of the nine-year
40 period shall not exceed \$50 million;

41 (b) for tax credits awarded under the "Brownfields
42 Redevelopment Incentive Program Act," sections 9 through 19 of
43 P.L.2020, c.156 (C.34:1B-277 through 34:1B-287), the total value
44 of tax credits annually awarded during each of the first six years of
45 the nine-year period shall not exceed \$50 million;

46 (c) for tax credits awarded under the "New Jersey Innovation
47 Evergreen Act," sections 20 through 34 of P.L.2020, c.156
48 (C.34:1B-288 through 34:1B-302), the total value of tax credits

1 annually awarded during each of the first six years of the nine-year
2 period shall not exceed \$60 million and the total value of tax credits
3 awarded over the entirety of the nine-year period shall not exceed
4 \$300,000,000;

5 (d) for tax credits awarded under the "Food Desert Relief Act,"
6 sections 35 through 42 of P.L.2020, c.156 (C.34:1B-303 through
7 34:1B-310), the total value of tax credits annually awarded during
8 each of the first six years of the nine-year period shall not exceed
9 \$40 million;

10 (e) for tax credits awarded under the "New Jersey Community-
11 Anchored Development Act," sections 43 through 53 of P.L.2020,
12 c.156 (C.34:1B-311 through 34:1B-321), and the "Cultural Arts
13 Incentives Program Act," P.L.2023, c.197 (C.34:1B-383 et al.), the
14 total value of tax credits awarded during the nine-year period shall
15 not exceed \$1,200,000,000; provided, however, tax credits shall not
16 be available under the "New Jersey Community-Anchored
17 Development Act," sections 43 through 53 of P.L.2020, c.156
18 (C.34:1B-311 through 34:1B-321), until January 1, 2026.
19 Beginning January 1, 2026, the authority shall annually award tax
20 credits under the "New Jersey Community-Anchored Development
21 Act," sections 43 through 53 of P.L.2020, c.156 (C.34:1B-311
22 through 34:1B-321), valuing no greater than \$130 million for
23 projects located in the 13 northern counties of the State, and the
24 authority shall annually award tax credits valuing no greater than
25 \$70 million for projects located in the eight southern counties of the
26 State. If during any year of operation of the "New Jersey
27 Community-Anchored Development Act," sections 43 through 53 of
28 P.L.2020, c.156 (C.34:1B-311 through 34:1B-321), the authority
29 awards tax credits pursuant to the program in an amount less than
30 the annual limitation for projects located in northern counties or
31 southern counties, as applicable, the uncommitted portion of the
32 annual limitation shall be available to be deployed by the authority
33 in a subsequent year without consideration to the county in which a
34 project is located;

35 (f) for tax credits awarded under the "New Jersey Aspire
36 Program Act," sections 54 through 67 of P.L.2020, c.156 (C.34:1B-
37 322 through 34:1B-335), and the "Emerge Program Act," sections
38 68 through 81 of P.L.2020, c.156 (C.34:1B-336 et al.), not
39 including tax credits awarded for transformative projects, the total
40 value of tax credits annually awarded during each of the first six
41 years of the nine-year period shall not exceed \$1.1 billion. If the
42 authority awards tax credits in an amount less than the annual
43 limitation, then the uncommitted portion of the annual limitation
44 shall be made available for qualified offshore wind projects
45 awarded under section 6 of P.L.2010, c.57 (C.34:1B-209.4),
46 pursuant to subparagraph (h) of this paragraph, projects awarded a
47 tax credit pursuant to the "Next New Jersey Program Act," P.L. ,
48 c. (C.) (pending before the Legislature as this bill), pursuant

1 to subparagraph (k) of this paragraph, or New Jersey studio partners
2 and New Jersey film-lease production companies awarded under
3 sections 1 and 2 of P.L.2018, c.56 (C.54:10A-5.39b and C.54A:4-
4 12b), pursuant to subparagraph (i) of this paragraph and subsection
5 d. of this section. During each of the first six years of the nine-year
6 period, the authority shall annually award tax credits valuing no
7 greater than \$715 million for projects located in the northern
8 counties of the State, and the authority shall annually award tax
9 credits valuing no greater than \$385 million for projects located in
10 the southern counties of the State under the "New Jersey Aspire
11 Program Act," sections 54 through 67 of P.L.2020, c.156 (C.34:1B-
12 322 through 34:1B-335), and the "Emerge Program Act," sections
13 68 through 81 of P.L.2020, c.156 (C.34:1B-336 et al.). If during
14 any of the first six years of the nine-year period, the authority
15 awards tax credits under the "New Jersey Aspire Program Act,"
16 sections 54 through 67 of P.L.2020, c.156 (C.34:1B-322 through
17 34:1B-335), and the "Emerge Program Act," sections 68 through 81
18 of P.L.2020, c.156 (C.34:1B-336 et al.), in an amount less than the
19 annual limitation for projects located in northern counties or
20 southern counties, as applicable, the uncommitted portion of the
21 annual limitation shall be available to be deployed by the authority
22 in a subsequent year, provided that the uncommitted portion of tax
23 credits shall be awarded for projects located in the applicable
24 geographic area, except that (i) after the completion of the third
25 year of the nine-year period, the authority may deploy 50 percent of
26 the uncommitted portion of tax credits for any previous year
27 without consideration to the county in which a project is located;
28 and (ii) after the completion of the sixth year of the nine-year
29 period, the authority may deploy all available tax credits, including
30 the uncommitted portion of the annual limitation for any previous
31 year, without consideration to the county in which a project is
32 located;

33 (g) except as provided in subparagraph (j) of this paragraph, for
34 tax credits awarded for transformative projects under the "New
35 Jersey Aspire Program Act," sections 54 through 67 of P.L.2020,
36 c.156 (C.34:1B-322 through 34:1B-335), the total value of tax
37 credits awarded during the nine-year period shall not exceed \$2.5
38 billion. The total value of tax credits awarded for transformative
39 projects in a given year shall not be subject to an annual limitation,
40 except that the total value of tax credits awarded to any
41 transformative project shall not exceed \$400 million;

42 (h) from the tax credits made available, pursuant to
43 subparagraph (f) of this paragraph, to the "New Jersey Aspire
44 Program Act," sections 54 through 67 of P.L.2020, c.156 (C.34:1B-
45 322 through 34:1B-335), and the "Emerge Program Act," sections
46 68 through 81 of P.L.2020, c.156 (C.34:1B-336 et al.), not
47 including tax credits awarded for transformative projects, an
48 amount not to exceed \$350,000,000 shall be made available for

1 qualified offshore wind projects awarded a credit pursuant to
2 section 6 of P.L.2010, c.57 (C.34:1B-209.4) during the first three
3 years of the nine-year period;

4 (i) beginning in fiscal year 2023, from the tax credits made
5 available, pursuant to subparagraph (f) of this paragraph, to the
6 "New Jersey Aspire Program Act," sections 54 through 67 of
7 P.L.2020, c.156 (C.34:1B-322 through 34:1B-335), and the
8 "Emerge Program Act," sections 68 through 81 of P.L.2020, c.156
9 (C.34:1B-336 et al.), not including tax credits awarded for
10 transformative projects, additional amounts shall be made available
11 for New Jersey studio partners and New Jersey film-lease
12 production companies pursuant to sections 1 and 2 of P.L.2018,
13 c.56 (C.54:10A-5.39b and C.54A:4-12b); **[and]**

14 (j) beginning in fiscal year 2024, from the tax credits made
15 available, pursuant to subparagraph (f) of this paragraph, to the
16 "New Jersey Aspire Program Act," sections 54 through 67 of
17 P.L.2020, c.156 (C.34:1B-322 through 34:1B-335) and the "Emerge
18 Program Act," sections 68 through 81 of P.L.2020, c.156 (C.34:1B-
19 336 et al.), not including tax credits awarded for transformative
20 projects, an amount not to exceed \$500,000,000 may be annually
21 transferred for the award to transformative projects under the "New
22 Jersey Aspire Program Act," sections 54 through 67 of P.L.2020,
23 c.156 (C.34:1B-322 through 34:1B-335), provided that: (i) the
24 remaining allocation of tax credits otherwise available for
25 transformative projects, pursuant to subparagraph (g) of this
26 paragraph, is less than \$1,000,000,000; and (ii) the authority board
27 determines that the transfer of tax credits is warranted based on
28 such criteria as the authority deems appropriate, which may include
29 the criteria set forth in paragraph (2) of this subsection. If a transfer
30 of tax credits is made pursuant to this subparagraph, the authority
31 shall award no greater than 65 percent of the tax credits transferred
32 pursuant to this subparagraph to transformative projects located in
33 the northern counties of the State and no greater than 35 percent of
34 the tax credits transferred pursuant to this subparagraph to
35 transformative projects located in the southern counties of the State;
36 and

37 (k) beginning in fiscal year 2025, from the tax credits made
38 available, pursuant to subparagraph (f) of this paragraph, to the
39 "New Jersey Aspire Program Act," sections 54 through 67 of
40 P.L.2020, c.156 (C.34:1B-322 through 34:1B-335) and the "Emerge
41 Program Act," sections 68 through 81 of P.L.2020, c.156 (C.34:1B-
42 336 et al.), but not including tax credits awarded for transformative
43 projects, an amount not to exceed \$500,000,000 shall be made
44 available for projects awarded a tax credit pursuant to the "Next
45 New Jersey Program Act," P.L. , c. (C.) (pending before
46 the Legislature as this bill).

47 (2) The authority may in any given year determine that it is in
48 the State's interest to approve an amount of tax credits in excess of

1 the annual limitations set forth in paragraph (1) of this subsection,
2 but in no event more than \$200,000,000 in excess of the annual
3 limitation, upon a determination by the authority board that such
4 increase is warranted based on specific criteria that may include:

5 (i) the increased demand for opportunities to create or retain
6 employment and investment in the State as indicated by the volume
7 of project applications and the amount of tax credits being sought
8 by those applications;

9 (ii) the need to protect the State's economic position in the event
10 of an economic downturn;

11 (iii) the quality of project applications and the net economic
12 benefit to the State and municipalities associated with those
13 applications;

14 (iv) opportunities for project applications to strengthen or protect
15 the competitiveness of the State under the prevailing market
16 conditions;

17 (v) enhanced access to employment and investment for
18 underserved populations in distressed municipalities and qualified
19 incentives tracts;

20 (vi) increased investment and employment in high-growth
21 technology sectors and in projects that entail collaboration with
22 education institutions in the State;

23 (vii) increased development proximate to mass transit facilities;

24 (viii) any other factor deemed relevant by the authority.

25 c. In the event that the authority in any year approves projects
26 for tax credits in an amount less than the annual limitations set forth
27 in paragraph (1) of subsection b. of this section, then the
28 uncommitted portion of the annual limitation shall be available to
29 be deployed by the authority in future years for projects under the
30 same program; provided however, that in no event shall the
31 aggregate amount of tax credits approved be in excess of the overall
32 cap of \$11.5 billion, and in no event shall the uncommitted portion
33 of the annual limitation for any previous year be deployed after the
34 conclusion of the nine-year period.

35 d. Notwithstanding the provisions of any other law to the
36 contrary, the uncommitted balance of the total value of tax credits
37 authorized for award by the authority pursuant to subparagraph (f)
38 of paragraph (1) of subsection b. of this section to the "New Jersey
39 Aspire Program Act," sections 54 through 67 of P.L.2020, c.156
40 (C.34:1B-322 et seq.), and the "Emerge Program Act," sections 68
41 through 81 of P.L.2020, c.156 (C.34:1B-336 et al.), shall be made
42 available for tax credits allowed to New Jersey studio partners and
43 New Jersey film-lease production companies pursuant to sections 1
44 and 2 of P.L.2018, c.56 (C.54:10A-5.39b and C.54A:4-12b). The
45 value of tax credits, including tax credits allowed through the
46 granting of tax credit transfer certificates, made available to New
47 Jersey studio partners and New Jersey film-lease production
48 companies pursuant to this subsection shall be as follows:

1 (1) in fiscal year 2023, \$250,000,000 for New Jersey studio
2 partners and \$250,000,000 for New Jersey film-lease production
3 companies;

4 (2) in fiscal year 2024, \$250,000,000 for New Jersey studio
5 partners and \$250,000,000 for New Jersey film-lease production
6 companies; and

7 (3) in fiscal year 2025, \$250,000,000 for New Jersey studio
8 partners and \$250,000,000 for New Jersey film-lease production
9 companies.

10 If the value of tax credits, including tax credits allowed through
11 the granting of tax credit transfer certificates, approved to New
12 Jersey studio partners and New Jersey film-lease production
13 companies in any fiscal year pursuant to this subsection is less than
14 the cumulative total amount of tax credits permitted to be approved
15 in that fiscal year, the authority shall certify the amount of the
16 remaining tax credits available for approval to each such category
17 in that fiscal year, and shall increase the cumulative total amount of
18 tax credits permitted to be approved for New Jersey studio partners
19 and New Jersey film-lease production companies in the subsequent
20 fiscal year by the certified amount remaining for each such category
21 from the prior fiscal year.

22 (cf: P.L.2023, c.197, s.13)

23

24 11. This act shall take effect immediately.

25

26

27

STATEMENT

28

29 This bill establishes the "Next New Jersey Program" within the
30 New Jersey Economic Development Authority (EDA) and modifies
31 certain provisions of the "New Jersey Economic Recovery Act of
32 2020," P.L.2020, c.156 (C.34:1B-269 et al.).

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

38 Under the program, the EDA would provide tax credits to
39 eligible businesses, following approval of an application by the
40 EDA, to eligible AI businesses. Eligible AI businesses would
41 include a business or division that is primarily engaged in the
42 artificial intelligence industry or large-scale artificial intelligence
43 data center industry. A business would be considered primarily
44 engaged in such an industry if at least 50 percent of the business's
45 employees are engaged in AI-related activities, or at least 50
46 percent of the business's revenue is generated from AI-related
47 activities. The bill defines "artificial intelligence" or "AI" to mean
48 the development of software and hardware, and the end-use

1 application of technologies that are able to perform tasks normally
2 requiring human intelligence, including, but not limited to, visual
3 perception, speech recognition, decision-making, translation
4 between languages, and generative artificial intelligence, which
5 generates new content in response to user inputs of data.

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

16 Under the bill, the amount of the tax credit allowed for a
17 particular project would equal to the lesser of: (1) the product of
18 0.1 percent of the eligible business's total capital investment
19 multiplied by the number of new full-time jobs; (2) 25 percent of
20 the eligible business's total capital investment; or (3) \$250 million.

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

SENATE BUDGET AND APPROPRIATIONS COMMITTEE

STATEMENT TO

SENATE, No. 3432

STATE OF NEW JERSEY

DATED: JUNE 26, 2024

The Senate Budget and Appropriations Committee reports favorably Senate Bill No. 3432.

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.

LEGISLATIVE FISCAL ESTIMATE
SENATE, No. 3432
STATE OF NEW JERSEY
221st LEGISLATURE

DATED: JULY 10, 2024

SUMMARY

Synopsis: Establishes Next New Jersey Program for artificial intelligence investments.

Type of Impact: Indeterminate fiscal net impact on State General Fund; potential revenue increase to local governments.

Agencies Affected: New Jersey Economic Development Authority.

Office of Legislative Services Estimate

Fiscal Impact	<u>Multi-Year Lifespan of Incentive Awards</u>
Direct <u>State</u> Revenue Loss	Indeterminate
Indirect <u>State</u> Revenue Gain	Indeterminate
<u>State</u> Opportunity Cost	Indeterminate
Indirect <u>Local</u> Revenue Gain	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 due to imperfect information on the number and attributes of projects that will receive incentives as a result 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 opportunity costs (the fiscal benefits the State foregoes 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.
- The direct State revenue loss to the State from Next New Jersey Program tax credits awarded as a result of the bill cannot be quantified. The bill authorizes the Economic Development Authority to issue up to \$500 million in tax credits through the program. The bill also allows the authority to reallocate uncommitted tax credits from the New Jersey Aspire and Emerge programs to the Next New Jersey Program.

- The bill might accrue an indeterminate revenue gain to certain local governments if the bill results in the authority extending financial assistance to projects that would not be undertaken absent the assistance and if the projects involved value-increasing improvements to taxable real estate.

BILL DESCRIPTION

The bill establishes the Next New Jersey Program in the authority to attract new investment in the artificial intelligence industry and artificial intelligence-related industry, and amends certain provisions of the New Jersey Economic Recovery Act to authorize the authority to award tax credits to eligible artificial intelligence businesses for capital investments in qualified business facilities.

Under the bill, an eligible artificial intelligence business includes a business or division of a business that is primarily engaged in the artificial intelligence industry or large-scale artificial intelligence data center industry. A business is considered primarily engaged in these industries if at least 50 percent of the business's employees are engaged in artificial intelligence-related activities, or at least 50 percent of the business's revenue is generated from artificial intelligence-related activities. A business must satisfy several criteria to be eligible for a tax credit. Notably, a business is required to invest a minimum of \$100 million at the qualified business facility and create a minimum of 100 new full-time jobs in New Jersey. The tax credit applications must be submitted prior to March 1, 2029.

The bill reallocates \$500 million in tax credits originally allotted to the New Jersey Aspire Program and the Emerge Program to the Next New Jersey Program. The bill also amends current law to provide that if the authority awards less than the annual limitation of tax credits under the New Jersey Aspire and Emerge programs, then the uncommitted tax credits would be made available for the Next New Jersey Program. The bill also provides that the value of all tax credits approved by the authority through the Next New Jersey Program are subject to the limitation on the issuance of tax credits applicable to all programs established by the New Jersey Economic Recovery Act of 2020.

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 due to imperfect information on the number and attributes of projects that will receive incentives as a result of the bill's enactment. 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.

The bill is likely to produce a revenue gain for certain local governments if the bill results in authority extending financial assistance to projects that would not be undertaken absent the assistance and if the projects involve value-increasing improvements to taxable real estate.

Direct State Revenue Loss: The OLS cannot quantify the precise direct revenue loss the bill will impose on the State, but notes that the bill reallocates \$500 million in tax credits originally allotted to the New Jersey Aspire Program and the Emerge Program to the Next New Jersey Program, and allows the authority to redirect the uncommitted balance of tax credits currently authorized to be awarded through the New Jersey Aspire and Emerge programs. Information available through the authority indicates that there were approximately \$2.5 billion in uncommitted tax credits available for award through the New Jersey Aspire and Emerge programs tax credits as of April 10, 2024. Under the bill, tax credit awards are subject to the \$11.5 billion cap on all tax credits issued through programs originally established by the New Jersey Economic Recovery Act and related initiatives. Any tax credit awards would add to the total amount of incentives that the authority has already approved and are subject to the statutory limit.

Although the bill requires the submission of tax credit applications prior to March 1, 2029, the revenue reduction from any financial assistance may extend past the years allocated for the program, however, as carry forward provisions and tax credit transfer certificates may be redeemable outside that timeframe. The OLS further notes that the bill allows the authority to recapture or rescind incentive awards under certain circumstances. Those provisions may offset, at least in part, future revenue losses.

The bill establishes a formula for calculating the amount of a tax credit allowed under the program to an eligible business. The tax is to be the lesser of: (1) the product of 0.1 percent of the eligible business's total capital investment multiplied by the number of full-time jobs; (2) 25 percent of the eligible business's total capital investment; or (3) \$250 million. Using these criteria, the OLS estimates that that the tax credit for a project that meets the minimum capital investment and new full-time jobs thresholds would be \$10 million.

Indirect State and Local Revenue Gain: Imperfect information on the number of attributes of projects that, under the bill, might newly qualify for tax credit awards precludes the OLS from quantifying the bill's indirect revenue gain to the State and local governments. For the 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 qualified business facility spending their resultant income on taxable goods and services.

Indirect 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 otherwise not 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 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, an addition of 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 project in New Jersey will pay Pennsylvania, 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 expect this bill to result in the issuance of tax credits awards under the Next New Jersey Program. 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 may be less than the direct State revenue loss. First, the bill does not subject credit-receiving projects to a net benefit test calculation. The net benefit test is intended to ensure that the authority will award incentives only to projects that are estimated to generate indirect State revenue in excess of a tax incentive's direct State cost. For example, under the New Jersey Aspire Program, the authority requires each applicant to demonstrate a net positive benefit to the State of at least 160 percent of the tax credit amount. As a result, the bill allows for projects to receive financial assistance for capital investments that will happen irrespective of the State assistance. Whenever that occurs, none of a project's indirect fiscal benefits can be causally attributed to the assistance.

The OLS notes that it is possible that credit-receiving projects that will not have been induced by the Next New Jersey Program may generate some indirect State fiscal 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 forgoes 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 even if its indirect fiscal benefits exceed its direct cost.

For example, if, instead of the 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 & Appropriations
Analyst: Scott A. Brodsky
Staff Fiscal & Budget Analyst
Approved: Thomas Koenig
Legislative Budget and Finance Officer

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.).

ASSEMBLY, No. 4558

STATE OF NEW JERSEY

221st LEGISLATURE

INTRODUCED JUNE 13, 2024

Sponsored by:

Assemblyman CHRIS TULLY

District 38 (Bergen)

Assemblyman WILLIAM B. SAMPSON, IV

District 31 (Hudson)

Assemblyman ROBERT J. KARABINCHAK

District 18 (Middlesex)

Co-Sponsored by:

Assemblymen Miller, Atkins, Assemblywomen Murphy and Speight

SYNOPSIS

Establishes Next New Jersey Program for artificial intelligence investments.

CURRENT VERSION OF TEXT

As introduced.



(Sponsorship Updated As Of: 6/28/2024)

1 AN ACT concerning the development of artificial intelligence
2 innovations, ventures, and facilities, and amending and
3 supplementing P.L.2020, c.156.

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

7
8 1. (New section) P.L. , c. (C.) (pending before the
9 Legislature as this bill) shall be known and may be cited as the
10 "Next New Jersey Program Act."

11
12 2. (New section) As used in P.L. , c. (C.) (pending
13 before the Legislature as this bill):

14 "Affiliate" means an entity that directly or indirectly controls, is
15 under common control with, or is controlled by an eligible business.
16 Control exists in all cases in which the entity is a member of a
17 controlled group of corporations as defined pursuant to section 1563
18 of the federal Internal Revenue Code (26 U.S.C. s.1563) or the
19 entity is an organization in a group of organizations under common
20 control that is subject to the regulations applicable to organizations
21 pursuant to subsection (b) or (c) of section 414 of the federal
22 Internal Revenue Code (26 U.S.C. s.414). An eligible business may
23 establish by clear and convincing evidence, as determined by the
24 authority, that control exists in situations involving lesser
25 percentages of ownership than required by the above referenced
26 federal statutes if the eligible business shall have control, at a
27 minimum, of all aspects of compliance with this program. An
28 affiliate of an eligible business may contribute towards the capital
29 investment requirement and may satisfy the requirement for site
30 control during construction and the eligibility period, but in no
31 event shall the tax credit certificate be issued to any affiliate.

32 "AI data center" means a facility specifically to handle the
33 demanding computational needs of artificial intelligence
34 applications, designed for tasks like machine learning training, deep
35 learning algorithms, and complex data analysis, whose services are
36 the storage, management, and processing of digital data; that is used
37 to house: computer and network systems, including associated
38 components such as servers, network equipment and appliances,
39 telecommunications, and data storage systems; systems for
40 monitoring and managing infrastructure performance; Internet-
41 related equipment and services; data communications connections;
42 environmental controls; fire protection systems; and security
43 systems and services specifically for artificial intelligence
44 applications.

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 "Artificial intelligence" or "AI" means the development of
2 software and hardware, and the end-use application of technologies
3 that are able to perform tasks normally requiring human
4 intelligence, including, but not limited to, visual perception, speech
5 recognition, decision-making, translation between languages, and
6 generative artificial intelligence, which generates new content in
7 response to user inputs of data.

8 "Authority" means the New Jersey Economic Development
9 Authority established by section 4 of P.L.1974, c.80 (C.34:1B-4).

10 "Board" means the Board of the New Jersey Economic
11 Development Authority, established by section 4 of P.L.1974, c.80
12 (C.34:1B-4).

13 "Building services" means any cleaning or routine building
14 maintenance work, including but not limited to sweeping,
15 vacuuming, floor cleaning, cleaning of rest rooms, collecting refuse
16 or trash, window cleaning, securing, patrolling, or other work in
17 connection with the care or securing of an existing building,
18 including services typically provided by a door-attendant or
19 concierge. "Building services" shall not include any skilled
20 maintenance work, professional services, or other public work for
21 which a contractor is required to pay the "prevailing wage" as
22 defined in section 2 of P.L.1963, c.150 (C.34:11-56.26).

23 "Business" means an applicant proposing to own or lease
24 premises in a qualified business facility that is: a corporation that is
25 subject to the tax imposed pursuant to section 5 of P.L.1945, c.162
26 (C.54:10A-5), sections 2 and 3 of P.L.1945, c.132 (C.54:18A-2 and
27 C.54:18A-3), section 1 of P.L.1950, c.231 (C.17:32-15), or
28 N.J.S.17B:23-5, or is a partnership, S corporation, limited liability
29 company, or non-profit corporation. A business shall include an
30 affiliate of the business if that business applies for a credit based
31 upon any capital investment made by or full-time employees of an
32 affiliate. If the business or tenant is a cooperative or part of a
33 cooperative, then the cooperative may qualify for credits by
34 counting the full-time employees and capital investments of its
35 member organizations, and the cooperative may distribute credits to
36 its member organizations. If the business or tenant is a cooperative
37 that leases to its member organizations, the lease shall be treated as
38 a lease to an affiliate or affiliates.

39 "Capital investment" means expenses that a business or an
40 affiliate of the business incurs, or is incurred on behalf of the
41 business or affiliate by its landlord, following its submission of an
42 application to the authority pursuant to section 5 of
43 P.L. , c. (C.) (pending before the Legislature as this bill),
44 but prior to the project completion date, as shall be defined in the
45 project agreement, for: a. site preparation and construction, repair,
46 renovation, improvement, equipping, or furnishing on real property
47 or of a building, structure, facility, or improvement to real property;
48 b. obtaining and installing furnishings and machinery, apparatus, or

1 equipment, including but not limited to computer systems,
2 hardware, software, and equipment and material goods subject to
3 bonus depreciation under sections 168 and 179 of the federal
4 Internal Revenue Code (26 U.S.C. ss.168 and 179), for the
5 operation of a business on real property or in a building, structure,
6 facility, or improvement to real property; or any combination of the
7 foregoing.

8 "Commitment period" means a period that is no less than two
9 times the eligibility period specified in the project agreement
10 entered into pursuant to section 6 of P.L. , c. (C.) (pending
11 before the Legislature as this bill).

12 "Eligibility period" means the period in which an eligible
13 business may claim a tax credit under the program, beginning with
14 the tax period in which the authority accepts certification of the
15 eligible business that it has met the capital investment and
16 employment requirements of the program and extending thereafter
17 for a term of five years.

18 "Eligible business" means any business that satisfies the criteria
19 set forth in section 4 of P.L. , c. (C.) (pending before the
20 Legislature as this bill) at the time of application for tax credits
21 under the program.

22 "Eligible position" or "full-time job" means a full-time position
23 in a business in this State which a business has filled with a full-
24 time employee who is paid no less than 120 percent of the median
25 salary for the county in which the project is located and for which
26 the business provides employee health benefits under a group health
27 plan as defined under section 14 of P.L.1997, c.146 (C.17B:27-54),
28 a health benefits plan as defined under section 1 of P.L.1992, c.162
29 (C.17B:27A-17), or a policy or contract of health insurance
30 covering more than one person issued pursuant to Article 2 of
31 Chapter 27 of Title 17B of the New Jersey Statutes; provided,
32 however, the requirement that employee health benefits are to be
33 provided shall be deemed to be satisfied if the benefits are provided
34 by the business or pursuant to a collective bargaining agreement, no
35 later than 90 days of employee start date, under a health benefits
36 plan authorized pursuant to State or federal law. An eligible
37 position shall not include an independent contractor or a consultant.

38 "Full-time employee" means a person:

39 a. who is employed by a business for consideration for at least
40 35 hours a week, or who renders any other standard of service
41 generally accepted by custom or practice as full-time employment,
42 and whose wages are subject to withholding as provided in the
43 "New Jersey Gross Income Tax Act," N.J.S.54A:1-1 et seq.; or

44 b. who is employed by a professional employer organization
45 pursuant to an employee leasing agreement between the business
46 and the professional employer organization, pursuant to P.L.2001,
47 c.260 (C.34:8-67 et seq.) for at least 35 hours a week, or who
48 renders any other standard of service generally accepted by custom

1 or practice as full-time employment, and whose wages are subject
2 to withholding as provided in the "New Jersey Gross Income Tax
3 Act," N.J.S.54A:1-1 et seq.; or

4 c. who is a resident of another State, but whose income is not
5 subject to the "New Jersey Gross Income Tax Act," N.J.S.54A:1-1
6 et seq., due to a reciprocity agreement with the other state, or who
7 is a partner of a business who works for the partnership for at least
8 35 hours a week, or who renders any other standard of service
9 generally accepted by custom or practice as full-time employment,
10 and whose distributive share of income, gain, loss, or deduction, or
11 whose guaranteed payments, or any combination thereof, is subject
12 to the payment of estimated taxes, as provided in the "New Jersey
13 Gross Income Tax Act," N.J.S.54A:1-1 et seq., due to a reciprocity
14 agreement with the other state.

15 A "full-time employee" shall include, but shall not be limited to,
16 an employee that has been hired by way of a labor union hiring hall
17 or its equivalent. 35 hours of employment per week in the State
18 shall constitute one "full-time employee," regardless of whether or
19 not the hours of work were performed by one or more persons.

20 "Full-time employee" shall not include any person who works as
21 an independent contractor or on a consulting basis for the business
22 or a contract worker.

23 "Minimum environmental and sustainability standards" means
24 standards established by the authority in accordance with the green
25 building manual prepared by the Commissioner of Community
26 Affairs pursuant to section 1 of P.L.2007, c.132 (C.52:27D-130.6),
27 regarding the use of renewable energy, energy-efficient technology,
28 and non-renewable resources to reduce environmental degradation
29 and encourage long-term cost reduction.

30 "New full-time job" means an eligible position created by a
31 business, following approval of such business's application by the
32 board, that did not previously exist in this State. For the purposes
33 of determining the number of new full-time jobs, the eligible
34 positions of an affiliate shall be considered eligible positions of the
35 business.

36 "Partnership" means an entity classified as a partnership for
37 federal income tax purposes.

38 "Professional employer organization" means an employee leasing
39 company registered with the Department of Labor and Workforce
40 Development pursuant to P.L.2001, c.260 (C.34:8-67 et seq.).

41 "Program" means the Next New Jersey Program established by
42 section 3 of P.L. , c. (C.) (pending before the Legislature as
43 this bill).

44 "Project" means the capital investment at a qualified business
45 facility and the employment commitment pursuant to the project
46 agreement.

1 "Project agreement" means the contract executed between an
2 eligible business and the authority pursuant to section 6 of P.L. ,
3 c. (C.) (pending before the Legislature as this bill), which
4 sets forth the terms and conditions under which the eligible business
5 may receive the tax credits authorized pursuant to the program.

6 "Qualified business facility" means any building, complex of
7 buildings, or structural components of buildings, and all machinery
8 and equipment located therein, used in connection with the
9 operation of an eligible business.

10 "Technology startup company" means a for-profit business
11 located in the State that has been in operation fewer than seven
12 years and is developing or possesses a proprietary technology or
13 business method of a high technology or life science-related
14 product, process, or service, which proprietary technology or
15 business method the business intends to move to commercialization.
16 The business shall be deemed to have begun operation on the date
17 that the business first hired at least one employee in a full-time
18 position.

19
20 3. (New section) a. The Next New Jersey Program is hereby
21 established as a program under the jurisdiction of the New Jersey
22 Economic Development Authority. The authority shall administer
23 the program to attract new investment to New Jersey in key
24 industries, create new jobs and economic opportunities, and
25 position New Jersey as a leader in the innovation economy. The
26 board may approve the award of tax credits to an eligible business
27 upon application of the chief executive officer, or equivalent
28 officer, of the eligible business and following the payment of fees,
29 subject to the limitations set forth in subsection b. of this section.

30 b. The value of all tax credits approved by the authority for
31 businesses eligible pursuant to section 4 of P.L. , c. (C.)
32 (pending before the Legislature as this bill) shall be subject to the
33 limitations set forth in section 98 of P.L.2020, c.156 (C.34:1B-362).
34

35 4. (New section) a. Beginning on the effective date of P.L. ,
36 c. (C.) (pending before the Legislature as this bill), but prior
37 to March 1, 2029, to be eligible for tax credits under the program, a
38 business's chief executive officer, or equivalent officer, shall
39 demonstrate to the authority at the time of application that:

40 (1) the business will make, acquire, or lease a capital investment
41 at the qualified business facility equal to or greater than the
42 applicable amount set forth in subsection b. of this section;

43 (2) the business will create new full-time jobs in the State in an
44 amount equal to or greater than the applicable number set forth in
45 subsection c. of this section;

46 (3) the business or its division is primarily engaged in the
47 artificial intelligence industry or the large-scale artificial
48 intelligence data center industry. A business or its division shall be

1 considered to be primarily engaged in an industry set forth herein if
2 more than 50 percent of the business's employees are engaged in
3 AI-related activities or more than 50 percent of the business's
4 revenue is generated from AI-related activities, or both; provided,
5 however, the use of AI applications in the furtherance of a
6 business's own operations shall not be considered in determining
7 whether a business or division is primarily engaged in artificial
8 intelligence or large-scale artificial intelligence data centers. AI-
9 related activities include, but are not limited to: developing new AI
10 algorithms and techniques, such as machine learning, natural
11 language processing, and computer vision; creating AI-powered
12 software and hardware products for various applications; medical
13 AI modelling or programing; development of AI chatbots for
14 customer service; AI development for vehicles, and collecting,
15 storing, and managing the vast amount of data needed to train and
16 use AI models;

17 (4) the business will enter into a collaborative relationship,
18 evidenced by the provision of price concessions, artificial
19 intelligence support services, or other measures determined
20 appropriate by the authority, with New Jersey-based public or
21 private research universities or technology startup companies, or
22 both;

23 (5) the qualified business facility shall be in compliance with
24 minimum environmental and sustainability standards;

25 (6) for construction contracts valued in excess of \$2,000, the
26 project shall comply with the authority's affirmative action
27 requirements, adopted pursuant to section 4 of P.L.1979, c.303
28 (C.34:1B-5.4); and

29 (7) each worker employed to perform construction work in
30 connection with a capital improvement or building services work at
31 the qualified business facility shall be paid not less than the
32 prevailing wage rate for the worker's craft or trade, as determined
33 by the Commissioner of Labor and Workforce Development
34 pursuant to P.L.1963, c.150 (C.34:11-56.25 et seq.) and P.L.2005,
35 c.379 (C.34:11-56.58 et seq.).

36 b. The minimum capital investment at the qualified business
37 facility required to be eligible under the program shall be
38 \$100,000,000.

39 c. The minimum number of new full-time jobs in the State
40 required to be eligible under the program shall be 100 new full-time
41 jobs.

42 d. The chief executive officer of the business, or an equivalent
43 officer, shall certify that all factual representations made by the
44 business to the authority pursuant to subsection a. of this section are
45 true under the penalty of perjury.

46 e. A business shall not be awarded a tax credit pursuant to the
47 program if the business receives a tax credit pursuant to the
48 "Emerge Program Act," sections 68 through 81 of P.L.2020, c.156

1 (C.34:1B-336 et al.), or section 6 of P.L.2010, c.57 (C.34:1B-
2 209.4), relating to the same capital investment and employees that
3 qualify the business for a tax credit under the program.

4 f. A business eligible pursuant to this section may submit an
5 application to the authority in accordance with the provisions of
6 section 5 of P.L. , c. (C.) (pending before the Legislature
7 as this bill) on or after the effective date of P.L. , c. (C.)
8 (pending before the Legislature as this bill) but prior to March 1,
9 2029.

10

11 5. (New section) a. A business that meets the eligibility
12 criteria in section 4 of P.L. , c. (C.) (pending before the
13 Legislature as this bill) and is seeking tax credits for a project under
14 the program shall submit an application for approval of the project
15 to the authority in a form and manner prescribed by the authority.

16 b. (1) Before the board may consider an eligible business's
17 application for tax credits, the authority shall confirm with the
18 Department of Labor and Workforce Development, the Department
19 of Environmental Protection, and the Department of the Treasury
20 whether the eligible business is in substantial good standing with
21 the respective department, or, if necessary, has entered into an
22 agreement with the respective department that includes a practical
23 corrective action plan for the eligible business. The business entity
24 shall certify that contractors or subcontractors that will perform
25 work at the qualified business facility: are registered as required by
26 "The Public Works Contractor Registration Act," P.L.1999, c.238
27 (C.34:11-56.48 et seq.); have not been debarred by the Department
28 of Labor and Workforce Development from engaging in or bidding
29 on Public Works Contracts in the State; and possess a tax clearance
30 certificate issued by the Division of Taxation in the Department of
31 the Treasury. The authority may also contract with an independent
32 third party to perform a background check on the eligible business.

33 c. An eligible business shall pay to the authority the full
34 amount of the direct costs of an analysis concerning the eligible
35 business's application for a tax credit, which a third party retained
36 by the authority performs, if the authority deems such retention to
37 be necessary. The authority shall have the discretion to waive all or
38 a portion of the costs of application for a small business.

39 d. If at any time during the eligibility period the authority
40 determines that the eligible business made a material
41 misrepresentation on the eligible business's application, the eligible
42 business shall forfeit all tax credits awarded under the program,
43 which shall be in addition to any other criminal or civil penalties to
44 which the business and the officer may be subject.

45 e. If circumstances require an eligible business to amend its
46 application to the authority, then the chief executive officer of the
47 eligible business, or an equivalent officer, shall certify to the

1 authority that the information provided in its amended application is
2 true under the penalty of perjury.

3 f. Nothing shall preclude a business from applying for tax
4 credits under the program for more than one project pursuant to one
5 or more applications.

6
7 6. (New section) a. Following board approval, within a time
8 established by the authority and prior to the authority and an
9 eligible business executing a project agreement, the eligible
10 business shall demonstrate that it has obtained site plan approval
11 and has committed financing for, and established site control of, the
12 qualified business facility. The chief executive officer of the
13 business, or an equivalent officer, shall certify that all factual
14 representations made by the business to the authority pursuant to
15 this subsection are true under the penalty of perjury.

16 b. Following approval by the board and compliance with the
17 provisions of subsection a. of this section, but before the issuance of
18 tax credits, the authority shall require an eligible business to enter
19 into a project agreement. The terms of the project agreement shall
20 be consistent with the eligibility requirements of section 4 of
21 P.L. , c. (C.) (pending before the Legislature as this bill),
22 and shall include, but not be limited to, the following:

23 (1) a detailed description of the proposed project that will result
24 in job creation, and the number of new full-time jobs that are
25 approved for tax credits;

26 (2) any personnel information that will enable the authority to
27 administer the program;

28 (3) a requirement that the eligible business maintain the project
29 at a location in New Jersey for the commitment period and a
30 provision to permit the authority to recapture all or part of any tax
31 credits awarded, at its discretion, if the eligible business does not
32 maintain the project at a location in New Jersey for the commitment
33 period;

34 (4) a requirement that the eligible business maintain the number
35 of new full-time jobs, or the salaries thereof, to which the eligible
36 business certified at the commencement of the eligibility period and
37 a provision to permit the authority to proportionally reduce the tax
38 credit award in any tax period in which the number of new full-
39 time jobs, or the salaries thereof, is reduced below the new full-time
40 jobs to which the eligible business certified at the commencement
41 of the eligibility period;

42 (5) a method for the eligible business to certify that it has met
43 the capital investment and employment requirements of the program
44 set forth in subsections b. and c. of section 4 of
45 P.L. , c. (C.) (pending before the Legislature as this bill)
46 and to report annually to the authority the number of new full-time
47 jobs, and the salaries thereof, for which the tax credits are to be
48 allowed;

1 (6) representations that the eligible business is in substantial
2 good standing with the Department of Environmental Protection,
3 the Department of Labor and Workforce Development, and the
4 Department of the Treasury or has entered into an agreement with
5 the departments that includes a practical corrective action plan, and
6 the project complies with all applicable laws, and specifically, that
7 the project does not violate any environmental law;

8 (7) a provision permitting an audit of the payroll records of the
9 business from time to time, as the authority deems necessary;

10 (8) a provision that the chief executive officer of the authority
11 receives annual reports from the eligible business and that allows
12 the authority to confirm that the eligible business is in substantial
13 good standing with the Department of Environmental Protection,
14 the Department of Labor and Workforce Development, and the
15 Department of the Treasury, or has entered into an agreement with
16 the respective department that includes a practical corrective action
17 plan. As part of the annual reports required by this paragraph, the
18 eligible business shall confirm that each contractor or subcontractor
19 performing work at the qualified business facility: is registered as
20 required by "The Public Works Contractor Registration Act,"
21 P.L.1999, c.238 (C.34:11-56.48 et seq.); has not been debarred by
22 the Department of Labor and Workforce Development from
23 engaging in or bidding on Public Works Contracts in the State; and
24 possesses a tax clearance certificate issued by the Division of
25 Taxation in the Department of the Treasury. If the eligible business
26 does not submit the report required under this paragraph, if the
27 Department of Environmental Protection, the Department of Labor
28 and Workforce Development, and the Department of the Treasury
29 advises that the eligible business is neither in substantial good
30 standing nor has entered into a practical corrective action plan, or if
31 the eligible business fails to confirm that each contractor or
32 subcontractor is in compliance with this paragraph, then the eligible
33 business may forfeit the issuance of tax credits, pending resolution
34 of the underlying violations or other issues;

35 (9) a requirement for the eligible business to engage in on-site
36 consultations with the Division of Workplace Safety and Health in
37 the Department of Health;

38 (10) a provision permitting the authority to amend the
39 agreement; and

40 (11) a provision establishing the conditions under which the
41 authority, the eligible business, or both, may terminate the
42 agreement.

43 c. (1) The authority may recapture all or part of a tax credit
44 awarded if an eligible business does not remain in compliance with
45 the requirements of a project agreement for the duration of the
46 commitment period. A recapture pursuant to this subsection may
47 include interest on the recapture amount, at a rate equal to the
48 statutory rate for corporate business or insurance premiums tax

1 deficiencies, plus any statutory penalties, and all costs incurred by
2 the authority and the Division of Taxation in the Department of the
3 Treasury in connection with the pursuit of the recapture, including,
4 but not limited to, counsel fees, court costs, and other costs of
5 collection. Failure of the eligible business to meet any program
6 criteria shall constitute a default and shall result in the recapture of
7 all or part of the tax credit awarded.

8 (2) If all or part of a tax credit sold or assigned pursuant to
9 section 8 of P.L. , c. (C.) (pending before the Legislature
10 as this bill) is subject to recapture, then the authority shall pursue
11 recapture from the eligible business and not from the purchaser or
12 assignee of the tax credit transfer certificate. The purchaser or
13 assignee of a tax credit transfer certificate shall be subject to any
14 limitations and conditions that apply to the use of the tax credits by
15 the eligible business.

16 (3) Any funds recaptured pursuant to this subsection, including
17 penalties and interest, shall be deposited into the General Fund.

18 d. A business may include an affiliate for any period, provided
19 that the business provides a valid tax clearance certificate for the
20 affiliate and a verification of the nature of the affiliate relationship
21 during the relevant period, and provided further that the affiliate
22 provides acceptable responses to the authority's legal disclosures
23 inquiries, as determined by the authority. A formal modification of
24 the authority's approval of the project agreement shall not be
25 necessary to add or remove an affiliate after approval or execution
26 of the project agreement.

27 e. A business may change its name filed with the authority by
28 providing a copy of the filed amendment to the certificate of
29 incorporation or formation, as the case may be, of the business and
30 a valid tax clearance certificate with the business's new name. A
31 formal modification of the authority's approval shall not be
32 necessary to change a business's name after approval or execution
33 of the project agreement.

34
35 7. (New section) a. Upon completion of the capital investment
36 and employment requirements of the program, an eligible business
37 shall submit to the authority certifications evidencing that the
38 eligible business has satisfied the conditions relating to the capital
39 investment and employment requirements of the project agreement
40 with supporting evidence satisfactory to the authority. The chief
41 executive officer of the business, or an equivalent officer, shall
42 certify that all factual representations made by the business to the
43 authority pursuant to this subsection are true under the penalty of
44 perjury.

45 b. (1) In accordance with the project agreement, beginning
46 upon the receipt of occupancy permits for any portion of the
47 project, or upon any other event evidencing project completion as
48 set forth in the project agreement, an eligible business shall be

1 allowed a tax credit in an amount determined pursuant to paragraph
2 (2) of this subsection. No more than the amount of tax credits equal
3 to the total credit amount awarded under the program divided by the
4 duration of the eligibility period in years may be taken in any tax
5 period.

6 (2) The amount of the tax credit allowed under the program to
7 an eligible business shall be the lesser of:

8 (a) the product of 0.1 percent of the eligible business's total
9 capital investment multiplied by the number of new full-time jobs;

10 (b) 25 percent of the eligible business's total capital investment;

11 or

12 (c) \$250,000,000.

13 c. (1) An eligible business which is awarded tax credits under
14 the program shall submit annually, no later than the date indicated
15 in the project agreement, commencing in the year in which the grant
16 of tax credits is issued and for the remainder of the commitment
17 period, a report that indicates that the eligible business continues to
18 maintain the number of new full-time jobs, and the salaries thereof,
19 specified in the project agreement. As part of the annual report
20 required pursuant to this subsection, an eligible business shall
21 provide to the authority a copy of its applicable New Jersey tax
22 return showing business income and withholdings as a condition of
23 its continuation in the program, and the quarterly wage report
24 required under R.S.43:21-14 submitted to the Department of Labor
25 and Workforce Development, together with an annual payroll report
26 showing: the new full-time jobs which were created in accordance
27 with the project agreement and the new full-time jobs created
28 during each subsequent year of the commitment period. The failure
29 of an eligible business to submit to the authority a copy of its
30 annual payroll report or submit the quarterly wage report in
31 accordance with the provisions of this subsection during the
32 eligibility period shall result in the forfeiture of the award for that
33 year. An eligible business shall explain, in the reports required by
34 this subsection, the reason for any discrepancies between the annual
35 payroll report submitted by the eligible business and the quarterly
36 wage report. The chief executive officer of the eligible business, or
37 an equivalent officer, shall certify that the information provided
38 pursuant to this paragraph is true under the penalty of perjury.
39 Claims, records, or statements submitted by an eligible business to
40 the authority in order to receive tax credits shall not be considered
41 claims, records, or statements made in connection with State tax
42 laws.

43 (2) Upon receipt and review of each report submitted during the
44 eligibility period, the authority shall provide to the eligible business
45 and the director a certificate of compliance indicating the amount of
46 tax credits that the eligible business may apply against its tax
47 liability. The authority shall pro rate the tax credit for the first and
48 last years of the eligibility period based on the number of full

1 months the project was certified in the year the eligible business
2 first certifies.

3 d. (1) Upon receipt by the director of the certificate of
4 compliance, the director shall allow the eligible business a tax
5 credit. The eligible business may apply the credit allowed by the
6 director against the eligible business's tax liability for the tax period
7 in which the director allowed the tax credit, or may carry forward
8 the credit for use by the eligible business in any of the next 10
9 successive tax periods, which credit shall expire thereafter.

10 (2) The amount of credit allowed may be applied against the tax
11 liability otherwise due pursuant to section 5 of P.L.1945, c.162
12 (C.54:10A-5), sections 2 and 3 of P.L.1945, c.132 (C.54:18A-2 and
13 C.54:18A-3), section 1 of P.L.1950, c.231 (C.17:32-15), or
14 N.J.S.17B:23-5.

15 (3) The director shall prescribe the order of priority of the
16 application of the credit allowed under this section and any other
17 credits allowed by law against the tax imposed under section 5 of
18 P.L.1945, c.162 (C.54:10A-5). The amount of a credit applied
19 under this section against the tax imposed pursuant to section 5 of
20 P.L.1945, c.162 (C.54:10A-5) for a privilege period, together with
21 any other credits allowed by law, shall not reduce the tax liability to
22 an amount less than the statutory minimum provided in subsection
23 (e) of section 5 of P.L.1945, c.162 (C.54:10A-5).

24 e. An eligible business shall forfeit the credit amount for any
25 tax period for which the eligible business's documentation remains
26 uncertified as of the date for certification indicated in the project
27 agreement, although credit amounts for the remainder of the years
28 of the eligibility period shall remain available to the eligible
29 business.

30 f. If, in any tax period, the number of new employees in
31 eligible positions, or the salaries thereof, drops below 80 percent of
32 the number of new employees in eligible positions specified in the
33 project agreement or required as a condition of program eligibility
34 pursuant to section 4 of P.L. , c. (C.) (pending before the
35 Legislature as this bill), whichever is greater, then the eligible
36 business shall forfeit its tax credit amount for that tax period and
37 each subsequent tax period, until the first tax period for which
38 documentation demonstrating the restoration of the number of new
39 employees in eligible positions, or the salaries thereof, to 80 percent
40 of the number specified in the project agreement or required as a
41 condition of program eligibility pursuant to section 4 of P.L. , c.
42 (C.) (pending before the Legislature as this bill), whichever is
43 greater, is reviewed and approved by the authority.

44
45 8. (New section) a. An eligible business may apply to the
46 director and the chief executive officer of the authority for a tax
47 credit transfer certificate, within three years of the tax period in
48 which the director allows the eligible business a tax credit, in lieu of

1 any amount of the tax credit against the eligible business's State tax
2 liability. The tax credit transfer certificate, upon receipt thereof by
3 the eligible business from the director and the chief executive
4 officer of the authority, may be sold or assigned, in an amount not
5 less than \$25,000, within three years of the tax period in which the
6 eligible business receives the tax credit transfer certificate from the
7 director, to another person that may have a tax liability pursuant to
8 section 5 of P.L.1945, c.162 (C.54:10A-5), sections 2 and 3 of
9 P.L.1945, c.132 (C.54:18A-2 and 54:18A-3), section 1 of P.L.1950,
10 c.231 (C.17:32-15), or N.J.S.17B:23-5. A purchaser or assignee of
11 a tax credit transfer certificate pursuant to this section shall apply
12 the transferred credit against the same tax for which the eligible
13 business was approved a tax credit under the program. The tax
14 credit transfer certificate provided to the eligible business shall
15 include a statement waiving the eligible business's right to claim
16 the credit that the eligible business has elected to sell or assign.

17 b. The eligible business shall not sell or assign a tax credit
18 transfer certificate allowed under this section for consideration
19 received by the eligible business of less than 85 percent of the
20 transferred credit amount before considering any further
21 discounting to present value which shall be permitted. The tax
22 credit transfer certificate issued to the eligible business by the
23 director shall be subject to any limitations and conditions imposed
24 on the application of State tax credits pursuant to
25 P.L. , c. (C.) (pending before the Legislature as this bill)
26 and any other terms and conditions that the director may prescribe.

27 c. A purchaser or assignee of a tax credit transfer certificate
28 pursuant to this section shall not make any subsequent transfers,
29 assignments, or sales of the tax credit transfer certificate.

30 d. The authority shall publish on its Internet website the
31 following information concerning each tax credit transfer certificate
32 approved by the authority and the director pursuant to this section:

- 33 (1) the name of the transferrer;
- 34 (2) the name of the transferee;
- 35 (3) the value of the tax credit transfer certificate;
- 36 (4) the State tax against which the transferee may apply the tax
37 credit; and
- 38 (5) the consideration received by the transferrer.

39
40 9. (New section) Notwithstanding the provisions of the
41 "Administrative Procedure Act," P.L.1968, c.410 (C.52:14B-1 et
42 seq.) to the contrary, the chief executive officer of the authority
43 shall adopt, immediately, upon filing with the Office of
44 Administrative Law, such rules and regulations as the chief
45 executive officer deems necessary to implement the provisions of
46 sections P.L. , c. (C.) (pending before the Legislature as this
47 bill), which rules and regulations shall be effective for a period not
48 to exceed 365 days after the date of the filing. Before the

1 expiration of the rules and regulations, the chief executive officer
2 shall amend, adopt, or readopt the rules and regulations in
3 accordance with the requirements of the "Administrative Procedure
4 Act," P.L.1968, c.410 (C.52:14B-1 et seq.).

5

6 10. Section 98 of P.L.2020, c.156 (C.34:1B-362) is amended to
7 read as follows:

8 98. a. The combined value of all tax credits awarded under the
9 "Historic Property Reinvestment Act," sections 2 through 8 of
10 P.L.2020, c.156 (C.34:1B-270 through 34:1B-276); the
11 "Brownfields Redevelopment Incentive Program Act," sections 9
12 through 19 of P.L.2020, c.156 (C.34:1B-277 through 34:1B-287);
13 the "New Jersey Innovation Evergreen Act," sections 20 through 34
14 of P.L.2020, c.156 (C.34:1B-288 through 34:1B-302); the "Food
15 Desert Relief Act," sections 35 through 42 of P.L.2020, c.156
16 (C.34:1B-303 through 34:1B-310); the "New Jersey Community-
17 Anchored Development Act," sections 43 through 53 of P.L.2020,
18 c.156 (C.34:1B-311 through 34:1B-321); the "New Jersey Aspire
19 Program Act," sections 54 through 67 of P.L.2020, c.156 (C.34:1B-
20 322 through 34:1B-335); the "Emerge Program Act," sections 68
21 through 81 of P.L.2020, c.156 (C.34:1B-336 et al.); section 6 of
22 P.L.2010, c.57 (C.34:1B-209.4) **], and]** ; the "Cultural Arts
23 Incentives Program Act," P.L.2023, c.197 (C.34:1B-383 et al.); and
24 the "Next New Jersey Program Act," P.L. , c. (C.) (pending
25 before the Legislature as this bill) shall not exceed an overall cap of
26 \$11.5 billion over a nine-year period, subject to the conditions and
27 limitations set forth in this section. Of this \$11.5 billion, \$2.5
28 billion shall be reserved for transformative projects approved under
29 the Aspire Program.

30 b. (1) The total value of tax credits awarded under any
31 constituent program of the "New Jersey Economic Recovery Act of
32 2020," P.L.2020, c.156 (C.34:1B-269 et al.) **], and]**, the "Cultural
33 Arts Incentives Program Act," P.L.2023, c.197 (C.34:1B-383 et al.),
34 and the "Next New Jersey Program Act," P.L. , c. (C.)
35 (pending before the Legislature as this bill), shall be subject to the
36 following limitations, except as otherwise provided in subsection c.
37 of this section:

38 (a) for tax credits awarded under the "Historic Property
39 Reinvestment Act," sections 2 through 8 of P.L.2020, c.156
40 (C.34:1B-270 through 34:1B-276), the total value of tax credits
41 annually awarded during each of the first six years of the nine-year
42 period shall not exceed \$50 million;

43 (b) for tax credits awarded under the "Brownfields
44 Redevelopment Incentive Program Act," sections 9 through 19 of
45 P.L.2020, c.156 (C.34:1B-277 through 34:1B-287), the total value
46 of tax credits annually awarded during each of the first six years of
47 the nine-year period shall not exceed \$50 million;

1 (c) for tax credits awarded under the "New Jersey Innovation
2 Evergreen Act," sections 20 through 34 of P.L.2020, c.156
3 (C.34:1B-288 through 34:1B-302), the total value of tax credits
4 annually awarded during each of the first six years of the nine-year
5 period shall not exceed \$60 million and the total value of tax credits
6 awarded over the entirety of the nine-year period shall not exceed
7 \$300,000,000;

8 (d) for tax credits awarded under the "Food Desert Relief Act,"
9 sections 35 through 42 of P.L.2020, c.156 (C.34:1B-303 through
10 34:1B-310), the total value of tax credits annually awarded during
11 each of the first six years of the nine-year period shall not exceed
12 \$40 million;

13 (e) for tax credits awarded under the "New Jersey Community-
14 Anchored Development Act," sections 43 through 53 of P.L.2020,
15 c.156 (C.34:1B-311 through 34:1B-321), and the "Cultural Arts
16 Incentives Program Act," P.L.2023, c.197 (C.34:1B-383 et al.), the
17 total value of tax credits awarded during the nine-year period shall
18 not exceed \$1,200,000,000; provided, however, tax credits shall not
19 be available under the "New Jersey Community-Anchored
20 Development Act," sections 43 through 53 of P.L.2020, c.156
21 (C.34:1B-311 through 34:1B-321), until January 1, 2026.
22 Beginning January 1, 2026, the authority shall annually award tax
23 credits under the "New Jersey Community-Anchored Development
24 Act," sections 43 through 53 of P.L.2020, c.156 (C.34:1B-311
25 through 34:1B-321), valuing no greater than \$130 million for
26 projects located in the 13 northern counties of the State, and the
27 authority shall annually award tax credits valuing no greater than
28 \$70 million for projects located in the eight southern counties of the
29 State. If during any year of operation of the "New Jersey
30 Community-Anchored Development Act," sections 43 through 53 of
31 P.L.2020, c.156 (C.34:1B-311 through 34:1B-321), the authority
32 awards tax credits pursuant to the program in an amount less than
33 the annual limitation for projects located in northern counties or
34 southern counties, as applicable, the uncommitted portion of the
35 annual limitation shall be available to be deployed by the authority
36 in a subsequent year without consideration to the county in which a
37 project is located;

38 (f) for tax credits awarded under the "New Jersey Aspire
39 Program Act," sections 54 through 67 of P.L.2020, c.156 (C.34:1B-
40 322 through 34:1B-335), and the "Emerge Program Act," sections
41 68 through 81 of P.L.2020, c.156 (C.34:1B-336 et al.), not
42 including tax credits awarded for transformative projects, the total
43 value of tax credits annually awarded during each of the first six
44 years of the nine-year period shall not exceed \$1.1 billion. If the
45 authority awards tax credits in an amount less than the annual
46 limitation, then the uncommitted portion of the annual limitation
47 shall be made available for qualified offshore wind projects
48 awarded under section 6 of P.L.2010, c.57 (C.34:1B-209.4),

1 pursuant to subparagraph (h) of this paragraph, projects awarded a
2 tax credit pursuant to the "Next New Jersey Program Act," P.L. ,
3 c. (C.) (pending before the Legislature as this bill), pursuant
4 to subparagraph (k) of this paragraph, or New Jersey studio partners
5 and New Jersey film-lease production companies awarded under
6 sections 1 and 2 of P.L.2018, c.56 (C.54:10A-5.39b and C.54A:4-
7 12b), pursuant to subparagraph (i) of this paragraph and subsection
8 d. of this section. During each of the first six years of the nine-year
9 period, the authority shall annually award tax credits valuing no
10 greater than \$715 million for projects located in the northern
11 counties of the State, and the authority shall annually award tax
12 credits valuing no greater than \$385 million for projects located in
13 the southern counties of the State under the "New Jersey Aspire
14 Program Act," sections 54 through 67 of P.L.2020, c.156 (C.34:1B-
15 322 through 34:1B-335), and the "Emerge Program Act," sections
16 68 through 81 of P.L.2020, c.156 (C.34:1B-336 et al.). If during
17 any of the first six years of the nine-year period, the authority
18 awards tax credits under the "New Jersey Aspire Program Act,"
19 sections 54 through 67 of P.L.2020, c.156 (C.34:1B-322 through
20 34:1B-335), and the "Emerge Program Act," sections 68 through 81
21 of P.L.2020, c.156 (C.34:1B-336 et al.), in an amount less than the
22 annual limitation for projects located in northern counties or
23 southern counties, as applicable, the uncommitted portion of the
24 annual limitation shall be available to be deployed by the authority
25 in a subsequent year, provided that the uncommitted portion of tax
26 credits shall be awarded for projects located in the applicable
27 geographic area, except that (i) after the completion of the third
28 year of the nine-year period, the authority may deploy 50 percent of
29 the uncommitted portion of tax credits for any previous year
30 without consideration to the county in which a project is located;
31 and (ii) after the completion of the sixth year of the nine-year
32 period, the authority may deploy all available tax credits, including
33 the uncommitted portion of the annual limitation for any previous
34 year, without consideration to the county in which a project is
35 located;

36 (g) except as provided in subparagraph (j) of this paragraph, for
37 tax credits awarded for transformative projects under the "New
38 Jersey Aspire Program Act," sections 54 through 67 of P.L.2020,
39 c.156 (C.34:1B-322 through 34:1B-335), the total value of tax
40 credits awarded during the nine-year period shall not exceed \$2.5
41 billion. The total value of tax credits awarded for transformative
42 projects in a given year shall not be subject to an annual limitation,
43 except that the total value of tax credits awarded to any
44 transformative project shall not exceed \$400 million;

45 (h) from the tax credits made available, pursuant to
46 subparagraph (f) of this paragraph, to the "New Jersey Aspire
47 Program Act," sections 54 through 67 of P.L.2020, c.156 (C.34:1B-
48 322 through 34:1B-335), and the "Emerge Program Act," sections

1 68 through 81 of P.L.2020, c.156 (C.34:1B-336 et al.), not
2 including tax credits awarded for transformative projects, an
3 amount not to exceed \$350,000,000 shall be made available for
4 qualified offshore wind projects awarded a credit pursuant to
5 section 6 of P.L.2010, c.57 (C.34:1B-209.4) during the first three
6 years of the nine-year period;

7 (i) beginning in fiscal year 2023, from the tax credits made
8 available, pursuant to subparagraph (f) of this paragraph, to the
9 "New Jersey Aspire Program Act," sections 54 through 67 of
10 P.L.2020, c.156 (C.34:1B-322 through 34:1B-335), and the
11 "Emerge Program Act," sections 68 through 81 of P.L.2020, c.156
12 (C.34:1B-336 et al.), not including tax credits awarded for
13 transformative projects, additional amounts shall be made available
14 for New Jersey studio partners and New Jersey film-lease
15 production companies pursuant to sections 1 and 2 of P.L.2018,
16 c.56 (C.54:10A-5.39b and C.54A:4-12b); **[and]**

17 (j) beginning in fiscal year 2024, from the tax credits made
18 available, pursuant to subparagraph (f) of this paragraph, to the
19 "New Jersey Aspire Program Act," sections 54 through 67 of
20 P.L.2020, c.156 (C.34:1B-322 through 34:1B-335) and the "Emerge
21 Program Act," sections 68 through 81 of P.L.2020, c.156 (C.34:1B-
22 336 et al.), not including tax credits awarded for transformative
23 projects, an amount not to exceed \$500,000,000 may be annually
24 transferred for the award to transformative projects under the "New
25 Jersey Aspire Program Act," sections 54 through 67 of P.L.2020,
26 c.156 (C.34:1B-322 through 34:1B-335), provided that: (i) the
27 remaining allocation of tax credits otherwise available for
28 transformative projects, pursuant to subparagraph (g) of this
29 paragraph, is less than \$1,000,000,000; and (ii) the authority board
30 determines that the transfer of tax credits is warranted based on
31 such criteria as the authority deems appropriate, which may include
32 the criteria set forth in paragraph (2) of this subsection. If a transfer
33 of tax credits is made pursuant to this subparagraph, the authority
34 shall award no greater than 65 percent of the tax credits transferred
35 pursuant to this subparagraph to transformative projects located in
36 the northern counties of the State and no greater than 35 percent of
37 the tax credits transferred pursuant to this subparagraph to
38 transformative projects located in the southern counties of the State;
39 and

40 (k) beginning in fiscal year 2025, from the tax credits made
41 available, pursuant to subparagraph (f) of this paragraph, to the
42 "New Jersey Aspire Program Act," sections 54 through 67 of
43 P.L.2020, c.156 (C.34:1B-322 through 34:1B-335) and the "Emerge
44 Program Act," sections 68 through 81 of P.L.2020, c.156 (C.34:1B-
45 336 et al.), but not including tax credits awarded for transformative
46 projects, an amount not to exceed \$500,000,000 shall be made
47 available for projects awarded a tax credit pursuant to the "Next

1 New Jersey Program Act," P.L. , c. (C.) (pending before
2 the Legislature as this bill).

3 (2) The authority may in any given year determine that it is in
4 the State's interest to approve an amount of tax credits in excess of
5 the annual limitations set forth in paragraph (1) of this subsection,
6 but in no event more than \$200,000,000 in excess of the annual
7 limitation, upon a determination by the authority board that such
8 increase is warranted based on specific criteria that may include:

9 (i) the increased demand for opportunities to create or retain
10 employment and investment in the State as indicated by the volume
11 of project applications and the amount of tax credits being sought
12 by those applications;

13 (ii) the need to protect the State's economic position in the event
14 of an economic downturn;

15 (iii) the quality of project applications and the net economic
16 benefit to the State and municipalities associated with those
17 applications;

18 (iv) opportunities for project applications to strengthen or protect
19 the competitiveness of the State under the prevailing market
20 conditions;

21 (v) enhanced access to employment and investment for
22 underserved populations in distressed municipalities and qualified
23 incentives tracts;

24 (vi) increased investment and employment in high-growth
25 technology sectors and in projects that entail collaboration with
26 education institutions in the State;

27 (vii) increased development proximate to mass transit facilities;

28 (viii) any other factor deemed relevant by the authority.

29 c. In the event that the authority in any year approves projects
30 for tax credits in an amount less than the annual limitations set forth
31 in paragraph (1) of subsection b. of this section, then the
32 uncommitted portion of the annual limitation shall be available to
33 be deployed by the authority in future years for projects under the
34 same program; provided however, that in no event shall the
35 aggregate amount of tax credits approved be in excess of the overall
36 cap of \$11.5 billion, and in no event shall the uncommitted portion
37 of the annual limitation for any previous year be deployed after the
38 conclusion of the nine-year period.

39 d. Notwithstanding the provisions of any other law to the
40 contrary, the uncommitted balance of the total value of tax credits
41 authorized for award by the authority pursuant to subparagraph (f)
42 of paragraph (1) of subsection b. of this section to the "New Jersey
43 Aspire Program Act," sections 54 through 67 of P.L.2020, c.156
44 (C.34:1B-322 et seq.), and the "Emerge Program Act," sections 68
45 through 81 of P.L.2020, c.156 (C.34:1B-336 et al.), shall be made
46 available for tax credits allowed to New Jersey studio partners and
47 New Jersey film-lease production companies pursuant to sections 1
48 and 2 of P.L.2018, c.56 (C.54:10A-5.39b and C.54A:4-12b). The

1 value of tax credits, including tax credits allowed through the
2 granting of tax credit transfer certificates, made available to New
3 Jersey studio partners and New Jersey film-lease production
4 companies pursuant to this subsection shall be as follows:

5 (1) in fiscal year 2023, \$250,000,000 for New Jersey studio
6 partners and \$250,000,000 for New Jersey film-lease production
7 companies;

8 (2) in fiscal year 2024, \$250,000,000 for New Jersey studio
9 partners and \$250,000,000 for New Jersey film-lease production
10 companies; and

11 (3) in fiscal year 2025, \$250,000,000 for New Jersey studio
12 partners and \$250,000,000 for New Jersey film-lease production
13 companies.

14 If the value of tax credits, including tax credits allowed through
15 the granting of tax credit transfer certificates, approved to New
16 Jersey studio partners and New Jersey film-lease production
17 companies in any fiscal year pursuant to this subsection is less than
18 the cumulative total amount of tax credits permitted to be approved
19 in that fiscal year, the authority shall certify the amount of the
20 remaining tax credits available for approval to each such category
21 in that fiscal year, and shall increase the cumulative total amount of
22 tax credits permitted to be approved for New Jersey studio partners
23 and New Jersey film-lease production companies in the subsequent
24 fiscal year by the certified amount remaining for each such category
25 from the prior fiscal year.

26 (cf: P.L.2023, c.197, s.13)

27

28 11. This act shall take effect immediately.

29

30

31

STATEMENT

32

33 This bill establishes the "Next New Jersey Program" within the
34 New Jersey Economic Development Authority (EDA) and modifies
35 certain provisions of the "New Jersey Economic Recovery Act of
36 2020," P.L.2020, c.156 (C.34:1B-269 et al.).

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

42 Under the program, the EDA would provide tax credits to
43 eligible businesses, following approval of an application by the
44 EDA, to eligible AI businesses. Eligible AI businesses would
45 include a business or division that is primarily engaged in the
46 artificial intelligence industry or large-scale artificial intelligence
47 data center industry. A business would be considered primarily
48 engaged in such an industry if at least 50 percent of the business's

1 employees are engaged in AI-related activities, or at least 50
2 percent of the business's revenue is generated from AI-related
3 activities. The bill defines "artificial intelligence" or "AI" to mean
4 the development of software and hardware, and the end-use
5 application of technologies that are able to perform tasks normally
6 requiring human intelligence, including, but not limited to, visual
7 perception, speech recognition, decision-making, translation
8 between languages, and generative artificial intelligence, which
9 generates new content in response to user inputs of data.

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

20 Under the bill, the amount of the tax credit allowed for a
21 particular project would equal to the lesser of: (1) the product of
22 0.1 percent of the eligible business's total capital investment
23 multiplied by the number of new full-time jobs; (2) 25 percent of
24 the eligible business's total capital investment; or (3) \$250 million.

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

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.

Governor Murphy Signs Legislation to Spur Investment in New Jersey's AI Sector

07/25/2024

The Next New Jersey Program Provides Tax Credits to Innovative AI Companies

ROSELAND - Governor Phil Murphy today signed [S3432/A4558](#), establishing the Next New Jersey Program that will attract new investment into the state's artificial intelligence (AI) industry, creating new jobs and economic opportunities. The program will unlock access to capital for New Jersey's innovators and entrepreneurs and ensure they have access to the infrastructure necessary to make new, cutting-edge developments, which will position the state as a national leader in the industry.

"AI has already started to revolutionize our everyday lives, and New Jersey is capitalizing on this moment to ensure we establish ourselves as a frontrunner in generative AI innovation," **said Governor Murphy**. "The creation of this program will support the growth of AI-related businesses, which could lead to scientific breakthroughs and lifesaving discoveries right in our backyard. AI will be a transformative industry that will change lives and grow our economy and New Jersey is ready to take the lead."

The Next New Jersey Program will be administered by the [New Jersey Economic Development Authority \(NJEDA\)](#), which will award tax credits to eligible businesses that are engaged in artificial intelligence work or large-scale artificial intelligence data centers. Artificial intelligence related activities could include developing new algorithms and techniques, such as machine learning and natural language processing; creating AI-powered software and hardware products, including for medical modeling; and developing AI chatbots for customer service.

"Under Governor Murphy's leadership, New Jersey has been making major investments in emerging industries to help create sustainable, long-term economic growth," **said NJEDA Chief Executive Officer Tim Sullivan**. "The Next New Jersey Program will build upon the Garden State's longstanding legacy in innovation and drive the state's prominence in the rapidly growing AI industry, and create a strategic advantage for our innovators. AI presents an opportunity for new industry development in the state, good-paying jobs for our residents, and a stronger and more diverse economy for the next generation."

Last December, the Murphy Administration and [Princeton University](#) announced a partnership to develop an [AI Hub](#), which will advance New Jersey's leadership in the field and catalyze innovation in AI technologies. The AI Hub is expected to bring together industry leaders, researchers, and start-up companies to advance research and development in the emerging field. The hub will promote workforce development to support new AI technology development and implementation. Additionally, the AI Hub will house dedicated accelerator space and work to advance the use of ethical AI for positive societal impact.

Last fall, Governor Murphy also established the [AI Task Force](#), charged with studying emerging AI technologies and its societal impacts. The state's AI initiative draws on New Jersey's unique strengths in the health, sustainability, financial,

and technology sectors, which stand to benefit from the application of AI technologies to advance innovative breakthroughs.

The prime sponsors of this bill are Senator Raj Mukherji and Assemblyman Chris Tully.

"From life-saving healthcare breakthroughs to traffic jams, artificial intelligence will touch every aspect of our daily lives," **said Senator Raj Mukherji, a former information technology CEO.** "Through the responsible incentives in the Next New Jersey legislation, we are cementing New Jersey's place at the forefront of technological advancement and economic competitiveness as we tap into the transformative potential of AI. Through job creation, catalyzing innovation, and empowering our higher education institutions, we will see incredible return on our investment."

"The Next New Jersey Program is a bold step forward in making our state a leading hub for the rapidly evolving AI industry and ensure we continue building a prosperous and innovative future for all of New Jersey," **said Assemblyman Tully.** "New Jersey's investment lets industry know our state is a competitive and committed leader in AI."

"The signing of this bill is definitive proof that New Jersey is open for AI business," **said Brian Venturo, co-founder and Chief Strategy Officer at CoreWeave.** "This not only reinforces New Jersey's heritage as a state of innovators but also paves the way for significant advancements and opportunities in AI development. As the AI Hyperscaler, CoreWeave is proud to be headquartered here and excited to continue driving this industry forward."