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P.L. 2023, CHAPTER 261, *approved January 12, 2024*
Assembly, No. 5840 (*First Reprint*)

1 AN ACT concerning State economic development programs and
2 amending various parts of the statutory law.

3
4 **BE IT ENACTED** by the Senate and General Assembly of the State
5 of New Jersey:

6
7 1. Section 9 of P.L.1996, c.25 (C.34:1B-120) is amended to
8 read as follows:

9 9. a. As determined by the authority, a business which is
10 awarded a grant of tax credits under P.L.1996, c.25 (C.34:1B-112 et
11 seq.) shall submit annually, no later than March 1st of each year,
12 commencing in the year in which the grant of tax credits is issued
13 and for the remainder of the commitment duration, a certificate of
14 compliance that indicates that the business continues to maintain
15 the number of retained full-time jobs as specified in the project
16 agreement. Upon receipt and review thereof during the tax credit
17 term, the authority shall issue a certificate of compliance indicating
18 the amount of tax credits that the business may apply against
19 liability pursuant to section 7 of P.L.2004, c.65 (C.34:1B-115.3).
20 Any reduction in the number of retained full-time jobs below the
21 number prescribed under the terms of the project agreement shall
22 proportionately reduce the amount of tax credits the business may
23 apply against liability in that tax period and the credits that may no
24 longer be applied for that tax period shall be forfeited. However, if
25 in any tax period, the number of retained full-time jobs drops below
26 the minimum number of retained full-time jobs indicated in the
27 paragraph of subsection b. of section 7 of P.L.2004, c.65 (C.34:1B-
28 115.3) pursuant to which the project agreement was executed such
29 that the business would no longer be eligible to apply the credits for
30 the number of years for which it was approved, then the authority
31 shall reduce the amount of tax credits the business may apply
32 against liability and the number of years in which the business may
33 apply the tax credits. The grant shall be subject to recapture
34 provisions pursuant to the project agreement.

35 b. Following the termination of the public health emergency
36 declared by the Governor pursuant to Executive Order No. 103 of
37 2020, as extended, a business that has entered into an incentive
38 agreement may elect, before ¹**【December 31, 2023】** March 31,
39 2024¹, to waive, for the period beginning on July 1, 2022 and
40 ending on ¹**【December 31, 2023】** March 31, 2024¹, the requirement

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

Matter underlined thus is new matter.

Matter enclosed in superscript numerals has been adopted as follows:

¹Assembly AAP committee amendments adopted December 18, 2023.

1 that a full-time employee who is employed by the business shall
2 spend at least 60 percent of the employee's time at the qualified
3 business facility; provided, however, that a business that makes
4 such an election shall satisfy the following criteria:

5 (1) any full-time employee employed by the business shall
6 spend at least 10 percent of the employee's time at the qualified
7 business facility **[through]** for the 2023 tax period ¹**[only]** through
8 March 31, 2024¹; and

9 (2) following the receipt by the business of its tax credit
10 certificate or tax credit transfer certificate for the 2022 tax period,
11 the business shall make a payment of an amount equal to five
12 percent of the amount of tax credit the business receives for the
13 2022 tax period ¹through March 31, 2024¹, which payment shall be
14 made to the authority, and which payment the authority shall hold
15 and make available for the provision of loans, guarantees, equity
16 investments, and grants, or other forms of financing to support
17 small business and downtown or commercial corridor activation
18 activities within the municipality in which the qualified business
19 facility is located, as may be designated by the chief executive
20 officer of the authority.

21 ¹c. For the 2024 tax period and all subsequent tax periods, a
22 business may elect to waive for each tax period the requirement that
23 a full-time employee who is employed by the business shall spend
24 at least 60 percent of the employee's time at the qualified business
25 facility; provided, however, that a business that makes such an
26 election shall satisfy the following criteria:

27 (1) to qualify as an eligible position or full-time job, the business
28 shall demonstrate to the authority's satisfaction that the employee
29 spends at least 80 percent of the employee's work time in this State
30 and that the eligible position requires an employee to have the
31 employee's primary place of work in this State, which need not be
32 at the qualified business facility for the business to receive the full
33 award amount;

34 (2) not less than 80 percent of the aggregate withholdings of new
35 and retained full-time jobs at the business shall be subject to the
36 "New Jersey Gross Income Tax Act," N.J.S.54A:1-1 et seq., except
37 for an employee who is a resident of another state and whose
38 income is not subject to the "New Jersey Gross Income Tax Act,"
39 N.J.S.54A:1-1 et seq., due to a reciprocity agreement with another
40 state; and

41 (3) following the receipt by the business of its tax credit
42 certificate or tax credit transfer certificate for such tax period that
43 an election is made, the business shall make a payment of an
44 amount equal to five percent of the amount of the tax credit the
45 business receives for such tax period, which payment shall be made
46 to the authority, and which payment the authority shall hold and
47 make available for the provision of loans, guarantees, equity
48 investments, and grants, or other forms of financing to support

1 small business and downtown or commercial corridor activation
2 activities within the municipality in which the qualified business
3 facility is located, as may be designated by the chief executive
4 officer of the authority.】¹

5 (cf: P.L.2022, c.134, s.1)

6
7 2. Section 6 of P.L.1996, c.26 (C.34:1B-129) is amended to
8 read as follows:

9 6. a. The amount of the employment incentive awarded as a
10 grant by the authority shall either be awarded in cash or as a tax
11 credit. In each case, the amount of the grant shall be not less than
12 10 percent and not more than 50 percent of the withholdings of the
13 business, or not less than 10 percent and not more than 30 percent
14 of the estimated tax of the partners of an eligible partnership
15 whether paid directly by the partner or by the eligible partnership
16 on behalf of the partner's account, or any combination thereof, and
17 shall be subject to the provisions of sections 10 and 11 of P.L.1996,
18 c.26 (C.34:1B-133 and C.34:1B-134). In no case shall the aggregate
19 amount of the employment incentive grant awarded pursuant to a
20 business employment incentive agreement entered into on or after
21 July 1, 2003 exceed an average of \$50,000 for all new employees
22 over the term of the grant. The employment incentive shall be based
23 on criteria developed by the authority after considering the
24 following:

- 25 (1) The number of eligible positions to be created;
26 (2) The expected duration of those positions;
27 (3) The type of contribution the business can make to the long-
28 term growth of the State's economy;
29 (4) The amount of other financial assistance the business will
30 receive from the State for the project;
31 (5) The total dollar investment the business is making in the
32 project;
33 (6) Whether the business is a designated industry;
34 (7) Impact of the business on State tax revenues; and
35 (8) Such other related factors determined by the authority.

36 b. A business may be eligible to be awarded a grant, either in
37 cash or in tax credits, of up to 80 percent of the withholdings of the
38 business or up to 50 percent of the estimated tax of the partners of
39 an eligible partnership if the grant promotes smart growth and the
40 goals, strategies, and policies of the State Development and
41 Redevelopment Plan, established pursuant to section 5 of P.L.1985,
42 c.398 (C.52:18A-200), as determined by and based upon criteria
43 promulgated by the authority following consultation with the Office
44 of State Planning in the Department of State.

45 c. The term of the grant shall not exceed 10 years.

46 d. At the discretion of the authority, the grant may apply to
47 new employees or partners in eligible positions created during the
48 base years, and during the remainder of the term of the grant.

1 e. Within 180 days of the date of enactment of P.L.2015, c.194
2 (C.34:1B-137.1 et al.), a business that was approved for a grant
3 prior to the enactment of P.L.2015, c.194 (C.34:1B-137.1 et al.),
4 may direct the authority to convert the grant to a tax credit against
5 the tax liability otherwise due pursuant to section 5 of P.L.1945,
6 c.162 (C.54:10A-5), sections 2 and 3 of P.L.1945, c.132 (C.54:18A-
7 2 and 54:18A-3), section 1 of P.L.1950, c.231 (C.17:32-15), or
8 N.J.S.17B:23-5. The direction to convert the grant to a tax credit
9 shall be irrevocable. An approved tax credit shall be issued in the
10 manner and for the amounts as follows and may only be applied in
11 the tax period for which they are issued and shall not be carried
12 forward:

13 (1) For grants accrued but not paid during calendar years 2008
14 through 2013, the tax credit shall be equal to an approved amount
15 and shall be issued in five installments over a five-year period
16 beginning in the 2017 tax accounting or privilege period of the
17 business or tax credit transferee in the following percentages: in
18 year one, five percent of the accrued amount; in year two, 20
19 percent of the accrued amount; in year three, 25 percent of the
20 accrued amount; in year four, 25 percent of the accrued amount; in
21 year five, 25 percent of the accrued amount. To the extent any
22 amount in this paragraph has not been approved by the authority by
23 the commencement of State fiscal year 2017, the aggregate tax
24 credit that would have been issued in State fiscal year 2017 shall be
25 issued in the year the amount is approved and the five-year period
26 shall commence in that fiscal year;

27 (2) For a grant accrued but not paid during calendar year 2014,
28 the tax credit shall be equal to any approved amount and shall be
29 issued in four equal installments over a four-year period beginning
30 in the 2019 tax accounting or privilege period of the business or tax
31 credit transferee;

32 (3) For a grant accrued but not paid during calendar year 2015,
33 the tax credit shall be equal to any approved amount and shall be
34 issued in four equal installments over a four-year period beginning
35 in the 2019 tax accounting or privilege period of the business or tax
36 credit transferee;

37 (4) For a grant accrued but not paid during calendar year 2016,
38 the tax credit shall be equal to any approved amount and shall be
39 issued in three equal installments over a three-year period
40 beginning in the 2020 tax accounting or privilege period of the
41 business or tax credit transferee;

42 (5) For a grant accrued but not paid during calendar year 2017,
43 the tax credit shall be equal to any approved amount and shall be
44 issued in three equal installments over a three-year period
45 beginning in the 2020 tax accounting or privilege period of the
46 business or tax credit transferee;

47 (6) For a grant accrued but not paid during calendar year 2018,
48 the tax credit shall be equal to any approved amount and shall be

1 issued in two equal installments over a two-year period beginning
2 in the 2022 tax accounting or privilege period of the business or tax
3 credit transferee;

4 (7) For a grant accrued but not paid during calendar year 2019,
5 the tax credit shall be equal to any approved amount and shall be
6 issued in two equal installments over a two-year period beginning
7 in the 2022 tax accounting or privilege period of the business or tax
8 credit transferee;

9 (8) For a grant accrued but not paid during calendar year 2020,
10 the tax credit shall be equal to any approved amount and shall be
11 issued in two equal installments over a two-year period beginning
12 in the 2023 tax accounting or privilege period of the business or tax
13 credit transferee;

14 (9) For a grant accrued but not paid during calendar year 2021,
15 the tax credit shall be equal to any approved amount and shall be
16 issued in two equal installments over a two-year period beginning
17 in the 2023 tax accounting or privilege period of the business or tax
18 credit transferee;

19 (10) For a grant accrued but not paid during calendar year 2022,
20 the tax credit shall be equal to any approved amount and shall be
21 paid in two equal installments over a two-year period beginning in
22 the 2023 tax accounting or privilege period of the business or tax
23 credit transferee;

24 (11) For a grant accrued but not paid during calendar year 2023,
25 the tax credit shall be equal to any approved amount and shall be
26 issued in two equal installments over a two-year period beginning
27 in the 2023 tax accounting or privilege period of the business or tax
28 credit transferee;

29 (12) For a grant accrued but not paid during calendar year 2024,
30 the tax credit shall be equal to any approved amount and shall be
31 issued in the 2025 tax accounting or privilege period of the business
32 or tax credit transferee; and

33 (13) For a grant accrued but not paid during calendar year 2025,
34 the tax credit shall be equal to any approved amount and shall be
35 issued in the 2025 tax accounting or privilege period of the business
36 or tax credit transferee.

37 f. The amount of the credit allowed pursuant to this section
38 shall be applied against the tax otherwise due under section 5 of
39 P.L.1945, c.162 (C.54:10A-5), sections 2 and 3 of P.L.1945, c.132
40 (C.54:18A-2 and C.54:18A-3), section 1 of P.L.1950, c.231
41 (C.17:32-15), or N.J.S.17B:23-5, prior to all other credits and
42 payments. If the credit exceeds the amount of tax liability otherwise
43 due from a business that pays taxes under section 5 of P.L.1945,
44 c.162 (C.54:10A-5), sections 2 and 3 of P.L.1945, c.132 (C.54:18A-
45 2 and C.54:18A-3), section 1 of P.L.1950, c.231 (C.17:32-15), or
46 N.J.S.17B:23-5, that amount of excess shall be an overpayment for
47 the purposes of R.S.54:49-15, provided, however, that section 7 of
48 P.L.1992, c.175 (C.54:49-15.1) shall not apply.

1 g. (1) A business that does not pay taxes under section 5 of
2 P.L.1945, c.162 (C.54:10A-5), sections 2 and 3 of P.L.1945, c.132
3 (C.54:18A-2 and 54:18A-3), section 1 of P.L.1950, c.231 (C.17:32-
4 15), or N.J.S.17B:23-5 may apply to the executive director of the
5 authority for a tax credit transfer certificate, covering one or more
6 years.

7 (2) A business that has received a tax credit pursuant to
8 subsection e. of this section, which credit exceeds the amount of the
9 tax liability otherwise due, may apply to the executive director of
10 the authority for a tax credit transfer certificate, covering one or
11 more years.

12 (3) Upon the executive director's approval of an application for
13 a tax credit transfer certificate, the division shall review and issue
14 the tax credit transfer certificate. The tax credit transfer certificate,
15 upon receipt thereof by the business, may be sold or assigned, in
16 full or in part, in an amount not less than \$100,000, or the amount
17 of the refundable tax credit issued if less than \$100,000, of tax
18 credits to any other 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. The tax credit transfer
22 certificate provided to the business shall include a statement
23 waiving the business's right to claim that amount of the credit
24 against the taxes that the business has elected to sell or assign. The
25 sale or assignment of any amount of a tax credit transfer certificate
26 allowed under this section shall not be exchanged for consideration
27 received by the business of less than 75 percent of the transferred
28 credit amount before considering any further discounting to present
29 value which shall be permitted. Any amount of a tax credit transfer
30 certificate used by a purchaser or assignee against a tax liability
31 shall be subject to the same privileges, limitations, and conditions
32 that apply to the use of the credit by the business that originally
33 applied for and was allowed the tax credit, including treating the
34 amount of excess as an overpayment under subsection f. of this
35 section. The tax credit transferee may not transfer its tax credit to
36 any other party.

37 h. Following the termination of the public health emergency
38 declared by the Governor pursuant to Executive Order No. 103 of
39 2020, as extended, a business that has entered into an incentive
40 agreement may elect, before ¹**【December 31, 2023】** March 31,
41 2024¹, to waive, for the period beginning on July 1, 2022 and
42 ending on ¹**【December 31, 2023】** March 31, 2024¹, the requirement
43 that a full-time employee who is employed by the business shall
44 spend at least 60 percent of the employee's time at the qualified
45 business facility; provided, however, that a business that makes
46 such an election shall satisfy the following criteria:

47 (1) any full-time employee employed by the business shall spend
48 at least 10 percent of the employee's time at the qualified business

1 facility **through** for the 2023 tax period **only** through March
2 31, 2024¹; and

3 (2) following the receipt by the business of its tax credit
4 certificate or tax credit transfer certificate for the 2022 tax period,
5 the business shall make a payment of an amount equal to five
6 percent of the amount of tax credit the business receives for the
7 2022 tax period ¹through March 31, 2024¹, which payment shall be
8 made to the authority, and which payment the authority shall hold
9 and make available for the provision of loans, guarantees, equity
10 investments, and grants, or other forms of financing to support
11 small business and downtown or commercial corridor activation
12 activities within the municipality in which the qualified business
13 facility is located, as may be designated by the chief executive
14 officer of the authority.

15 ¹i. For the 2024 tax period and all subsequent tax periods, a
16 business may elect to waive for each tax period the requirement that
17 a full-time employee who is employed by the business shall spend
18 at least 60 percent of the employee's time at the qualified business
19 facility; provided, however, that a business that makes such an
20 election shall satisfy the following criteria:

21 (1) to qualify as an eligible position or full-time job, the
22 business must demonstrate to the authority's satisfaction that the
23 employee spends at least 80 percent of the employee's work time in
24 this State and that the eligible position requires an employee to have
25 the employee's primary place of work in this State, which need not
26 be at the qualified business facility for the business to receive the
27 full award amount;

28 (2) not less than 80 percent of the aggregate withholdings of
29 new and retained full-time jobs at the business shall be subject to
30 the "New Jersey Gross Income Tax Act," N.J.S.54A:1-1 et seq.,
31 except for an employee who is a resident of another state and whose
32 income is not subject to the "New Jersey Gross Income Tax Act,"
33 N.J.S.54A:1-1 et seq., due to a reciprocity agreement with another
34 state; and

35 (3) following the receipt by the business of its tax credit
36 certificate or tax credit transfer certificate for such tax period that
37 an election is made, the business shall make a payment of an
38 amount equal to five percent of the amount of tax credit the
39 business receives for such tax period, which payment shall be made
40 to the authority, and which payment the authority shall hold and
41 make available for the provision of loans, guarantees, equity
42 investments, and grants, or other forms of financing to support
43 small business and downtown or commercial corridor activation
44 activities within the municipality in which the qualified business
45 facility is located, as may be designated by the chief executive
46 officer of the authority.¹

47 (cf: P.L.2022, c.134, s.2)

1 3. Section 3 of P.L.2007, c.346 (C.34:1B-209) is amended to
2 read as follows:

3 3. a. (1) A business, upon application to and approval from
4 the authority, shall be allowed a credit of 100 percent of its capital
5 investment, made after the effective date of P.L.2007, c.346
6 (C.34:1B-207 et seq.) but prior to its submission of documentation
7 pursuant to subsection c. of this section, in a qualified business
8 facility within an eligible municipality, pursuant to the restrictions
9 and requirements of this section. To be eligible for any tax credits
10 authorized under this section, a business shall demonstrate to the
11 authority, at the time of application, that the State's financial
12 support of the proposed capital investment in a qualified business
13 facility will yield a net positive benefit to both the State and the
14 eligible municipality. The value of all credits approved by the
15 authority pursuant to P.L.2007, c.346 (C.34:1B-207 et seq.) shall
16 not exceed \$1,750,000,000, except as may be increased by the
17 authority as set forth in paragraph (5) of subsection a. of section 35
18 of P.L.2009, c.90 (C.34:1B-209.3) and section 6 of P.L.2010, c.57
19 (C.34:1B-209.4).

20 (2) A business, other than a tenant eligible pursuant to
21 paragraph (3) of this subsection, shall make or acquire capital
22 investments totaling not less than \$50,000,000 in a qualified
23 business facility, at which the business shall employ not fewer than
24 250 full-time employees to be eligible for a credit under this
25 section. A business that acquires a qualified business facility shall
26 also be deemed to have acquired the capital investment made or
27 acquired by the seller.

28 (3) A business that is a tenant in a qualified business facility, the
29 owner of which has made or acquired capital investments in the
30 facility totaling not less than \$50,000,000, shall occupy a leased
31 area of the qualified business facility that represents at least
32 \$17,500,000 of the capital investment in the facility at which the
33 tenant business and up to two other tenants in the qualified business
34 facility shall employ not fewer than 250 full-time employees in the
35 aggregate to be eligible for a credit under this section. The amount
36 of capital investment in a facility that a leased area represents shall
37 be equal to that percentage of the owner's total capital investment in
38 the facility that the percentage of net leasable area leased by the
39 tenant is of the total net leasable area of the qualified business
40 facility. Capital investments made by a tenant shall be deemed to be
41 included in the calculation of the capital investment made or
42 acquired by the owner, but only to the extent necessary to meet the
43 owner's minimum capital investment of \$50,000,000. Capital
44 investments made by a tenant and not allocated to meet the owner's
45 minimum capital investment threshold of \$50,000,000 shall be
46 added to the amount of capital investment represented by the
47 tenant's leased area in the qualified business facility.

1 (4) A business shall not be allowed tax credits under this section
2 if the business participates in a business employment incentive
3 agreement, pursuant to P.L.1996, c.26 (C.34:1B-124 et seq.),
4 relating to the same capital and employees that qualify the business
5 for this credit, or if the business receives assistance pursuant to
6 P.L.1996, c.25 (C.34:1B-112 et seq.). A business that is allowed a
7 tax credit under this section shall not be eligible for incentives
8 authorized pursuant to P.L.2002, c.43 (C.52:27BBB-1 et al.). A
9 business shall not qualify for a tax credit under this section, based
10 upon its capital investment and the employment of full-time
11 employees, if that capital investment or employment was the basis
12 for which a grant was provided to the business pursuant to the
13 "InvestNJ Business Grant Program Act," P.L.2008, c.112 (C.34:1B-
14 237 et seq.).

15 (5) Full-time employment for an accounting or a privilege
16 period shall be determined as the average of the monthly full-time
17 employment for the period.

18 (6) The capital investment of the owner of a qualified business
19 facility is that percentage of the capital investment made or
20 acquired by the owner of the building that the percentage of net
21 leasable area of the qualified business facility not leased to tenants
22 is of the total net leasable area of the qualified business facility.

23 (7) A business shall be allowed a tax credit of 100 percent of its
24 capital investment, made after the effective date of P.L.2011, c.89
25 but prior to its submission of documentation pursuant to subsection
26 c. of this section, in a qualified business facility that is part of a
27 mixed use project, provided that (a) the qualified business facility
28 represents at least \$17,500,000 of the total capital investment in the
29 mixed use project, (b) the business employs not fewer than 250 full-
30 time employees in the qualified business facility, and (c) the total
31 capital investment in the mixed use project of which the qualified
32 business facility is a part is not less than \$50,000,000. The
33 allowance of credits under this paragraph shall be subject to the
34 restrictions and requirements, to the extent that those are not
35 inconsistent with the provisions of this paragraph, set forth in
36 paragraphs (1) through (6) of this subsection, including, but not
37 limited to, the requirement that the business shall demonstrate to the
38 authority, at the time of application, that the State's financial
39 support of the proposed capital investment in a qualified business
40 facility will yield a net positive benefit to both the State and the
41 eligible municipality.

42 (8) In determining whether a proposed capital investment will
43 yield a net positive benefit, the authority shall not consider the
44 transfer of an existing job from one location in the State to another
45 location in the State as the creation of a new job, unless (a) the
46 business proposes to transfer existing jobs to a municipality in the
47 State as part of a consolidation of business operations from two or
48 more other locations that are not in the same municipality whether

1 in-State or out-of-State, or (b) the business's chief executive officer,
2 or equivalent officer, submits a certification to the authority
3 indicating that the existing jobs are at risk of leaving the State and
4 that the business's chief executive officer, or equivalent officer, has
5 reviewed the information submitted to the authority and that the
6 representations contained therein are accurate, and the business
7 intends to employ not fewer than 500 full-time employees in the
8 qualified business facility. In the event that this certification by the
9 business's chief executive officer, or equivalent officer, is found to
10 be willfully false, the authority may revoke any award of tax credits
11 in their entirety, which revocation shall be in addition to any other
12 criminal or civil penalties that the business and the officer may be
13 subject to. When considering an application involving intra-State
14 job transfers, the authority shall require the company to submit the
15 following information as part of its application: a full economic
16 analysis of all locations under consideration by the company; all
17 lease agreements, ownership documents, or substantially similar
18 documentation for the business's current in-State locations; and all
19 lease agreements, ownership documents, or substantially similar
20 documentation for the potential out-of-State location alternatives, to
21 the extent they exist. Based on this information, and any other
22 information deemed relevant by the authority, the authority shall
23 independently verify and confirm, by way of making a factual
24 finding by separate vote of the authority's board, the business's
25 assertion that the jobs are actually at risk of leaving the State,
26 before a business may be awarded any tax credits under this section.

27 b. (1) If applications under this section have been received by
28 the authority prior to the effective date of the "New Jersey
29 Economic Opportunity Act of 2013," P.L.2013, c.161 (C.52:27D-
30 489p et al.), then, to the extent that there remains sufficient
31 financial authorization for the award of a tax credit, the authority is
32 authorized to consider those applications and to make awards of tax
33 credits to eligible applicants, provided that the authority shall take
34 final action on those applications no later than December 31, 2013.

35 (2) A business shall apply for the credit under this section prior
36 to the effective date of the "New Jersey Economic Opportunity Act
37 of 2013," P.L.2013, c.161 (C.52:27D-489p et al.), and shall submit
38 its documentation for approval of its credit amount no later than
39 December 31, 2023.

40 (3) If a business has submitted an application under this section
41 and that application has not been approved for any reason, the lack
42 of approval shall not serve to prejudice in any way the
43 consideration of a new application as may be submitted for the
44 qualified business facility for the provision of incentives offered
45 pursuant to the "New Jersey Economic Opportunity Act of 2013,"
46 P.L.2013, c.161 (C.52:27D-489p et al.).

47 (4) Tax credits awarded pursuant to P.L.2007, c.346 (C.34:1B-
48 207 et seq.) for applications submitted to and approved by the

1 authority prior to the effective date of the "New Jersey Economic
2 Opportunity Act of 2013," P.L.2013, c.161 (C.52:27D-489p et al.),
3 shall be administered by the authority in the manner established
4 prior to that date.

5 (5) With respect to an application received by the authority prior
6 to the effective date of the "New Jersey Economic Opportunity Act
7 of 2013," P.L.2013, c.161 (C.52:27D-489p et al.) for a qualified
8 business facility that is located on or adjacent to the campus of an
9 acute care medical facility, (a) the minimum number of full-time
10 employees required for eligibility under the program may be
11 employed by any number of tenants or other occupants of the
12 facility, in the aggregate, and the initial satisfaction of the
13 requirement following completion of the project shall be deemed to
14 satisfy the employment requirements of the program in all respects,
15 and (b) if the capital investment in the facility exceeds
16 \$100,000,000, the determination of the net positive benefit yield
17 shall be based on the benefits generated during a period of up to 30
18 years following the completion of the project, as determined by the
19 authority.

20 c. (1) The amount of credit allowed shall, except as otherwise
21 provided, be equal to the capital investment made by the business,
22 or the capital investment represented by the business's leased area,
23 or area owned by the business as a condominium, and shall be taken
24 over a 10-year period, at the rate of one-tenth of the total amount of
25 the business's credit for each tax accounting or privilege period of
26 the business, beginning with the tax period in which the business is
27 first certified by the authority as having met the investment capital
28 and employment qualifications, subject to any reduction or
29 disqualification as provided by subsection d. of this section as
30 determined by annual review by the authority. In conducting its
31 annual review, the authority may require a business to submit any
32 information determined by the authority to be necessary and
33 relevant to its review.

34 The credit amount that may be taken for a tax period of the
35 business that exceeds the final liabilities of the business for the tax
36 period may be carried forward for use by the business in the next 20
37 successive tax periods, and shall expire thereafter, provided that the
38 value of all credits approved by the authority against tax liabilities
39 pursuant to P.L.2007, c.346 (C.34:1B-207 et seq.) in any fiscal year
40 shall not exceed \$260,000,000.

41 The amount of credit allowed for a tax period to a business that
42 is a tenant in a qualified business facility shall not exceed the
43 business's total lease payments for occupancy of the qualified
44 business facility for the tax period.

45 A business may elect to suspend its obligations for the 2020,
46 2021, 2022, or 2023 tax period, or any combination thereof, due to
47 the COVID-19 pandemic, provided that the business shall make
48 such election in writing to the authority before the issuance of the

1 tax credit for the corresponding tax year and such suspension shall
2 extend the term of the eligibility period by a corresponding amount
3 of time. The authority shall modify the approval letter, and the
4 business shall execute the modification within the time period
5 provided by the authority. The modification shall provide that the
6 failure to submit the annual report due to the suspension shall not be
7 a forfeiture or an uncertified tax period.

8 (2) A business that is a partnership shall not be allowed a credit
9 under this section directly, but the amount of credit of an owner of a
10 business shall be determined by allocating to each owner of the
11 partnership that proportion of the credit of the business that is equal
12 to the owner of the partnership's share, whether or not distributed,
13 of the total distributive income or gain of the partnership for its tax
14 period ending within or at the end of the owner's tax period, or that
15 proportion that is allocated by an agreement, if any, among the
16 owners of the partnership that has been provided to the Director of
17 the Division of Taxation in the Department of the Treasury by the
18 time and accompanied by the additional information as the director
19 may require.

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

25 d. (1) If, in any tax period, fewer than 200 full-time employees
26 of the business at the qualified business facility are employed in
27 new full-time positions, the amount of the credit otherwise
28 determined pursuant to final calculation of the award of tax credits
29 pursuant to subsection c. of this section shall be reduced by 20
30 percent for that tax period and each subsequent tax period until the
31 first period for which documentation demonstrating the restoration
32 of the 200 full-time employees employed in new full-time positions
33 at the qualified business facility has been reviewed and approved by
34 the authority, for which tax period and each subsequent tax period
35 the full amount of the credit shall be allowed; provided, however,
36 that for businesses applying before January 1, 2010, there shall be
37 no reduction if a business relocates to an urban transit hub from
38 another location or other locations in the same municipality. For the
39 purposes of this paragraph, a "new full-time position" means a
40 position created by the business at the qualified business facility
41 that did not previously exist in this State.

42 (2) If, in any tax period, the business reduces the total number
43 of full-time employees in its Statewide workforce by more than 20
44 percent from the number of full-time employees in its Statewide
45 workforce in the last tax accounting or privilege period prior to the
46 credit amount approval under subsection a. of this section, then the
47 business shall forfeit its credit amount for that tax period and each
48 subsequent tax period, until the first tax period for which

1 documentation demonstrating the restoration of the business's
2 Statewide workforce to the threshold levels required by this
3 paragraph has been reviewed and approved by the authority, for
4 which tax period and each subsequent tax period the full amount of
5 the credit shall be allowed.

6 (3) If, in any tax period, (a) the number of full-time employees
7 employed by the business at the qualified business facility located
8 in an urban transit hub within an eligible municipality drops below
9 250, or (b) the number of full-time employees, who are not the
10 subject of intra-State job transfers, pursuant to paragraph (8) of
11 subsection a. of this section, employed by the business at any other
12 business facility in the State, whether or not located in an urban
13 transit hub within an eligible municipality, drops by more than 20
14 percent from the number of full-time employees in its workforce in
15 the last tax accounting or privilege period prior to the credit amount
16 approval under this section, then the business shall forfeit its credit
17 amount for that tax period and each subsequent tax period, until the
18 first tax period for which documentation demonstrating the
19 restoration of the number of full-time employees employed by the
20 business at the qualified business facility to 250 or an increase
21 above the 20 percent reduction has been reviewed and approved by
22 the authority, for which tax period and each subsequent tax period
23 the full amount of the credit shall be allowed.

24 (4) (i) If the qualified business facility is sold in whole or in
25 part during the 10-year eligibility period, the new owner shall not
26 acquire the capital investment of the seller and the seller shall
27 forfeit all credits for the tax period in which the sale occurs and all
28 subsequent tax periods; provided, however, that any credits of
29 tenants shall remain unaffected.

30 (ii) If a tenant subleases its tenancy in whole or in part during
31 the 10-year eligibility period, the new tenant shall not acquire the
32 credit of the sublessor, and the sublessor tenant shall forfeit all
33 credits for the tax period of its sublease and all subsequent tax
34 periods.

35 (5) Following the termination of the public health emergency
36 declared by the Governor pursuant to Executive Order No. 103 of
37 2020, as extended, a business that has entered into an incentive
38 agreement may elect, before ¹~~December 31, 2023~~ March 31,
39 2024¹, to waive, for the period beginning on July 1, 2022 and
40 ending on ¹~~December 31, 2023~~ March 31, 2024¹, the requirement
41 that a full-time employee who is employed by the business shall
42 spend at least 60 percent of the employee's time at the qualified
43 business facility; provided, however, that a business that makes
44 such an election shall satisfy the following criteria:

45 (i) any full-time employee employed by the business shall
46 spend at least 10 percent of the employee's time at the qualified

1 business facility **through** for the 2023 tax period ¹**only** through
2 March 31, 2024¹; and

3 (ii) following the receipt by the business of its tax credit
4 certificate or tax credit transfer certificate for the 2022 tax period,
5 the business shall make a payment of an amount equal to five
6 percent of the amount of tax credit the business receives for the
7 2022 tax period ¹through March 31, 2024¹, which payment shall be
8 made to the authority, and which payment the authority shall hold
9 and make available for the provision of loans, guarantees, equity
10 investments, and grants, or other forms of financing to support
11 small business and downtown or commercial corridor activation
12 activities within the municipality in which the qualified business
13 facility is located, as may be designated by the chief executive
14 officer of the authority.

15 ¹[(6) For the 2024 tax period and all subsequent tax periods, a
16 business may elect to waive for each tax period the requirement that
17 a full-time employee who is employed by the business shall spend
18 at least 60 percent of the employee's time at the qualified business
19 facility; provided, however, that a business that makes such an
20 election shall satisfy the following criteria:

21 (i) to qualify as an eligible position or full-time job, the business
22 shall demonstrate to the authority's satisfaction that the employee
23 spends at least 80 percent of the employee's work time in this State
24 and that the eligible position requires an employee to have the
25 employee's primary place of work in this State, which need not be
26 at the qualified business facility for the business to receive the full
27 award amount;

28 (ii) not less than 80 percent of the aggregate withholdings of new
29 and retained full-time jobs at the business shall be subject to the
30 "New Jersey Gross Income Tax Act," N.J.S.54A:1-1 et seq., except
31 for an employee who is a resident of another state and whose
32 income is not subject to the "New Jersey Gross Income Tax Act,"
33 N.J.S.54A:1-1 et seq., due to a reciprocity agreement with another
34 state; and

35 (iii) following the receipt by the business of its tax credit
36 certificate or tax credit transfer certificate for such tax period that
37 an election is made, the business shall make a payment of an
38 amount equal to five percent of the amount of tax credit the
39 business receives for such tax period, which payment shall be made
40 to the authority, and which payment the authority shall hold and
41 make available for the provision of loans, guarantees, equity
42 investments, and grants, or other forms of financing to support
43 small business and downtown or commercial corridor activation
44 activities within the municipality in which the qualified business
45 facility is located, as may be designated by the chief executive
46 officer of the authority.¹

1 e. (1) The Executive Director of the New Jersey Economic
2 Development Authority, in consultation with the Director of the
3 Division of Taxation in the Department of the Treasury, shall adopt
4 rules in accordance with the "Administrative Procedure Act,"
5 P.L.1968, c.410 (C.52:14B-1 et seq.) as are necessary to implement
6 P.L.2007, c.346 (C.34:1B-207 et seq.), including, but not limited to:
7 examples of and the determination of capital investment; the
8 enumeration of eligible municipalities; specific delineation of urban
9 transit hubs; the determination of the limits, if any, on the expense
10 or type of furnishings that may constitute capital improvements; the
11 promulgation of procedures and forms necessary to apply for a
12 credit, including the enumeration of the certification procedures and
13 allocation of tax credits for different phases of a qualified business
14 facility or mixed use project; and provisions for credit applicants to
15 be charged an initial application fee, and ongoing service fees, to
16 cover the administrative costs related to the credit.

17 (2) Through regulation, the authority shall establish standards
18 based on the green building manual prepared by the Commissioner
19 of Community Affairs, pursuant to section 1 of P.L.2007, c.132
20 (C.52:27D-130.6), regarding the use of renewable energy, energy-
21 efficient technology, and non-renewable resources in order to
22 reduce environmental degradation and encourage long-term cost
23 reduction.

24 f. A business that has executed an approval letter may request
25 before December 31, 2023 to terminate the award, commencing
26 with the 2020 tax period or any subsequent tax period ending on or
27 before December 31, 2023, due to the COVID-19 public health
28 emergency; provided that the business shall submit a certification
29 from the business's chief executive officer or equivalent officer
30 stating that the termination is due, directly or indirectly, to the
31 public health emergency and describing the impact of the public
32 health emergency on the business. All credits for the tax period in
33 which the termination is requested and all subsequent tax periods
34 shall be forfeited, provided however that any credits of the business
35 shall remain unaffected. A termination agreement executed by the
36 authority and business shall not be amended.

37 (cf: P.L.2022, c.134, s.3)

38

39 4. Section 6 of P.L.2011, c.149 (C.34:1B-247) is amended to
40 read as follows:

41 6. a. (1) The combined value of all credits approved by the
42 authority pursuant to P.L.2007, c.346 (C.34:1B-207 et seq.) and
43 P.L.2011, c.149 (C.34:1B-242 et al.) prior to December 31, 2013
44 shall not exceed \$1,750,000,000, except as may be increased by the
45 authority as set forth in paragraph (5) of subsection a. of section 35
46 of P.L.2009, c.90 (C.34:1B-209.3). Following the enactment of the
47 "New Jersey Economic Opportunity Act of 2013," P.L.2013, c.161
48 (C.52:27D-489p et al.), there shall be no monetary cap on the value

1 of credits approved by the authority attributable to the program
2 pursuant to the "New Jersey Economic Opportunity Act of 2013,"
3 P.L.2013, c.161 (C.52:27D-489p et al.).

4 (2) (Deleted by amendment, P.L.2013, c.161)

5 (3) (Deleted by amendment, P.L.2013, c.161)

6 (4) (Deleted by amendment, P.L.2013, c.161)

7 (5) (Deleted by amendment, P.L.2013, c.161)

8 b. (1) A business shall submit an application for tax credits
9 prior to July 1, 2019. The authority shall not approve an application
10 for tax credits unless the application was submitted prior to July 1,
11 2019.

12 (2) (a) A business shall submit its documentation indicating
13 that it has met the capital investment and employment requirements
14 and all conditions of approvals specified in the incentive agreement
15 for certification of its tax credit amount, to the authority's
16 satisfaction, within three years following the date of approval of its
17 application by the authority. The authority shall have the discretion
18 to grant two six-month extensions of this deadline. If the authority
19 accepts the documentation, the authority shall request that the
20 Division of Taxation in the Department of the Treasury issue a tax
21 credit based on the approved documentation to be used by the
22 business during the eligibility period. Except as provided in
23 subparagraphs (b) and (c) of this paragraph, in no event shall the
24 incentive effective date occur later than four years following the
25 date of approval of an application by the authority.

26 (b) As of the effective date of P.L.2017, c.314, a business which
27 applied for the tax credit prior to July 1, 2014 under P.L.2011,
28 c.149 (C.34:1B-242 et al.), shall submit its documentation to the
29 authority no later than July 28, 2019, indicating that it has met the
30 capital investment and employment requirements specified in the
31 incentive agreement for certification of its tax credit amount.

32 (c) If the Governor declares an emergency, then the chief
33 executive officer of the authority shall have the discretion to grant
34 an extension for the duration of the emergency and the board of the
35 authority, upon recommendation of the chief executive officer, may
36 grant two additional six-month extensions; provided that (i) the
37 extensions are due to the economic disruption caused by the
38 emergency; (ii) the project is delayed due to unforeseeable acts
39 related to the project beyond the eligible business's control and
40 without its fault or negligence; (iii) the eligible business is using
41 best efforts, with all due diligence, to proceed with the completion
42 of the project and the submission of the certification; and (iv) the
43 eligible business has made, and continues to make, all reasonable
44 efforts to prevent, avoid, mitigate, and overcome the delay.

45 (3) Full-time employment for an accounting or privilege period
46 shall be determined as the average of the monthly full-time
47 employment for the period.

1 (4) A business seeking a credit for a mega project shall apply for
2 the credit within four years after the effective date of the "New
3 Jersey Economic Opportunity Act of 2013," P.L.2013, c.161
4 (C.52:27D-489p et al.).

5 c. (1) In conducting its annual review, the authority may
6 require a business to submit any information determined by the
7 authority to be necessary and relevant to its review.

8 The credit amount for any tax period for which the
9 documentation of a business's credit amount remains uncertified as
10 of a date three years after the closing date of that period shall be
11 forfeited, although credit amounts for the remainder of the years of
12 the eligibility period shall remain available to it.

13 The credit amount may be taken by the tax certificate holder for
14 the tax period for which it was issued or may be carried forward for
15 use by the tax certificate holder in any of the next 20 successive tax
16 periods, and shall expire thereafter. The tax certificate holder may
17 transfer the tax credit amount on or after the date of issuance or at
18 any time within three years of the date of issuance for use by the
19 transferee in the tax period for which it was issued or in any of the
20 next 20 successive tax periods. Notwithstanding the foregoing, no
21 more than the amount of tax credits equal to the total credit amount
22 divided by the duration of the eligibility period in years may be
23 taken in any tax period.

24 A business may elect to suspend its obligations for the 2020,
25 2021, 2022, or 2023 tax period, or any combination thereof, due to
26 the COVID-19 pandemic, provided that the business shall make
27 such election in writing to the authority before the issuance of the
28 tax credit for the corresponding tax year and such suspension shall
29 extend the term of the eligibility period by a corresponding amount
30 of time. The authority shall amend the incentive agreement, and the
31 business shall execute the amended incentive agreement within the
32 time period provided by the authority. The amended incentive
33 agreement shall provide that the failure to submit the annual report
34 due to the suspension shall not be a forfeiture or an uncertified tax
35 period.

36 (2) Credits granted to a partnership shall be passed through to
37 the partners, members, or owners, respectively, pro-rata or pursuant
38 to an executed agreement among the partners, members, or owners
39 documenting an alternate distribution method provided to the
40 Director of the Division of Taxation in the Department of the
41 Treasury accompanied by any additional information as the director
42 may require.

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

1 (4) In order to respond to the profoundly negative impact of the
2 COVID-19 pandemic on the State's economy and finances, the
3 authority may request a tax certificate holder, at the tax certificate
4 holder's discretion, to defer the application of a credit amount
5 allowed pursuant to this section to a later tax period. Upon request,
6 the authority and the tax certificate holder shall negotiate the terms
7 of the deferral, which shall hold the certificate holder harmless,
8 which will be made in the incentive agreement or as an addendum
9 to the incentive agreement.

10 d. (1) If, in any tax period, the business reduces the total
11 number of full-time employees in its Statewide workforce by more
12 than 20 percent from the number of full-time employees in its
13 Statewide workforce in the last tax period prior to the credit amount
14 approval under section 3 of P.L.2011, c.149 (C.34:1B-244), then the
15 business shall forfeit its credit amount for that tax period and each
16 subsequent tax period, until the first tax period for which
17 documentation demonstrating the restoration of the business's
18 Statewide workforce to the threshold levels required by the
19 incentive agreement has been reviewed and approved by the
20 authority, for which tax period and each subsequent tax period the
21 full amount of the credit shall be allowed.

22 (2) If, in any tax period, the number of full-time employees
23 employed by the business at the qualified business facility located
24 within a qualified incentive area drops below 80 percent of the
25 number of new and retained full-time jobs specified in the incentive
26 agreement, then the business shall forfeit its credit amount for that
27 tax period and each subsequent tax period, until the first tax period
28 for which documentation demonstrating the restoration of the
29 number of full-time employees employed by the business at the
30 qualified business facility to 80 percent of the number of jobs
31 specified in the incentive agreement.

32 (3) (a) If the qualified business facility is sold by the owner in
33 whole or in part during the eligibility period, the new owner shall
34 not acquire the capital investment of the seller and the seller shall
35 forfeit all credits for the tax period in which the sale occurs and all
36 subsequent tax periods, provided however that any credits of the
37 business shall remain unaffected.

38 (b) In connection with a regional distribution facility of
39 foodstuffs, the business entity or entities which own or lease the
40 facility shall qualify as a business regardless of: (i) the type of the
41 business entity or entities which own or lease the facility; (ii) the
42 ownership or leasing of the facility by more than one business
43 entity; or (iii) the ownership of the business entity or entities which
44 own or lease the facility. The ownership or leasing, whether by
45 members, shareholders, partners, or other owners of the business
46 entity or entities, shall be treated as ownership or leasing by
47 affiliates. The members, shareholders, partners, or other ownership
48 or leasing participants and others that are tenants in the facility shall

1 be treated as affiliates for the purpose of counting the full-time
2 employees and capital investments in the facility. The business
3 entity or entities may distribute credits to members, shareholders,
4 partners, or other ownership or leasing participants in accordance
5 with their respective interests. If the business entity or entities or
6 their members, shareholders, partners, or other ownership or leasing
7 participants lease space in the facility to members, shareholders,
8 partners, or other ownership or leasing participants or others as
9 tenants in the facility, the leases shall be treated as a lease to an
10 affiliate, and the business entity or entities shall not be subject to
11 forfeiture of the credits. For the purposes of this section, leasing
12 shall include subleasing and tenants shall include subtenants.

13 (4) (a) For a project located within a Garden State Growth
14 Zone, if, in any tax period, the number of full-time employees
15 employed by the business at the qualified business facility located
16 within a qualified incentive area increases above the number of full-
17 time employees specified in the incentive agreement, then the
18 business shall be entitled to an increased base credit amount for that
19 tax period and each subsequent tax period, for each additional full-
20 time employee added above the number of full-time employees
21 specified in the incentive agreement, until the first tax period for
22 which documentation demonstrating a reduction of the number of
23 full-time employees employed by the business at the qualified
24 business facility, at which time the tax credit amount will be
25 adjusted accordingly pursuant to this section.

26 (b) For a project located within a Garden State Growth Zone
27 which qualifies under the "Municipal Rehabilitation and Economic
28 Recovery Act," P.L.2002, c.43 (C.52:27BBB-1 et al.), or which
29 contains a Tourism District as established pursuant to section 5 of
30 P.L.2011, c.18 (C.5:12-219) and regulated by the Casino
31 Reinvestment Development Authority, and which qualifies for a tax
32 credit pursuant to subparagraph (ii) of subparagraphs (a) through
33 (e) of paragraph (6) of subsection d. of section 5 of P.L.2011, c.149
34 (C.34:1B-246), if, in any tax period the number of full-time
35 employees employed by the business at the qualified business
36 facility located within a qualified incentive area increases above the
37 number of full-time employees specified in the incentive agreement
38 such that the business shall then meet the minimum number of
39 employees required in subparagraph (b), (c), (d), or (e) of paragraph
40 (6) of subsection d. of section 5 of P.L.2011, c.149 (C.34:1B-246),
41 then the authority shall recalculate the total tax credit amount per
42 full-time job by using the certified capital investment of the project
43 allowable under the applicable subparagraph and the number of
44 full-time jobs certified on the date of the recalculation and applying
45 those numbers to subparagraph (b), (c), (d), or (e) of paragraph (6)
46 of subsection d. of section 5 of P.L.2011, c.149 (C.34:1B-246),
47 until the first tax period for which documentation demonstrating a
48 reduction of the number of full-time employees employed by the

1 business at the qualified business facility, at which time the tax
2 credit amount shall be adjusted accordingly pursuant to this section.

3 e. The authority shall not enter into an incentive agreement
4 with a business that has previously received incentives pursuant to
5 the "Business Retention and Relocation Assistance Act," P.L.1996,
6 c.25 (C.34:1B-112 et seq.), the "Business Employment Incentive
7 Program Act," P.L.1996, c.26 (C.34:1B-124 et al.), or any other
8 program administered by the authority unless:

9 (1) the business has satisfied all of its obligations underlying the
10 previous award of incentives or is compliant with section 4 of
11 P.L.2011, c.149 (C.34:1B-245); or

12 (2) the capital investment incurred and new or retained full-time
13 jobs pledged by the business in the new incentive agreement are
14 separate and apart from any capital investment or jobs underlying
15 the previous award of incentives.

16 f. A business which has already applied for a tax credit
17 incentive award prior to the effective date of the "New Jersey
18 Economic Opportunity Act of 2013," P.L.2013, c.161 (C.52:27D-
19 489p et al.), but who has not yet been approved for the tax credits,
20 or has not executed an agreement with the authority, may proceed
21 under that application or seek to amend the application or reapply
22 for a tax credit incentive award for the same project or any part
23 thereof for the purpose of availing itself of any more favorable
24 provisions of the program.

25 g. A business that has entered into an incentive agreement may
26 request before December 31, 2023 to terminate the incentive
27 agreement, commencing with the 2020 tax period or any subsequent
28 tax period ending on or before December 31, 2023, due to the
29 COVID-19 public health emergency; provided that the business
30 shall submit a certification from the business's chief executive
31 officer or equivalent officer stating that the termination is due,
32 directly or indirectly, to the public health emergency and describing
33 the impact of the public health emergency on the business. All
34 credits for the tax period in which the termination occurs and all
35 subsequent tax periods shall be forfeited, provided however that any
36 credits of the business shall remain unaffected. A termination
37 agreement executed by the authority and business shall not be
38 amended.

39 h. A business that has entered into an incentive agreement may
40 request, before December 31, 2023, to reduce the number of new or
41 retained full-time jobs specified in the incentive agreement based
42 on a certification of the business of the eligible positions at the
43 qualified business facility commencing with the 2020 tax period
44 and, at the discretion of the business, whether the reduction shall
45 continue for each subsequent tax period remaining in the eligibility
46 period, provided that the business maintains the minimum number
47 of new or retained full-time jobs required to be eligible pursuant to
48 subsection c. of section 3 of P.L.2011, c.149 (C.34:1B-244). The

1 reduction in employment shall first apply to the number of new full-
2 time employees, and then shall apply to the number of retained full-
3 time employees.

4 The authority shall calculate a new tax credit total amount for the
5 2020 tax period and the remainder of the eligibility period based on
6 the reduced employment and shall amend the incentive agreement
7 to reflect the recalculated award amount. In no event shall the
8 modification result in an increase in employment or tax credit
9 amount.

10 i. Following the termination of the public health emergency
11 declared by the Governor pursuant to Executive Order No. 103 of
12 2020, as extended, a business that has entered into an incentive
13 agreement may elect, before ¹~~December 31, 2023~~ March 31,
14 2024¹, to waive, for the period beginning on July 1, 2022 and
15 ending on ¹~~December 31, 2023~~ March 31, 2024¹, the requirement
16 that a full-time employee who is employed by the business shall
17 spend at least 60 percent of the employee's time at the qualified
18 business facility; provided, however, that a business that makes
19 such an election shall satisfy the following criteria:

20 (1) any full-time employee employed by the business shall
21 spend at least 10 percent of the employee's time at the qualified
22 business facility ¹~~through~~ for¹ the 2023 tax period through
23 March 31, 2024¹; and

24 (2) following the receipt by the business of its tax credit
25 certificate or tax credit transfer certificate for the 2022 tax period,
26 the business shall make a payment of an amount equal to five
27 percent of the amount of tax credit the business receives for the
28 2022 tax period ¹~~through March 31, 2024~~¹, which payment shall be
29 made to the authority, and which payment the authority shall hold
30 and make available for the provision of loans, guarantees, equity
31 investments, and grants, or other forms of financing to support
32 small business and downtown or commercial corridor activation
33 activities within the municipality in which the qualified business
34 facility is located, as may be designated by the chief executive
35 officer of the authority.

36 ¹j. For the 2024 tax period and all subsequent tax periods, a
37 business may elect to waive for each tax period the requirement that
38 a full-time employee who is employed by the business shall spend
39 at least 60 percent of the employee's time at the qualified business
40 facility; provided, however, that a business that makes such an
41 election shall satisfy the following criteria:

42 (1) to qualify as an eligible position or full-time job, the business
43 shall demonstrate to the authority's satisfaction that the employee
44 spends at least 80 percent of the employee's work time in this State
45 and that the eligible position requires an employee to have the
46 employee's primary place of work in this State, which need not be

1 at the qualified business facility for the business to receive the full
2 award amount;

3 (2) not less than 80 percent of the aggregate withholdings of new
4 and retained full-time jobs at the business shall be subject to the
5 "New Jersey Gross Income Tax Act," N.J.S.54A:1-1 et seq., except
6 for an employee who is a resident of another state and whose
7 income is not subject to the "New Jersey Gross Income Tax Act,"
8 N.J.S.54A:1-1 et seq., due to a reciprocity agreement with another
9 state; and

10 (3) following the receipt by the business of its tax credit
11 certificate or tax credit transfer certificate for such tax period that
12 an election is made, the business shall make a payment of an
13 amount equal to five percent of the amount of tax credit the
14 business receives for such tax period, which payment shall be made
15 to the authority, and which payment the authority shall hold and
16 make available for the provision of loans, guarantees, equity
17 investments, and grants, or other forms of financing to support
18 small business and downtown or commercial corridor activation
19 activities within the municipality in which the qualified business
20 facility is located, as may be designated by the chief executive
21 officer of the authority.】¹

22 (cf: P.L.2022, c.134, s.4)

23

24 ¹【5. Section 71 of P.L.2020, c.156 (C.34:1B-339) is amended to
25 read as follows:

26 71. a. Beginning on the effective date of P.L.2020, c.156
27 (C.34:1B-269 et al.), but prior to March 1, 2029, to be eligible for
28 tax credits under the program, a business's chief executive officer,
29 or equivalent officer, shall demonstrate to the authority at the time
30 of application that:

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

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

37 (3) the qualified business facility is located in a qualified
38 incentive area;

39 (4) the award of tax credits will be a material factor in the
40 business's decision to create or retain the number of new and
41 retained full-time jobs set forth in its application;

42 (5) the award of tax credits, the capital investment resultant
43 from the award of tax credits, and the resultant creation and
44 retention of new and retained full-time jobs will yield a net positive
45 benefit to the State equaling at least 400 percent of the requested
46 tax credit allocation amount, or for a phased project the requested
47 tax credit allocation amount for the initial phase, and on a
48 cumulative basis each phase thereafter, which determination shall

1 be calculated prior to considering the value of the requested tax
2 credit under the program and shall be based on the benefits
3 generated during the period of time from approval through the end
4 of the commitment period, or through the end of the longer period
5 of extended commitment that the business may elect for purposes of
6 receiving credit for benefits projected to occur after the expiration
7 of the commitment period, except that:

8 (a) an award of tax credits to a business for a qualified business
9 facility located in a distressed municipality or an enhanced area
10 shall yield a net positive benefit to the State, based on the benefits
11 generated during the period of time from approval through the end
12 of the commitment period, that equals at least 300 percent of the
13 requested tax credit amount;

14 (b) an award of tax credits to a business for a qualified business
15 facility located in a government-restricted municipality, or for a
16 mega project, shall yield a net positive benefit to the State, based on
17 the benefits generated during the period of time from approval
18 through the end of the commitment period, that equals at least 200
19 percent of the requested tax credit amount;

20 (c) the net economic benefits shall be evaluated on a present
21 value basis with the requested tax credit allocation amount
22 discounted to present value at the same discount rate as the benefits
23 from capital investment resultant from the award of tax credits and
24 the resultant retention and creation of full-time jobs as provided in
25 subparagraph (d) of this paragraph; and

26 (d) a business may elect a period of extended commitment
27 beyond the commitment period for which time the economic
28 benefits shall be creditable to the determination of the net economic
29 benefit of the project, and a business electing a period of extended
30 commitment and failing to maintain the project through the
31 expiration of that extended commitment period shall be obligated to
32 repay a proportion of the incremental benefits received on account
33 of having extended the commitment period, taking into
34 consideration the number of years of extended commitment during
35 which the business maintained the project;

36 (e) in making the determination required pursuant to this
37 paragraph, the authority shall not consider the value of any taxes
38 exempted, abated, rebated, or retained under the "Five-Year
39 Exemption and Abatement Law," P.L.1991, c.441 (C.40A:21-1 et
40 seq.), the "Long Term Tax Exemption Law," P.L.1991, c.431
41 (C.40A:20-1 et al.), the "New Jersey Urban Enterprise Zones Act,"
42 P.L.1983, c.303 (C.52:27H-60 et seq.), or any other law that has the
43 effect of lowering or eliminating the business's State or local tax
44 liability, and the business's chief executive officer or equivalent
45 officer shall certify, under the penalty of perjury, that all documents
46 submitted, and factual assertions made, to the authority to
47 demonstrate that the award of tax credits will yield a net positive

1 benefit to the State in accordance with this paragraph are true and
2 accurate at the time of submission;

3 (f) If, during the term of the program, the methodology used by
4 the authority in projecting benefits of a project in making the
5 determination required pursuant to this paragraph is modified, the
6 respective percentages by which the benefits must exceed the
7 requested tax credit allocation amount set forth pursuant to this
8 paragraph (5) may be adjusted to ensure consistent application of
9 the respective thresholds in this paragraph (5) applied to each
10 application;

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

13 (7) the project shall comply with the authority's affirmative
14 action requirements, adopted pursuant to section 4 of P.L.1979,
15 c.303 (C.34:1B-5.4); and

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

22 (i) the work performed under the contract is performed at a
23 qualified business facility owned by a landlord that is not a business
24 receiving authority assistance;

25 (ii) the landlord is a party to the construction contract, building
26 services contract, or both; and

27 (iii) the qualified business facility constitutes a lease of less than
28 35 percent of the entire facility at the time of contract and under any
29 agreement to subsequently lease the qualified business facility.

30 (b) In accordance with section 1 of P.L.1979, c.303 (C.34:1B-
31 5.1), nothing in this paragraph shall be construed as requiring the
32 payment of prevailing wage for construction commencing more
33 than two years after the authority has issued the first certificate of
34 compliance pursuant to paragraph (2) of subsection a. of section 77
35 of P.L.2020, c.156 (C.34:1B-345).

36 b. (1) The minimum capital investment required to be eligible
37 under the program shall be as follows:

38 (a) for the rehabilitation, improvement, fit-out, or retrofit of an
39 existing industrial, warehousing, logistics, or research and
40 development portion of the premises for continued similar use by
41 the business, a minimum investment of \$20 per square foot of gross
42 leasable area;

43 (b) for the new construction of an industrial, warehousing,
44 logistics, or research and development portion of the premises for
45 use by the business, a minimum investment of \$60 per square foot
46 of gross leasable area;

47 (c) for the rehabilitation, improvement, fit-out, or retrofit of
48 existing portion of the premises that does not qualify pursuant to

1 subparagraph (a) or (b) of this paragraph, a minimum investment of
2 \$40 per square foot of gross leasable area;

3 (d) for the new construction of a portion of the premises that
4 does not qualify pursuant to subparagraph (a) or (b) of this
5 paragraph, a minimum investment of \$120 per square foot of gross
6 leasable area; and

7 (e) for a small business, no new minimum capital investment
8 shall be required, provided the applicant has demonstrated evidence
9 satisfactory to the authority of its intent to remain in the State for
10 the commitment period.

11 (2) In the event the business invests less than that amount set
12 forth in paragraph (1) of this subsection in the qualified business
13 facility, the business shall donate the uninvested balance to the
14 infrastructure fund established pursuant to section 79 of P.L.2020,
15 c.156 (C.52:27D-520).

16 (3) Notwithstanding the provisions of paragraphs (1) and (2) of
17 this subsection, the authority may adopt, pursuant to the provisions
18 of the "Administrative Procedure Act," P.L.1968, c.410 (C.52:14B-
19 1 et seq.), rules and regulations adjusting the minimum capital
20 investment amounts required under the program when necessary to
21 respond to the prevailing economic conditions in the State.

22 c. (1) The minimum number of new or retained full-time jobs
23 required to be eligible under the program shall be as follows:

24 (a) for a small business, 25 percent growth of its workforce with
25 new full-time jobs within the eligibility period in accordance with
26 subsection e. of section 76 of P.L.2020, c.156 (C.34:1B-344);

27 (b) for a business engaged primarily in a targeted industry which
28 does not qualify as a small business, 25 new full-time jobs;

29 (c) for any other business, a minimum of 35 new full-time jobs;

30 (d) for a business eligible for new full-time jobs under
31 subparagraphs (b) or (c) of this paragraph, the business shall also be
32 eligible for retained full-time jobs in addition to the new full-time
33 jobs if the business will retain 150 retained full-time jobs when
34 locating in a government-restricted municipality, 250 retained full-
35 time jobs when locating in a qualified incentive tract or enhanced
36 area municipality, or 500 retained full-time jobs when locating
37 anywhere else in the State;

38 (e) for a business not eligible under subparagraphs (b), (c), or
39 (d) of this paragraph and locating in a qualified incentive tract,
40 enhanced area, or government-restricted municipality that will
41 retain 500 or more retained full-time jobs, a minimum of the
42 business's retained full-time jobs at the time of application;

43 (f) for a business not eligible under subparagraphs (b), (c), (d),
44 or (e) of this paragraph and located in the State that will retain
45 1,000 or more retained full-time jobs, a minimum of the business's
46 retained full-time jobs at the time of application.

47 (2) Notwithstanding the provisions of paragraph (1) of this
48 subsection, the authority may adopt, pursuant to the provisions of

1 the "Administrative Procedure Act," P.L.1968, c.410 (C.52:14B-1 et
2 seq.), rules and regulations adjusting the minimum number of new
3 or retained full-time jobs required under the program when
4 necessary to respond to the prevailing economic conditions in the
5 State.

6 d. A business that provides and adheres to a plan that
7 demonstrates that the qualified business facility is capable of
8 accommodating more than half of the business's new and retained
9 full-time employees as approved and that certifies, under the
10 penalty of perjury, that not less than 80 percent of the withholdings
11 of new and retained full-time jobs are subject to the "New Jersey
12 Gross Income Tax Act," N.J.S.54A:1-1 et seq. shall be eligible. A
13 business must demonstrate to the authority's satisfaction that the
14 full-time employee spends at least 80 percent of the employee's
15 work time in this State and that the eligible position requires an
16 employee to have the employee's primary place of work in this
17 State, which need not be at the qualified business facility for the
18 business to receive the full award amount. The requirements set
19 forth in this subsection may be modified by the authority to respond
20 to an emergency, disaster, or other factors that result in employees
21 of an eligible business having to work from a location other than the
22 qualified business facility.

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

27 f. A business eligible pursuant to this section may submit an
28 application to the authority in accordance with the provisions of
29 section 72 of P.L.2020, c.156 (C.34:1B-340) on or after the
30 effective date of P.L.2020, c.156 (C.34:1B-269 et al.) but prior to
31 March 1, 2029.

32 (cf: P.L.2023, c.98, s.12)]¹

33

34 ¹[6.] 5.¹ This act shall take effect immediately.

35

36

37

38

39 Extends certain accommodations implemented during COVID-19
40 public health emergency for businesses participating in State
41 economic development programs.

ASSEMBLY, No. 5840

STATE OF NEW JERSEY

220th LEGISLATURE

INTRODUCED DECEMBER 7, 2023

Sponsored by:

Assemblywoman ELIANA PINTOR MARIN

District 29 (Essex)

SYNOPSIS

Extends certain accommodations implemented during COVID-19 public health emergency for businesses participating in State economic development programs for 2024 tax period and beyond; modifies tax credit award requirements under “Emerge Program Act.”

CURRENT VERSION OF TEXT

As introduced.



1 AN ACT concerning State economic development programs and
2 amending various parts of the statutory law.

3

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

6

7 1. Section 9 of P.L.1996, c.25 (C.34:1B-120) is amended to
8 read as follows:

9 9. a. As determined by the authority, a business which is
10 awarded a grant of tax credits under P.L.1996, c.25 (C.34:1B-112 et
11 seq.) shall submit annually, no later than March 1st of each year,
12 commencing in the year in which the grant of tax credits is issued
13 and for the remainder of the commitment duration, a certificate of
14 compliance that indicates that the business continues to maintain
15 the number of retained full-time jobs as specified in the project
16 agreement. Upon receipt and review thereof during the tax credit
17 term, the authority shall issue a certificate of compliance indicating
18 the amount of tax credits that the business may apply against
19 liability pursuant to section 7 of P.L.2004, c.65 (C.34:1B-115.3).
20 Any reduction in the number of retained full-time jobs below the
21 number prescribed under the terms of the project agreement shall
22 proportionately reduce the amount of tax credits the business may
23 apply against liability in that tax period and the credits that may no
24 longer be applied for that tax period shall be forfeited. However, if
25 in any tax period, the number of retained full-time jobs drops below
26 the minimum number of retained full-time jobs indicated in the
27 paragraph of subsection b. of section 7 of P.L.2004, c.65 (C.34:1B-
28 115.3) pursuant to which the project agreement was executed such
29 that the business would no longer be eligible to apply the credits for
30 the number of years for which it was approved, then the authority
31 shall reduce the amount of tax credits the business may apply
32 against liability and the number of years in which the business may
33 apply the tax credits. The grant shall be subject to recapture
34 provisions pursuant to the project agreement.

35 b. Following the termination of the public health emergency
36 declared by the Governor pursuant to Executive Order No. 103 of
37 2020, as extended, a business that has entered into an incentive
38 agreement may elect, before December 31, 2023, to waive, for the
39 period beginning on July 1, 2022 and ending on December 31,
40 2023, the requirement that a full-time employee who is employed
41 by the business shall spend at least 60 percent of the employee's
42 time at the qualified business facility; provided, however, that a
43 business that makes such an election shall satisfy the following
44 criteria:

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 (1) any full-time employee employed by the business shall
2 spend at least 10 percent of the employee's time at the qualified
3 business facility **through** for the 2023 tax period only; and

4 (2) following the receipt by the business of its tax credit
5 certificate or tax credit transfer certificate for the 2022 tax period,
6 the business shall make a payment of an amount equal to five
7 percent of the amount of tax credit the business receives for the
8 2022 tax period, which payment shall be made to the authority, and
9 which payment the authority shall hold and make available for the
10 provision of loans, guarantees, equity investments, and grants, or
11 other forms of financing to support small business and downtown or
12 commercial corridor activation activities within the municipality in
13 which the qualified business facility is located, as may be
14 designated by the chief executive officer of the authority.

15 c. For the 2024 tax period and all subsequent tax periods, a
16 business may elect to waive for each tax period the requirement that
17 a full-time employee who is employed by the business shall spend
18 at least 60 percent of the employee's time at the qualified business
19 facility; provided, however, that a business that makes such an
20 election shall satisfy the following criteria:

21 (1) to qualify as an eligible position or full-time job, the business
22 shall demonstrate to the authority's satisfaction that the employee
23 spends at least 80 percent of the employee's work time in this State
24 and that the eligible position requires an employee to have the
25 employee's primary place of work in this State, which need not be
26 at the qualified business facility for the business to receive the full
27 award amount;

28 (2) not less than 80 percent of the aggregate withholdings of new
29 and retained full-time jobs at the business shall be subject to the
30 "New Jersey Gross Income Tax Act," N.J.S.54A:1-1 et seq., except
31 for an employee who is a resident of another state and whose
32 income is not subject to the "New Jersey Gross Income Tax Act,"
33 N.J.S.54A:1-1 et seq., due to a reciprocity agreement with another
34 state; and

35 (3) following the receipt by the business of its tax credit
36 certificate or tax credit transfer certificate for such tax period that
37 an election is made, the business shall make a payment of an
38 amount equal to five percent of the amount of the tax credit the
39 business receives for such tax period, which payment shall be made
40 to the authority, and which payment the authority shall hold and
41 make available for the provision of loans, guarantees, equity
42 investments, and grants, or other forms of financing to support
43 small business and downtown or commercial corridor activation
44 activities within the municipality in which the qualified business
45 facility is located, as may be designated by the chief executive
46 officer of the authority.

47 (cf: P.L.2022, c.134, s.1)

1 2. Section 6 of P.L.1996, c.26 (C.34:1B-129) is amended to
2 read as follows:

3 6. a. The amount of the employment incentive awarded as a
4 grant by the authority shall either be awarded in cash or as a tax
5 credit. In each case, the amount of the grant shall be not less than
6 10 percent and not more than 50 percent of the withholdings of the
7 business, or not less than 10 percent and not more than 30 percent
8 of the estimated tax of the partners of an eligible partnership
9 whether paid directly by the partner or by the eligible partnership
10 on behalf of the partner's account, or any combination thereof, and
11 shall be subject to the provisions of sections 10 and 11 of P.L.1996,
12 c.26 (C.34:1B-133 and C.34:1B-134). In no case shall the aggregate
13 amount of the employment incentive grant awarded pursuant to a
14 business employment incentive agreement entered into on or after
15 July 1, 2003 exceed an average of \$50,000 for all new employees
16 over the term of the grant. The employment incentive shall be based
17 on criteria developed by the authority after considering the
18 following:

- 19 (1) The number of eligible positions to be created;
- 20 (2) The expected duration of those positions;
- 21 (3) The type of contribution the business can make to the long-
22 term growth of the State's economy;
- 23 (4) The amount of other financial assistance the business will
24 receive from the State for the project;
- 25 (5) The total dollar investment the business is making in the
26 project;
- 27 (6) Whether the business is a designated industry;
- 28 (7) Impact of the business on State tax revenues; and
- 29 (8) Such other related factors determined by the authority.

30 b. A business may be eligible to be awarded a grant, either in
31 cash or in tax credits, of up to 80 percent of the withholdings of the
32 business or up to 50 percent of the estimated tax of the partners of
33 an eligible partnership if the grant promotes smart growth and the
34 goals, strategies, and policies of the State Development and
35 Redevelopment Plan, established pursuant to section 5 of P.L.1985,
36 c.398 (C.52:18A-200), as determined by and based upon criteria
37 promulgated by the authority following consultation with the Office
38 of State Planning in the Department of State.

39 c. The term of the grant shall not exceed 10 years.

40 d. At the discretion of the authority, the grant may apply to
41 new employees or partners in eligible positions created during the
42 base years, and during the remainder of the term of the grant.

43 e. Within 180 days of the date of enactment of P.L.2015, c.194
44 (C.34:1B-137.1 et al.), a business that was approved for a grant
45 prior to the enactment of P.L.2015, c.194 (C.34:1B-137.1 et al.),
46 may direct the authority to convert the grant to a tax credit against
47 the tax liability otherwise due pursuant to section 5 of P.L.1945,
48 c.162 (C.54:10A-5), sections 2 and 3 of P.L.1945, c.132 (C.54:18A-

1 2 and 54:18A-3), section 1 of P.L.1950, c.231 (C.17:32-15), or
2 N.J.S.17B:23-5. The direction to convert the grant to a tax credit
3 shall be irrevocable. An approved tax credit shall be issued in the
4 manner and for the amounts as follows and may only be applied in
5 the tax period for which they are issued and shall not be carried
6 forward:

7 (1) For grants accrued but not paid during calendar years 2008
8 through 2013, the tax credit shall be equal to an approved amount
9 and shall be issued in five installments over a five-year period
10 beginning in the 2017 tax accounting or privilege period of the
11 business or tax credit transferee in the following percentages: in
12 year one, five percent of the accrued amount; in year two, 20
13 percent of the accrued amount; in year three, 25 percent of the
14 accrued amount; in year four, 25 percent of the accrued amount; in
15 year five, 25 percent of the accrued amount. To the extent any
16 amount in this paragraph has not been approved by the authority by
17 the commencement of State fiscal year 2017, the aggregate tax
18 credit that would have been issued in State fiscal year 2017 shall be
19 issued in the year the amount is approved and the five-year period
20 shall commence in that fiscal year;

21 (2) For a grant accrued but not paid during calendar year 2014,
22 the tax credit shall be equal to any approved amount and shall be
23 issued in four equal installments over a four-year period beginning
24 in the 2019 tax accounting or privilege period of the business or tax
25 credit transferee;

26 (3) For a grant accrued but not paid during calendar year 2015,
27 the tax credit shall be equal to any approved amount and shall be
28 issued in four equal installments over a four-year period beginning
29 in the 2019 tax accounting or privilege period of the business or tax
30 credit transferee;

31 (4) For a grant accrued but not paid during calendar year 2016,
32 the tax credit shall be equal to any approved amount and shall be
33 issued in three equal installments over a three-year period
34 beginning in the 2020 tax accounting or privilege period of the
35 business or tax credit transferee;

36 (5) For a grant accrued but not paid during calendar year 2017,
37 the tax credit shall be equal to any approved amount and shall be
38 issued in three equal installments over a three-year period
39 beginning in the 2020 tax accounting or privilege period of the
40 business or tax credit transferee;

41 (6) For a grant accrued but not paid during calendar year 2018,
42 the tax credit shall be equal to any approved amount and shall be
43 issued in two equal installments over a two-year period beginning
44 in the 2022 tax accounting or privilege period of the business or tax
45 credit transferee;

46 (7) For a grant accrued but not paid during calendar year 2019,
47 the tax credit shall be equal to any approved amount and shall be
48 issued in two equal installments over a two-year period beginning

1 in the 2022 tax accounting or privilege period of the business or tax
2 credit transferee;

3 (8) For a grant accrued but not paid during calendar year 2020,
4 the tax credit shall be equal to any approved amount and shall be
5 issued in two equal installments over a two-year period beginning
6 in the 2023 tax accounting or privilege period of the business or tax
7 credit transferee;

8 (9) For a grant accrued but not paid during calendar year 2021,
9 the tax credit shall be equal to any approved amount and shall be
10 issued in two equal installments over a two-year period beginning
11 in the 2023 tax accounting or privilege period of the business or tax
12 credit transferee;

13 (10) For a grant accrued but not paid during calendar year 2022,
14 the tax credit shall be equal to any approved amount and shall be
15 paid in two equal installments over a two-year period beginning in
16 the 2023 tax accounting or privilege period of the business or tax
17 credit transferee;

18 (11) For a grant accrued but not paid during calendar year 2023,
19 the tax credit shall be equal to any approved amount and shall be
20 issued in two equal installments over a two-year period beginning
21 in the 2023 tax accounting or privilege period of the business or tax
22 credit transferee;

23 (12) For a grant accrued but not paid during calendar year 2024,
24 the tax credit shall be equal to any approved amount and shall be
25 issued in the 2025 tax accounting or privilege period of the business
26 or tax credit transferee; and

27 (13) For a grant accrued but not paid during calendar year 2025,
28 the tax credit shall be equal to any approved amount and shall be
29 issued in the 2025 tax accounting or privilege period of the business
30 or tax credit transferee.

31 f. The amount of the credit allowed pursuant to this section
32 shall be applied against the tax otherwise due under section 5 of
33 P.L.1945, c.162 (C.54:10A-5), sections 2 and 3 of P.L.1945, c.132
34 (C.54:18A-2 and C.54:18A-3), section 1 of P.L.1950, c.231
35 (C.17:32-15), or N.J.S.17B:23-5, prior to all other credits and
36 payments. If the credit exceeds the amount of tax liability otherwise
37 due from a business that pays taxes under section 5 of P.L.1945,
38 c.162 (C.54:10A-5), sections 2 and 3 of P.L.1945, c.132 (C.54:18A-
39 2 and C.54:18A-3), section 1 of P.L.1950, c.231 (C.17:32-15), or
40 N.J.S.17B:23-5, that amount of excess shall be an overpayment for
41 the purposes of R.S.54:49-15, provided, however, that section 7 of
42 P.L.1992, c.175 (C.54:49-15.1) shall not apply.

43 g. (1) A business that does not pay taxes under section 5 of
44 P.L.1945, c.162 (C.54:10A-5), sections 2 and 3 of P.L.1945, c.132
45 (C.54:18A-2 and 54:18A-3), section 1 of P.L.1950, c.231 (C.17:32-
46 15), or N.J.S.17B:23-5 may apply to the executive director of the
47 authority for a tax credit transfer certificate, covering one or more
48 years.

1 (2) A business that has received a tax credit pursuant to
2 subsection e. of this section, which credit exceeds the amount of the
3 tax liability otherwise due, may apply to the executive director of
4 the authority for a tax credit transfer certificate, covering one or
5 more years.

6 (3) Upon the executive director's approval of an application for
7 a tax credit transfer certificate, the division shall review and issue
8 the tax credit transfer certificate. The tax credit transfer certificate,
9 upon receipt thereof by the business, may be sold or assigned, in
10 full or in part, in an amount not less than \$100,000, or the amount
11 of the refundable tax credit issued if less than \$100,000, of tax
12 credits to any other person that may have a tax liability pursuant to
13 section 5 of P.L.1945, c.162 (C.54:10A-5), sections 2 and 3 of
14 P.L.1945, c.132 (C.54:18A-2 and 54:18A-3), section 1 of P.L.1950,
15 c.231 (C.17:32-15), or N.J.S.17B:23-5. The tax credit transfer
16 certificate provided to the business shall include a statement
17 waiving the business's right to claim that amount of the credit
18 against the taxes that the business has elected to sell or assign. The
19 sale or assignment of any amount of a tax credit transfer certificate
20 allowed under this section shall not be exchanged for consideration
21 received by the business of less than 75 percent of the transferred
22 credit amount before considering any further discounting to present
23 value which shall be permitted. Any amount of a tax credit transfer
24 certificate used by a purchaser or assignee against a tax liability
25 shall be subject to the same privileges, limitations, and conditions
26 that apply to the use of the credit by the business that originally
27 applied for and was allowed the tax credit, including treating the
28 amount of excess as an overpayment under subsection f. of this
29 section. The tax credit transferee may not transfer its tax credit to
30 any other party.

31 h. Following the termination of the public health emergency
32 declared by the Governor pursuant to Executive Order No. 103 of
33 2020, as extended, a business that has entered into an incentive
34 agreement may elect, before December 31, 2023, to waive, for the
35 period beginning on July 1, 2022 and ending on December 31,
36 2023, the requirement that a full-time employee who is employed
37 by the business shall spend at least 60 percent of the employee's
38 time at the qualified business facility; provided, however, that a
39 business that makes such an election shall satisfy the following
40 criteria:

41 (1) any full-time employee employed by the business shall spend
42 at least 10 percent of the employee's time at the qualified business
43 facility **through** for the 2023 tax period only; and

44 (2) following the receipt by the business of its tax credit
45 certificate or tax credit transfer certificate for the 2022 tax period,
46 the business shall make a payment of an amount equal to five
47 percent of the amount of tax credit the business receives for the
48 2022 tax period, which payment shall be made to the authority, and

1 which payment the authority shall hold and make available for the
2 provision of loans, guarantees, equity investments, and grants, or
3 other forms of financing to support small business and downtown or
4 commercial corridor activation activities within the municipality in
5 which the qualified business facility is located, as may be
6 designated by the chief executive officer of the authority.

7 i. For the 2024 tax period and all subsequent tax periods, a
8 business may elect to waive for each tax period the requirement that
9 a full-time employee who is employed by the business shall spend
10 at least 60 percent of the employee's time at the qualified business
11 facility; provided, however, that a business that makes such an
12 election shall satisfy the following criteria:

13 (1) to qualify as an eligible position or full-time job, the
14 business must demonstrate to the authority's satisfaction that the
15 employee spends at least 80 percent of the employee's work time in
16 this State and that the eligible position requires an employee to have
17 the employee's primary place of work in this State, which need not
18 be at the qualified business facility for the business to receive the
19 full award amount;

20 (2) not less than 80 percent of the aggregate withholdings of
21 new and retained full-time jobs at the business shall be subject to
22 the "New Jersey Gross Income Tax Act," N.J.S.54A:1-1 et seq.,
23 except for an employee who is a resident of another state and whose
24 income is not subject to the "New Jersey Gross Income Tax Act,"
25 N.J.S.54A:1-1 et seq., due to a reciprocity agreement with another
26 state; and

27 (3) following the receipt by the business of its tax credit
28 certificate or tax credit transfer certificate for such tax period that
29 an election is made, the business shall make a payment of an
30 amount equal to five percent of the amount of tax credit the
31 business receives for such tax period, which payment shall be made
32 to the authority, and which payment the authority shall hold and
33 make available for the provision of loans, guarantees, equity
34 investments, and grants, or other forms of financing to support
35 small business and downtown or commercial corridor activation
36 activities within the municipality in which the qualified business
37 facility is located, as may be designated by the chief executive
38 officer of the authority.

39 (cf: P.L.2022, c.134, s.2)

40
41 3. Section 3 of P.L.2007, c.346 (C.34:1B-209) is amended to
42 read as follows:

43 3. a. (1) A business, upon application to and approval from
44 the authority, shall be allowed a credit of 100 percent of its capital
45 investment, made after the effective date of P.L.2007, c.346
46 (C.34:1B-207 et seq.) but prior to its submission of documentation
47 pursuant to subsection c. of this section, in a qualified business
48 facility within an eligible municipality, pursuant to the restrictions

1 and requirements of this section. To be eligible for any tax credits
2 authorized under this section, a business shall demonstrate to the
3 authority, at the time of application, that the State's financial
4 support of the proposed capital investment in a qualified business
5 facility will yield a net positive benefit to both the State and the
6 eligible municipality. The value of all credits approved by the
7 authority pursuant to P.L.2007, c.346 (C.34:1B-207 et seq.) shall
8 not exceed \$1,750,000,000, except as may be increased by the
9 authority as set forth in paragraph (5) of subsection a. of section 35
10 of P.L.2009, c.90 (C.34:1B-209.3) and section 6 of P.L.2010, c.57
11 (C.34:1B-209.4).

12 (2) A business, other than a tenant eligible pursuant to
13 paragraph (3) of this subsection, shall make or acquire capital
14 investments totaling not less than \$50,000,000 in a qualified
15 business facility, at which the business shall employ not fewer than
16 250 full-time employees to be eligible for a credit under this
17 section. A business that acquires a qualified business facility shall
18 also be deemed to have acquired the capital investment made or
19 acquired by the seller.

20 (3) A business that is a tenant in a qualified business facility, the
21 owner of which has made or acquired capital investments in the
22 facility totaling not less than \$50,000,000, shall occupy a leased
23 area of the qualified business facility that represents at least
24 \$17,500,000 of the capital investment in the facility at which the
25 tenant business and up to two other tenants in the qualified business
26 facility shall employ not fewer than 250 full-time employees in the
27 aggregate to be eligible for a credit under this section. The amount
28 of capital investment in a facility that a leased area represents shall
29 be equal to that percentage of the owner's total capital investment in
30 the facility that the percentage of net leasable area leased by the
31 tenant is of the total net leasable area of the qualified business
32 facility. Capital investments made by a tenant shall be deemed to be
33 included in the calculation of the capital investment made or
34 acquired by the owner, but only to the extent necessary to meet the
35 owner's minimum capital investment of \$50,000,000. Capital
36 investments made by a tenant and not allocated to meet the owner's
37 minimum capital investment threshold of \$50,000,000 shall be
38 added to the amount of capital investment represented by the
39 tenant's leased area in the qualified business facility.

40 (4) A business shall not be allowed tax credits under this section
41 if the business participates in a business employment incentive
42 agreement, pursuant to P.L.1996, c.26 (C.34:1B-124 et seq.),
43 relating to the same capital and employees that qualify the business
44 for this credit, or if the business receives assistance pursuant to
45 P.L.1996, c.25 (C.34:1B-112 et seq.). A business that is allowed a
46 tax credit under this section shall not be eligible for incentives
47 authorized pursuant to P.L.2002, c.43 (C.52:27BBB-1 et al.). A
48 business shall not qualify for a tax credit under this section, based

1 upon its capital investment and the employment of full-time
2 employees, if that capital investment or employment was the basis
3 for which a grant was provided to the business pursuant to the
4 "InvestNJ Business Grant Program Act," P.L.2008, c.112 (C.34:1B-
5 237 et seq.).

6 (5) Full-time employment for an accounting or a privilege
7 period shall be determined as the average of the monthly full-time
8 employment for the period.

9 (6) The capital investment of the owner of a qualified business
10 facility is that percentage of the capital investment made or
11 acquired by the owner of the building that the percentage of net
12 leasable area of the qualified business facility not leased to tenants
13 is of the total net leasable area of the qualified business facility.

14 (7) A business shall be allowed a tax credit of 100 percent of its
15 capital investment, made after the effective date of P.L.2011, c.89
16 but prior to its submission of documentation pursuant to subsection
17 c. of this section, in a qualified business facility that is part of a
18 mixed use project, provided that (a) the qualified business facility
19 represents at least \$17,500,000 of the total capital investment in the
20 mixed use project, (b) the business employs not fewer than 250 full-
21 time employees in the qualified business facility, and (c) the total
22 capital investment in the mixed use project of which the qualified
23 business facility is a part is not less than \$50,000,000. The
24 allowance of credits under this paragraph shall be subject to the
25 restrictions and requirements, to the extent that those are not
26 inconsistent with the provisions of this paragraph, set forth in
27 paragraphs (1) through (6) of this subsection, including, but not
28 limited to, the requirement that the business shall demonstrate to the
29 authority, at the time of application, that the State's financial
30 support of the proposed capital investment in a qualified business
31 facility will yield a net positive benefit to both the State and the
32 eligible municipality.

33 (8) In determining whether a proposed capital investment will
34 yield a net positive benefit, the authority shall not consider the
35 transfer of an existing job from one location in the State to another
36 location in the State as the creation of a new job, unless (a) the
37 business proposes to transfer existing jobs to a municipality in the
38 State as part of a consolidation of business operations from two or
39 more other locations that are not in the same municipality whether
40 in-State or out-of-State, or (b) the business's chief executive officer,
41 or equivalent officer, submits a certification to the authority
42 indicating that the existing jobs are at risk of leaving the State and
43 that the business's chief executive officer, or equivalent officer, has
44 reviewed the information submitted to the authority and that the
45 representations contained therein are accurate, and the business
46 intends to employ not fewer than 500 full-time employees in the
47 qualified business facility. In the event that this certification by the
48 business's chief executive officer, or equivalent officer, is found to

1 be willfully false, the authority may revoke any award of tax credits
2 in their entirety, which revocation shall be in addition to any other
3 criminal or civil penalties that the business and the officer may be
4 subject to. When considering an application involving intra-State
5 job transfers, the authority shall require the company to submit the
6 following information as part of its application: a full economic
7 analysis of all locations under consideration by the company; all
8 lease agreements, ownership documents, or substantially similar
9 documentation for the business's current in-State locations; and all
10 lease agreements, ownership documents, or substantially similar
11 documentation for the potential out-of-State location alternatives, to
12 the extent they exist. Based on this information, and any other
13 information deemed relevant by the authority, the authority shall
14 independently verify and confirm, by way of making a factual
15 finding by separate vote of the authority's board, the business's
16 assertion that the jobs are actually at risk of leaving the State,
17 before a business may be awarded any tax credits under this section.

18 b. (1) If applications under this section have been received by
19 the authority prior to the effective date of the "New Jersey
20 Economic Opportunity Act of 2013," P.L.2013, c.161 (C.52:27D-
21 489p et al.), then, to the extent that there remains sufficient
22 financial authorization for the award of a tax credit, the authority is
23 authorized to consider those applications and to make awards of tax
24 credits to eligible applicants, provided that the authority shall take
25 final action on those applications no later than December 31, 2013.

26 (2) A business shall apply for the credit under this section prior
27 to the effective date of the "New Jersey Economic Opportunity Act
28 of 2013," P.L.2013, c.161 (C.52:27D-489p et al.), and shall submit
29 its documentation for approval of its credit amount no later than
30 December 31, 2023.

31 (3) If a business has submitted an application under this section
32 and that application has not been approved for any reason, the lack
33 of approval shall not serve to prejudice in any way the
34 consideration of a new application as may be submitted for the
35 qualified business facility for the provision of incentives offered
36 pursuant to the "New Jersey Economic Opportunity Act of 2013,"
37 P.L.2013, c.161 (C.52:27D-489p et al.).

38 (4) Tax credits awarded pursuant to P.L.2007, c.346 (C.34:1B-
39 207 et seq.) for applications submitted to and approved by the
40 authority prior to the effective date of the "New Jersey Economic
41 Opportunity Act of 2013," P.L.2013, c.161 (C.52:27D-489p et al.),
42 shall be administered by the authority in the manner established
43 prior to that date.

44 (5) With respect to an application received by the authority prior
45 to the effective date of the "New Jersey Economic Opportunity Act
46 of 2013," P.L.2013, c.161 (C.52:27D-489p et al.) for a qualified
47 business facility that is located on or adjacent to the campus of an
48 acute care medical facility, (a) the minimum number of full-time

1 employees required for eligibility under the program may be
2 employed by any number of tenants or other occupants of the
3 facility, in the aggregate, and the initial satisfaction of the
4 requirement following completion of the project shall be deemed to
5 satisfy the employment requirements of the program in all respects,
6 and (b) if the capital investment in the facility exceeds
7 \$100,000,000, the determination of the net positive benefit yield
8 shall be based on the benefits generated during a period of up to 30
9 years following the completion of the project, as determined by the
10 authority.

11 c. (1) The amount of credit allowed shall, except as otherwise
12 provided, be equal to the capital investment made by the business,
13 or the capital investment represented by the business's leased area,
14 or area owned by the business as a condominium, and shall be taken
15 over a 10-year period, at the rate of one-tenth of the total amount of
16 the business's credit for each tax accounting or privilege period of
17 the business, beginning with the tax period in which the business is
18 first certified by the authority as having met the investment capital
19 and employment qualifications, subject to any reduction or
20 disqualification as provided by subsection d. of this section as
21 determined by annual review by the authority. In conducting its
22 annual review, the authority may require a business to submit any
23 information determined by the authority to be necessary and
24 relevant to its review.

25 The credit amount that may be taken for a tax period of the
26 business that exceeds the final liabilities of the business for the tax
27 period may be carried forward for use by the business in the next 20
28 successive tax periods, and shall expire thereafter, provided that the
29 value of all credits approved by the authority against tax liabilities
30 pursuant to P.L.2007, c.346 (C.34:1B-207 et seq.) in any fiscal year
31 shall not exceed \$260,000,000.

32 The amount of credit allowed for a tax period to a business that
33 is a tenant in a qualified business facility shall not exceed the
34 business's total lease payments for occupancy of the qualified
35 business facility for the tax period.

36 A business may elect to suspend its obligations for the 2020,
37 2021, 2022, or 2023 tax period, or any combination thereof, due to
38 the COVID-19 pandemic, provided that the business shall make
39 such election in writing to the authority before the issuance of the
40 tax credit for the corresponding tax year and such suspension shall
41 extend the term of the eligibility period by a corresponding amount
42 of time. The authority shall modify the approval letter, and the
43 business shall execute the modification within the time period
44 provided by the authority. The modification shall provide that the
45 failure to submit the annual report due to the suspension shall not be
46 a forfeiture or an uncertified tax period.

47 (2) A business that is a partnership shall not be allowed a credit
48 under this section directly, but the amount of credit of an owner of a

1 business shall be determined by allocating to each owner of the
2 partnership that proportion of the credit of the business that is equal
3 to the owner of the partnership's share, whether or not distributed,
4 of the total distributive income or gain of the partnership for its tax
5 period ending within or at the end of the owner's tax period, or that
6 proportion that is allocated by an agreement, if any, among the
7 owners of the partnership that has been provided to the Director of
8 the Division of Taxation in the Department of the Treasury by the
9 time and accompanied by the additional information as the director
10 may require.

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

16 d. (1) If, in any tax period, fewer than 200 full-time employees
17 of the business at the qualified business facility are employed in
18 new full-time positions, the amount of the credit otherwise
19 determined pursuant to final calculation of the award of tax credits
20 pursuant to subsection c. of this section shall be reduced by 20
21 percent for that tax period and each subsequent tax period until the
22 first period for which documentation demonstrating the restoration
23 of the 200 full-time employees employed in new full-time positions
24 at the qualified business facility has been reviewed and approved by
25 the authority, for which tax period and each subsequent tax period
26 the full amount of the credit shall be allowed; provided, however,
27 that for businesses applying before January 1, 2010, there shall be
28 no reduction if a business relocates to an urban transit hub from
29 another location or other locations in the same municipality. For the
30 purposes of this paragraph, a "new full-time position" means a
31 position created by the business at the qualified business facility
32 that did not previously exist in this State.

33 (2) If, in any tax period, the business reduces the total number
34 of full-time employees in its Statewide workforce by more than 20
35 percent from the number of full-time employees in its Statewide
36 workforce in the last tax accounting or privilege period prior to the
37 credit amount approval under subsection a. of this section, then the
38 business shall forfeit its credit amount for that tax period and each
39 subsequent tax period, until the first tax period for which
40 documentation demonstrating the restoration of the business's
41 Statewide workforce to the threshold levels required by this
42 paragraph has been reviewed and approved by the authority, for
43 which tax period and each subsequent tax period the full amount of
44 the credit shall be allowed.

45 (3) If, in any tax period, (a) the number of full-time employees
46 employed by the business at the qualified business facility located
47 in an urban transit hub within an eligible municipality drops below
48 250, or (b) the number of full-time employees, who are not the

1 subject of intra-State job transfers, pursuant to paragraph (8) of
2 subsection a. of this section, employed by the business at any other
3 business facility in the State, whether or not located in an urban
4 transit hub within an eligible municipality, drops by more than 20
5 percent from the number of full-time employees in its workforce in
6 the last tax accounting or privilege period prior to the credit amount
7 approval under this section, then the business shall forfeit its credit
8 amount for that tax period and each subsequent tax period, until the
9 first tax period for which documentation demonstrating the
10 restoration of the number of full-time employees employed by the
11 business at the qualified business facility to 250 or an increase
12 above the 20 percent reduction has been reviewed and approved by
13 the authority, for which tax period and each subsequent tax period
14 the full amount of the credit shall be allowed.

15 (4) (i) If the qualified business facility is sold in whole or in
16 part during the 10-year eligibility period, the new owner shall not
17 acquire the capital investment of the seller and the seller shall
18 forfeit all credits for the tax period in which the sale occurs and all
19 subsequent tax periods; provided, however, that any credits of
20 tenants shall remain unaffected.

21 (ii) If a tenant subleases its tenancy in whole or in part during
22 the 10-year eligibility period, the new tenant shall not acquire the
23 credit of the sublessor, and the sublessor tenant shall forfeit all
24 credits for the tax period of its sublease and all subsequent tax
25 periods.

26 (5) Following the termination of the public health emergency
27 declared by the Governor pursuant to Executive Order No. 103 of
28 2020, as extended, a business that has entered into an incentive
29 agreement may elect, before December 31, 2023, to waive, for the
30 period beginning on July 1, 2022 and ending on December 31,
31 2023, the requirement that a full-time employee who is employed
32 by the business shall spend at least 60 percent of the employee's
33 time at the qualified business facility; provided, however, that a
34 business that makes such an election shall satisfy the following
35 criteria:

36 (i) any full-time employee employed by the business shall
37 spend at least 10 percent of the employee's time at the qualified
38 business facility **【through】** for the 2023 tax period only; and

39 (ii) following the receipt by the business of its tax credit
40 certificate or tax credit transfer certificate for the 2022 tax period,
41 the business shall make a payment of an amount equal to five
42 percent of the amount of tax credit the business receives for the
43 2022 tax period, which payment shall be made to the authority, and
44 which payment the authority shall hold and make available for the
45 provision of loans, guarantees, equity investments, and grants, or
46 other forms of financing to support small business and downtown or
47 commercial corridor activation activities within the municipality in

1 which the qualified business facility is located, as may be
2 designated by the chief executive officer of the authority.

3 (6) For the 2024 tax period and all subsequent tax periods, a
4 business may elect to waive for each tax period the requirement that
5 a full-time employee who is employed by the business shall spend
6 at least 60 percent of the employee's time at the qualified business
7 facility; provided, however, that a business that makes such an
8 election shall satisfy the following criteria:

9 (i) to qualify as an eligible position or full-time job, the business
10 shall demonstrate to the authority's satisfaction that the employee
11 spends at least 80 percent of the employee's work time in this State
12 and that the eligible position requires an employee to have the
13 employee's primary place of work in this State, which need not be
14 at the qualified business facility for the business to receive the full
15 award amount;

16 (ii) not less than 80 percent of the aggregate withholdings of new
17 and retained full-time jobs at the business shall be subject to the
18 "New Jersey Gross Income Tax Act," N.J.S.54A:1-1 et seq., except
19 for an employee who is a resident of another state and whose
20 income is not subject to the "New Jersey Gross Income Tax Act,"
21 N.J.S.54A:1-1 et seq., due to a reciprocity agreement with another
22 state; and

23 (iii) following the receipt by the business of its tax credit
24 certificate or tax credit transfer certificate for such tax period that
25 an election is made, the business shall make a payment of an
26 amount equal to five percent of the amount of tax credit the
27 business receives for such tax period, which payment shall be made
28 to the authority, and which payment the authority shall hold and
29 make available for the provision of loans, guarantees, equity
30 investments, and grants, or other forms of financing to support
31 small business and downtown or commercial corridor activation
32 activities within the municipality in which the qualified business
33 facility is located, as may be designated by the chief executive
34 officer of the authority.

35 e. (1) The Executive Director of the New Jersey Economic
36 Development Authority, in consultation with the Director of the
37 Division of Taxation in the Department of the Treasury, shall adopt
38 rules in accordance with the "Administrative Procedure Act,"
39 P.L.1968, c.410 (C.52:14B-1 et seq.) as are necessary to implement
40 P.L.2007, c.346 (C.34:1B-207 et seq.), including, but not limited to:
41 examples of and the determination of capital investment; the
42 enumeration of eligible municipalities; specific delineation of urban
43 transit hubs; the determination of the limits, if any, on the expense
44 or type of furnishings that may constitute capital improvements; the
45 promulgation of procedures and forms necessary to apply for a
46 credit, including the enumeration of the certification procedures and
47 allocation of tax credits for different phases of a qualified business
48 facility or mixed use project; and provisions for credit applicants to

1 be charged an initial application fee, and ongoing service fees, to
2 cover the administrative costs related to the credit.

3 (2) Through regulation, the authority shall establish standards
4 based on the green building manual prepared by the Commissioner
5 of Community Affairs, pursuant to section 1 of P.L.2007, c.132
6 (C.52:27D-130.6), regarding the use of renewable energy, energy-
7 efficient technology, and non-renewable resources in order to
8 reduce environmental degradation and encourage long-term cost
9 reduction.

10 f. A business that has executed an approval letter may request
11 before December 31, 2023 to terminate the award, commencing
12 with the 2020 tax period or any subsequent tax period ending on or
13 before December 31, 2023, due to the COVID-19 public health
14 emergency; provided that the business shall submit a certification
15 from the business's chief executive officer or equivalent officer
16 stating that the termination is due, directly or indirectly, to the
17 public health emergency and describing the impact of the public
18 health emergency on the business. All credits for the tax period in
19 which the termination is requested and all subsequent tax periods
20 shall be forfeited, provided however that any credits of the business
21 shall remain unaffected. A termination agreement executed by the
22 authority and business shall not be amended.
23 (cf: P.L.2022, c.134, s.3)

24
25 4. Section 6 of P.L.2011, c.149 (C.34:1B-247) is amended to
26 read as follows:

27 6. a. (1) The combined value of all credits approved by the
28 authority pursuant to P.L.2007, c.346 (C.34:1B-207 et seq.) and
29 P.L.2011, c.149 (C.34:1B-242 et al.) prior to December 31, 2013
30 shall not exceed \$1,750,000,000, except as may be increased by the
31 authority as set forth in paragraph (5) of subsection a. of section 35
32 of P.L.2009, c.90 (C.34:1B-209.3). Following the enactment of the
33 "New Jersey Economic Opportunity Act of 2013," P.L.2013, c.161
34 (C.52:27D-489p et al.), there shall be no monetary cap on the value
35 of credits approved by the authority attributable to the program
36 pursuant to the "New Jersey Economic Opportunity Act of 2013,"
37 P.L.2013, c.161 (C.52:27D-489p et al.).

38 (2) (Deleted by amendment, P.L.2013, c.161)

39 (3) (Deleted by amendment, P.L.2013, c.161)

40 (4) (Deleted by amendment, P.L.2013, c.161)

41 (5) (Deleted by amendment, P.L.2013, c.161)

42 b. (1) A business shall submit an application for tax credits
43 prior to July 1, 2019. The authority shall not approve an application
44 for tax credits unless the application was submitted prior to July 1,
45 2019.

46 (2) (a) A business shall submit its documentation indicating
47 that it has met the capital investment and employment requirements
48 and all conditions of approvals specified in the incentive agreement

1 for certification of its tax credit amount, to the authority's
2 satisfaction, within three years following the date of approval of its
3 application by the authority. The authority shall have the discretion
4 to grant two six-month extensions of this deadline. If the authority
5 accepts the documentation, the authority shall request that the
6 Division of Taxation in the Department of the Treasury issue a tax
7 credit based on the approved documentation to be used by the
8 business during the eligibility period. Except as provided in
9 subparagraphs (b) and (c) of this paragraph, in no event shall the
10 incentive effective date occur later than four years following the
11 date of approval of an application by the authority.

12 (b) As of the effective date of P.L.2017, c.314, a business which
13 applied for the tax credit prior to July 1, 2014 under P.L.2011,
14 c.149 (C.34:1B-242 et al.), shall submit its documentation to the
15 authority no later than July 28, 2019, indicating that it has met the
16 capital investment and employment requirements specified in the
17 incentive agreement for certification of its tax credit amount.

18 (c) If the Governor declares an emergency, then the chief
19 executive officer of the authority shall have the discretion to grant
20 an extension for the duration of the emergency and the board of the
21 authority, upon recommendation of the chief executive officer, may
22 grant two additional six-month extensions; provided that (i) the
23 extensions are due to the economic disruption caused by the
24 emergency; (ii) the project is delayed due to unforeseeable acts
25 related to the project beyond the eligible business's control and
26 without its fault or negligence; (iii) the eligible business is using
27 best efforts, with all due diligence, to proceed with the completion
28 of the project and the submission of the certification; and (iv) the
29 eligible business has made, and continues to make, all reasonable
30 efforts to prevent, avoid, mitigate, and overcome the delay.

31 (3) Full-time employment for an accounting or privilege period
32 shall be determined as the average of the monthly full-time
33 employment for the period.

34 (4) A business seeking a credit for a mega project shall apply for
35 the credit within four years after the effective date of the "New
36 Jersey Economic Opportunity Act of 2013," P.L.2013, c.161
37 (C.52:27D-489p et al.).

38 c. (1) In conducting its annual review, the authority may
39 require a business to submit any information determined by the
40 authority to be necessary and relevant to its review.

41 **【The credit amount for any tax period for which the**
42 **documentation of a business's credit amount remains uncertified as**
43 **of a date three years after the closing date of that period shall be**
44 **forfeited, although credit amounts for the remainder of the years of**
45 **the eligibility period shall remain available to it.】**

46 The credit amount may be taken by the tax certificate holder for
47 the tax period for which it was issued or may be carried forward for
48 use by the tax certificate holder in any of the next 20 successive tax

1 periods, and shall expire thereafter. The tax certificate holder may
2 transfer the tax credit amount on or after the date of issuance or at
3 any time **[within three years of]** after the date of issuance for use
4 by the transferee in the tax period for which it was issued or in any
5 of the next 20 successive tax periods. Notwithstanding the
6 foregoing, no more than the amount of tax credits equal to the total
7 credit amount divided by the duration of the eligibility period in
8 years may be taken in any tax period.

9 A business may elect to suspend its obligations for the 2020,
10 2021, 2022, or 2023 tax period, or any combination thereof, due to
11 the COVID-19 pandemic, provided that the business shall make
12 such election in writing to the authority before the issuance of the
13 tax credit for the corresponding tax year and such suspension shall
14 extend the term of the eligibility period by a corresponding amount
15 of time. The authority shall amend the incentive agreement, and the
16 business shall execute the amended incentive agreement within the
17 time period provided by the authority. The amended incentive
18 agreement shall provide that the failure to submit the annual report
19 due to the suspension shall not be a forfeiture or an uncertified tax
20 period.

21 (2) Credits granted to a partnership shall be passed through to
22 the partners, members, or owners, respectively, pro-rata or pursuant
23 to an executed agreement among the partners, members, or owners
24 documenting an alternate distribution method provided to the
25 Director of the Division of Taxation in the Department of the
26 Treasury accompanied by any additional information as the director
27 may require.

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

33 (4) In order to respond to the profoundly negative impact of the
34 COVID-19 pandemic on the State's economy and finances, the
35 authority may request a tax certificate holder, at the tax certificate
36 holder's discretion, to defer the application of a credit amount
37 allowed pursuant to this section to a later tax period. Upon request,
38 the authority and the tax certificate holder shall negotiate the terms
39 of the deferral, which shall hold the certificate holder harmless,
40 which will be made in the incentive agreement or as an addendum
41 to the incentive agreement.

42 d. (1) If, in any tax period, the business reduces the total
43 number of full-time employees in its Statewide workforce by more
44 than 20 percent from the number of full-time employees in its
45 Statewide workforce in the last tax period prior to the credit amount
46 approval under section 3 of P.L.2011, c.149 (C.34:1B-244), then the
47 business shall forfeit its credit amount for that tax period and each
48 subsequent tax period, until the first tax period for which

1 documentation demonstrating the restoration of the business's
2 Statewide workforce to the threshold levels required by the
3 incentive agreement has been reviewed and approved by the
4 authority, for which tax period and each subsequent tax period the
5 full amount of the credit shall be allowed.

6 (2) If, in any tax period, the number of full-time employees
7 employed by the business at the qualified business facility located
8 within a qualified incentive area drops below 80 percent of the
9 number of new and retained full-time jobs specified in the incentive
10 agreement, then the business shall forfeit its credit amount for that
11 tax period and each subsequent tax period, until the first tax period
12 for which documentation demonstrating the restoration of the
13 number of full-time employees employed by the business at the
14 qualified business facility to 80 percent of the number of jobs
15 specified in the incentive agreement.

16 (3) (a) If the qualified business facility is sold by the owner in
17 whole or in part during the eligibility period, the new owner shall
18 not acquire the capital investment of the seller and the seller shall
19 forfeit all credits for the tax period in which the sale occurs and all
20 subsequent tax periods, provided however that any credits of the
21 business shall remain unaffected.

22 (b) In connection with a regional distribution facility of
23 foodstuffs, the business entity or entities which own or lease the
24 facility shall qualify as a business regardless of: (i) the type of the
25 business entity or entities which own or lease the facility; (ii) the
26 ownership or leasing of the facility by more than one business
27 entity; or (iii) the ownership of the business entity or entities which
28 own or lease the facility. The ownership or leasing, whether by
29 members, shareholders, partners, or other owners of the business
30 entity or entities, shall be treated as ownership or leasing by
31 affiliates. The members, shareholders, partners, or other ownership
32 or leasing participants and others that are tenants in the facility shall
33 be treated as affiliates for the purpose of counting the full-time
34 employees and capital investments in the facility. The business
35 entity or entities may distribute credits to members, shareholders,
36 partners, or other ownership or leasing participants in accordance
37 with their respective interests. If the business entity or entities or
38 their members, shareholders, partners, or other ownership or leasing
39 participants lease space in the facility to members, shareholders,
40 partners, or other ownership or leasing participants or others as
41 tenants in the facility, the leases shall be treated as a lease to an
42 affiliate, and the business entity or entities shall not be subject to
43 forfeiture of the credits. For the purposes of this section, leasing
44 shall include subleasing and tenants shall include subtenants.

45 (4) (a) For a project located within a Garden State Growth
46 Zone, if, in any tax period, the number of full-time employees
47 employed by the business at the qualified business facility located
48 within a qualified incentive area increases above the number of full-

1 time employees specified in the incentive agreement, then the
2 business shall be entitled to an increased base credit amount for that
3 tax period and each subsequent tax period, for each additional full-
4 time employee added above the number of full-time employees
5 specified in the incentive agreement, until the first tax period for
6 which documentation demonstrating a reduction of the number of
7 full-time employees employed by the business at the qualified
8 business facility, at which time the tax credit amount will be
9 adjusted accordingly pursuant to this section.

10 (b) For a project located within a Garden State Growth Zone
11 which qualifies under the "Municipal Rehabilitation and Economic
12 Recovery Act," P.L.2002, c.43 (C.52:27BBB-1 et al.), or which
13 contains a Tourism District as established pursuant to section 5 of
14 P.L.2011, c.18 (C.5:12-219) and regulated by the Casino
15 Reinvestment Development Authority, and which qualifies for a tax
16 credit pursuant to subsubparagraph (ii) of subparagraphs (a) through
17 (e) of paragraph (6) of subsection d. of section 5 of P.L.2011, c.149
18 (C.34:1B-246), if, in any tax period the number of full-time
19 employees employed by the business at the qualified business
20 facility located within a qualified incentive area increases above the
21 number of full-time employees specified in the incentive agreement
22 such that the business shall then meet the minimum number of
23 employees required in subparagraph (b), (c), (d), or (e) of paragraph
24 (6) of subsection d. of section 5 of P.L.2011, c.149 (C.34:1B-246),
25 then the authority shall recalculate the total tax credit amount per
26 full-time job by using the certified capital investment of the project
27 allowable under the applicable subsubparagraph and the number of
28 full-time jobs certified on the date of the recalculation and applying
29 those numbers to subparagraph (b), (c), (d), or (e) of paragraph (6)
30 of subsection d. of section 5 of P.L.2011, c.149 (C.34:1B-246),
31 until the first tax period for which documentation demonstrating a
32 reduction of the number of full-time employees employed by the
33 business at the qualified business facility, at which time the tax
34 credit amount shall be adjusted accordingly pursuant to this section.

35 e. The authority shall not enter into an incentive agreement
36 with a business that has previously received incentives pursuant to
37 the "Business Retention and Relocation Assistance Act," P.L.1996,
38 c.25 (C.34:1B-112 et seq.), the "Business Employment Incentive
39 Program Act," P.L.1996, c.26 (C.34:1B-124 et al.), or any other
40 program administered by the authority unless:

41 (1) the business has satisfied all of its obligations underlying the
42 previous award of incentives or is compliant with section 4 of
43 P.L.2011, c.149 (C.34:1B-245); or

44 (2) the capital investment incurred and new or retained full-time
45 jobs pledged by the business in the new incentive agreement are
46 separate and apart from any capital investment or jobs underlying
47 the previous award of incentives.

1 f. A business which has already applied for a tax credit
2 incentive award prior to the effective date of the "New Jersey
3 Economic Opportunity Act of 2013," P.L.2013, c.161 (C.52:27D-
4 489p et al.), but who has not yet been approved for the tax credits,
5 or has not executed an agreement with the authority, may proceed
6 under that application or seek to amend the application or reapply
7 for a tax credit incentive award for the same project or any part
8 thereof for the purpose of availing itself of any more favorable
9 provisions of the program.

10 g. A business that has entered into an incentive agreement may
11 request before December 31, 2023 to terminate the incentive
12 agreement, commencing with the 2020 tax period or any subsequent
13 tax period ending on or before December 31, 2023, due to the
14 COVID-19 public health emergency; provided that the business
15 shall submit a certification from the business's chief executive
16 officer or equivalent officer stating that the termination is due,
17 directly or indirectly, to the public health emergency and describing
18 the impact of the public health emergency on the business. All
19 credits for the tax period in which the termination occurs and all
20 subsequent tax periods shall be forfeited, provided however that any
21 credits of the business shall remain unaffected. A termination
22 agreement executed by the authority and business shall not be
23 amended.

24 h. A business that has entered into an incentive agreement may
25 request, before December 31, 2023, to reduce the number of new or
26 retained full-time jobs specified in the incentive agreement based
27 on a certification of the business of the eligible positions at the
28 qualified business facility commencing with the 2020 tax period
29 and, at the discretion of the business, whether the reduction shall
30 continue for each subsequent tax period remaining in the eligibility
31 period, provided that the business maintains the minimum number
32 of new or retained full-time jobs required to be eligible pursuant to
33 subsection c. of section 3 of P.L.2011, c.149 (C.34:1B-244). The
34 reduction in employment shall first apply to the number of new full-
35 time employees, and then shall apply to the number of retained full-
36 time employees.

37 The authority shall calculate a new tax credit total amount for the
38 2020 tax period and the remainder of the eligibility period based on
39 the reduced employment and shall amend the incentive agreement
40 to reflect the recalculated award amount. In no event shall the
41 modification result in an increase in employment or tax credit
42 amount.

43 i. Following the termination of the public health emergency
44 declared by the Governor pursuant to Executive Order No. 103 of
45 2020, as extended, a business that has entered into an incentive
46 agreement may elect, before December 31, 2023, to waive, for the
47 period beginning on July 1, 2022 and ending on December 31,
48 2023, the requirement that a full-time employee who is employed

1 by the business shall spend at least 60 percent of the employee's
2 time at the qualified business facility; provided, however, that a
3 business that makes such an election shall satisfy the following
4 criteria:

5 (1) any full-time employee employed by the business shall
6 spend at least 10 percent of the employee's time at the qualified
7 business facility through the 2023 tax period; and

8 (2) following the receipt by the business of its tax credit
9 certificate or tax credit transfer certificate for the 2022 tax period,
10 the business shall make a payment of an amount equal to five
11 percent of the amount of tax credit the business receives for the
12 2022 tax period, which payment shall be made to the authority, and
13 which payment the authority shall hold and make available for the
14 provision of loans, guarantees, equity investments, and grants, or
15 other forms of financing to support small business and downtown or
16 commercial corridor activation activities within the municipality in
17 which the qualified business facility is located, as may be
18 designated by the chief executive officer of the authority.

19 j. For the 2024 tax period and all subsequent tax periods, a
20 business may elect to waive for each tax period the requirement that
21 a full-time employee who is employed by the business shall spend
22 at least 60 percent of the employee's time at the qualified business
23 facility; provided, however, that a business that makes such an
24 election shall satisfy the following criteria:

25 (1) to qualify as an eligible position or full-time job, the business
26 shall demonstrate to the authority's satisfaction that the employee
27 spends at least 80 percent of the employee's work time in this State
28 and that the eligible position requires an employee to have the
29 employee's primary place of work in this State, which need not be
30 at the qualified business facility for the business to receive the full
31 award amount;

32 (2) not less than 80 percent of the aggregate withholdings of new
33 and retained full-time jobs at the business shall be subject to the
34 "New Jersey Gross Income Tax Act," N.J.S.54A:1-1 et seq., except
35 for an employee who is a resident of another state and whose
36 income is not subject to the "New Jersey Gross Income Tax Act,"
37 N.J.S.54A:1-1 et seq., due to a reciprocity agreement with another
38 state; and

39 (3) following the receipt by the business of its tax credit
40 certificate or tax credit transfer certificate for such tax period that
41 an election is made, the business shall make a payment of an
42 amount equal to five percent of the amount of tax credit the
43 business receives for such tax period, which payment shall be made
44 to the authority, and which payment the authority shall hold and
45 make available for the provision of loans, guarantees, equity
46 investments, and grants, or other forms of financing to support
47 small business and downtown or commercial corridor activation
48 activities within the municipality in which the qualified business

1 facility is located, as may be designated by the chief executive
2 officer of the authority.

3 (cf: P.L.2022, c.134, s.4)

4

5 5. Section 71 of P.L.2020, c.156 (C.34:1B-339) is amended to
6 read as follows:

7 71. a. Beginning on the effective date of P.L.2020, c.156
8 (C.34:1B-269 et al.), but prior to March 1, 2029, to be eligible for
9 tax credits under the program, a business's chief executive officer,
10 or equivalent officer, shall demonstrate to the authority at the time
11 of application that:

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

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

18 (3) the qualified business facility is located in a qualified
19 incentive area;

20 (4) the award of tax credits will be a material factor in the
21 business's decision to create or retain the number of new and
22 retained full-time jobs set forth in its application;

23 (5) the award of tax credits, the capital investment resultant
24 from the award of tax credits, and the resultant creation and
25 retention of new and retained full-time jobs will yield a net positive
26 benefit to the State equaling at least 400 percent of the requested
27 tax credit allocation amount, or for a phased project the requested
28 tax credit allocation amount for the initial phase, and on a
29 cumulative basis each phase thereafter, which determination shall
30 be calculated prior to considering the value of the requested tax
31 credit under the program and shall be based on the benefits
32 generated during the period of time from approval through the end
33 of the commitment period, or through the end of the longer period
34 of extended commitment that the business may elect for purposes of
35 receiving credit for benefits projected to occur after the expiration
36 of the commitment period, except that:

37 (a) an award of tax credits to a business for a qualified business
38 facility located in a distressed municipality or an enhanced area
39 shall yield a net positive benefit to the State, based on the benefits
40 generated during the period of time from approval through the end
41 of the commitment period, that equals at least 300 percent of the
42 requested tax credit amount;

43 (b) an award of tax credits to a business for a qualified business
44 facility located in a government-restricted municipality, or for a
45 mega project, shall yield a net positive benefit to the State, based on
46 the benefits generated during the period of time from approval
47 through the end of the commitment period, that equals at least 200
48 percent of the requested tax credit amount;

1 (c) the net economic benefits shall be evaluated on a present
2 value basis with the requested tax credit allocation amount
3 discounted to present value at the same discount rate as the benefits
4 from capital investment resultant from the award of tax credits and
5 the resultant retention and creation of full-time jobs as provided in
6 subparagraph (d) of this paragraph; and

7 (d) a business may elect a period of extended commitment
8 beyond the commitment period for which time the economic
9 benefits shall be creditable to the determination of the net economic
10 benefit of the project, and a business electing a period of extended
11 commitment and failing to maintain the project through the
12 expiration of that extended commitment period shall be obligated to
13 repay a proportion of the incremental benefits received on account
14 of having extended the commitment period, taking into
15 consideration the number of years of extended commitment during
16 which the business maintained the project;

17 (e) in making the determination required pursuant to this
18 paragraph, the authority shall not consider the value of any taxes
19 exempted, abated, rebated, or retained under the "Five-Year
20 Exemption and Abatement Law," P.L.1991, c.441 (C.40A:21-1 et
21 seq.), the "Long Term Tax Exemption Law," P.L.1991, c.431
22 (C.40A:20-1 et al.), the "New Jersey Urban Enterprise Zones Act,"
23 P.L.1983, c.303 (C.52:27H-60 et seq.), or any other law that has the
24 effect of lowering or eliminating the business's State or local tax
25 liability, and the business's chief executive officer or equivalent
26 officer shall certify, under the penalty of perjury, that all documents
27 submitted, and factual assertions made, to the authority to
28 demonstrate that the award of tax credits will yield a net positive
29 benefit to the State in accordance with this paragraph are true and
30 accurate at the time of submission;

31 (f) If, during the term of the program, the methodology used by
32 the authority in projecting benefits of a project in making the
33 determination required pursuant to this paragraph is modified, the
34 respective percentages by which the benefits must exceed the
35 requested tax credit allocation amount set forth pursuant to this
36 paragraph (5) may be adjusted to ensure consistent application of
37 the respective thresholds in this paragraph (5) applied to each
38 application;

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

41 (7) the project shall comply with the authority's affirmative
42 action requirements, adopted pursuant to section 4 of P.L.1979,
43 c.303 (C.34:1B-5.4); and

44 (8) (a) each worker employed to perform construction work or
45 building services work at the qualified business facility shall be
46 paid not less than the prevailing wage rate for the worker's craft or
47 trade, as determined by the Commissioner of Labor and Workforce

1 Development pursuant to P.L.1963, c.150 (C.34:11-56.25 et seq.)
2 and P.L.2005, c.379 (C.34:11-56.58 et seq.), unless:

3 (i) the work performed under the contract is performed at a
4 qualified business facility owned by a landlord that is not a business
5 receiving authority assistance;

6 (ii) the landlord is a party to the construction contract, building
7 services contract, or both; and

8 (iii) the qualified business facility constitutes a lease of less than
9 35 percent of the entire facility at the time of contract and under any
10 agreement to subsequently lease the qualified business facility.

11 (b) In accordance with section 1 of P.L.1979, c.303 (C.34:1B-
12 5.1), nothing in this paragraph shall be construed as requiring the
13 payment of prevailing wage for construction commencing more
14 than two years after the authority has issued the first certificate of
15 compliance pursuant to paragraph (2) of subsection a. of section 77
16 of P.L.2020, c.156 (C.34:1B-345).

17 b. (1) The minimum capital investment required to be eligible
18 under the program shall be as follows:

19 (a) for the rehabilitation, improvement, fit-out, or retrofit of an
20 existing industrial, warehousing, logistics, or research and
21 development portion of the premises for continued similar use by
22 the business, a minimum investment of \$20 per square foot of gross
23 leasable area;

24 (b) for the new construction of an industrial, warehousing,
25 logistics, or research and development portion of the premises for
26 use by the business, a minimum investment of \$60 per square foot
27 of gross leasable area;

28 (c) for the rehabilitation, improvement, fit-out, or retrofit of
29 existing portion of the premises that does not qualify pursuant to
30 subparagraph (a) or (b) of this paragraph, a minimum investment of
31 \$40 per square foot of gross leasable area;

32 (d) for the new construction of a portion of the premises that
33 does not qualify pursuant to subparagraph (a) or (b) of this
34 paragraph, a minimum investment of \$120 per square foot of gross
35 leasable area; and

36 (e) for a small business, no new minimum capital investment
37 shall be required, provided the applicant has demonstrated evidence
38 satisfactory to the authority of its intent to remain in the State for
39 the commitment period.

40 (2) In the event the business invests less than that amount set
41 forth in paragraph (1) of this subsection in the qualified business
42 facility, the business shall donate the uninvested balance to the
43 infrastructure fund established pursuant to section 79 of P.L.2020,
44 c.156 (C.52:27D-520).

45 (3) Notwithstanding the provisions of paragraphs (1) and (2) of
46 this subsection, the authority may adopt, pursuant to the provisions
47 of the "Administrative Procedure Act," P.L.1968, c.410 (C.52:14B-
48 1 et seq.), rules and regulations adjusting the minimum capital

1 investment amounts required under the program when necessary to
2 respond to the prevailing economic conditions in the State.

3 c. (1) The minimum number of new or retained full-time jobs
4 required to be eligible under the program shall be as follows:

5 (a) for a small business, 25 percent growth of its workforce with
6 new full-time jobs within the eligibility period in accordance with
7 subsection e. of section 76 of P.L.2020, c.156 (C.34:1B-344);

8 (b) for a business engaged primarily in a targeted industry which
9 does not qualify as a small business, 25 new full-time jobs;

10 (c) for any other business, a minimum of 35 new full-time jobs;

11 (d) for a business eligible for new full-time jobs under
12 subparagraphs (b) or (c) of this paragraph, the business shall also be
13 eligible for retained full-time jobs in addition to the new full-time
14 jobs if the business will retain 150 retained full-time jobs when
15 locating in a government-restricted municipality, 250 retained full-
16 time jobs when locating in a qualified incentive tract or enhanced
17 area municipality, or 500 retained full-time jobs when locating
18 anywhere else in the State;

19 (e) for a business not eligible under subparagraphs (b), (c), or
20 (d) of this paragraph and locating in a qualified incentive tract,
21 enhanced area, or government-restricted municipality that will
22 retain 500 or more retained full-time jobs, a minimum of the
23 business's retained full-time jobs at the time of application;

24 (f) for a business not eligible under subparagraphs (b), (c), (d),
25 or (e) of this paragraph and located in the State that will retain
26 1,000 or more retained full-time jobs, a minimum of the business's
27 retained full-time jobs at the time of application.

28 (2) Notwithstanding the provisions of paragraph (1) of this
29 subsection, the authority may adopt, pursuant to the provisions of
30 the "Administrative Procedure Act," P.L.1968, c.410 (C.52:14B-1 et
31 seq.), rules and regulations adjusting the minimum number of new
32 or retained full-time jobs required under the program when
33 necessary to respond to the prevailing economic conditions in the
34 State.

35 d. A business that provides and adheres to a plan that
36 demonstrates that the qualified business facility is capable of
37 accommodating more than half of the business's new and retained
38 full-time employees as approved and that certifies, under the
39 penalty of perjury, that not less than 80 percent of the withholdings
40 of new and retained full-time jobs are subject to the "New Jersey
41 Gross Income Tax Act," N.J.S.54A:1-1 et seq. shall be eligible. A
42 business must demonstrate to the authority's satisfaction that the
43 full-time employee spends at least 80 percent of the employee's
44 work time in this State and that the eligible position requires an
45 employee to have the employee's primary place of work in this
46 State, which need not be at the qualified business facility for the
47 business to receive the full award amount. The requirements set
48 forth in this subsection may be modified by the authority to respond

1 to an emergency, disaster, or other factors that result in employees
2 of an eligible business having to work from a location other than the
3 qualified business facility.

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

8 f. A business eligible pursuant to this section may submit an
9 application to the authority in accordance with the provisions of
10 section 72 of P.L.2020, c.156 (C.34:1B-340) on or after the
11 effective date of P.L.2020, c.156 (C.34:1B-269 et al.) but prior to
12 March 1, 2029.

13 (cf: P.L.2023, c.98, s.12)

14

15 6. This act shall take effect immediately.

16

17

18

STATEMENT

19

20 This bill provides certain accommodations to businesses
21 participating in the Business Employment Incentive Program, the
22 Business Retention and Relocation Assistance Grant Program, the
23 Grow New Jersey Assistance Program, and the Urban Transit Hub
24 Program for the 2024 tax period and subsequent tax periods.

25 During the COVID-19 public health emergency, the New Jersey
26 Economic Development Authority (EDA) implemented certain
27 accommodations for businesses that had previously been approved
28 awards under these programs. As part of these accommodations,
29 the EDA waived the requirement that a full-time employee
30 employed by a business participating in any of the programs is to
31 spend at least 80 percent of the employee's time at the qualified
32 business facility to be eligible for an award under the program. The
33 New Jersey Economic Recovery Act of 2020 lowered the
34 requirement for spending time at the qualified business facility to
35 60 percent of the employee's time, as provided by law.

36 Due to the permanent impacts of COVID-19, starting in the 2024
37 tax period and for all subsequent tax periods, this bill allows
38 businesses to waive the requirement that a full-time employee who
39 is employed by the business is to spend at least 60 percent of the
40 employee's time at the qualified business facility. A business that
41 makes such an election is required to satisfy the following criteria:
42 (1) to qualify as an eligible position or full-time job, the business
43 must demonstrate to the authority's satisfaction that the employee
44 spends at least 80 percent of the individual's work time in this State
45 and that the eligible position requires an employee to have the
46 employee's primary place of work in this State, which need not be
47 at the qualified business facility for the business to receive the full
48 award amount; (2) not less than 80 percent of the aggregate

1 withholdings of new and retained full-time jobs at the business are
2 to be subject to the “New Jersey Gross Income Tax Act,”
3 N.J.S.54A:1-1 et seq.; and (3) following the receipt by the business
4 of its tax credit certificate or tax credit transfer certificate for such
5 tax period that an election is made, the business shall make a
6 payment of an amount equal to five percent of the amount of tax
7 credit the business receives for such tax period, which payment
8 shall be made to the authority, and which payment the authority
9 shall hold and make available for the provision of loans, guarantees,
10 equity investments, and grants, or other forms of financing to
11 support small business and downtown or commercial corridor
12 activation activities within the municipality in which the qualified
13 business facility is located, as may be designated by the chief
14 executive officer of the authority.

15 The bill also provides that a business that receives a tax credit
16 award through the Emerge Program must demonstrate to the New
17 Jersey Economic Development Authority that a full-time employee
18 spends at least 80 percent of their work time in this State and that
19 the eligible position requires an employee to have the employee’s
20 primary place of work in this State, which need not be at the
21 qualified business facility, for the business to receive the full tax
22 credit award.

ASSEMBLY APPROPRIATIONS COMMITTEE

STATEMENT TO

ASSEMBLY, No. 5840

with committee amendments

STATE OF NEW JERSEY

DATED: DECEMBER 18, 2023

The Assembly Appropriations Committee reports favorably and with committee amendments Assembly Bill No. 5840.

As amended and reported by the committee, this bill provides certain accommodations to businesses participating in the Business Employment Incentive Program, the Business Retention and Relocation Assistance Grant Program, the Grow New Jersey Assistance Program, and the Urban Transit Hub Program.

During the COVID-19 public health emergency, the New Jersey Economic Development Authority (EDA) implemented certain accommodations for businesses that had previously been approved awards under these programs. As part of these accommodations, the EDA waived the requirement that a full-time employee employed by a business participating in any of the programs is to spend at least 80 percent of the employee's time at the qualified business facility to be eligible for an award under the program. The New Jersey Economic Recovery Act of 2020 lowered the requirement for spending time at the qualified business facility to 60 percent of the employee's time, as provided by law. The bill, as amended, extends these accommodations through March 31, 2024.

COMMITTEE AMENDMENTS:

The committee amendments:

(1) extend the accommodations enacted by P.L.2022, c.134 through March 31, 2024;

(2) remove the provisions allowing, for the 2024 tax period and for all subsequent tax periods, businesses participating in certain economic development programs to waive the requirement that a full-time employee who is employed by the business is to spend at least 60 percent of the employee's time at the qualified business facility;

(3) remove the modifications to the tax credit award requirements under the "Emerge Program Act"; and

(4) update the bill's synopsis to reflect these changes.

FISCAL IMPACT:

The Office of Legislative Services (OLS) concludes that this bill will overall lead to a net decrease in State revenues. The decrease in

State revenues would occur under the bill through March 31, 2024. First, the bill will result in a State revenue decrease to the extent that businesses participating in certain State economic development programs choose to waive the requirement that full-time employees employed by the businesses spend at least 60 percent of their time at the qualified business facility. Although the bill extends accommodations that participating businesses have been able to utilize since July of 2022, the continuation of the waiver would allow businesses to remain eligible for tax credits which they may not have otherwise received under current law.

Second, the bill will result in an increase in State revenues stemming from certain payments made by participating businesses under the bill. The bill requires that participating businesses electing to waive the on-site work requirements would make payments equal to five percent of the tax credit they received, through March 31, 2024. Any State revenue increase resulting from these payments, however, may be offset by an increase in State expenditures because the bill requires the Economic Development Authority to make the funds it receives via these payments available to support certain economic development activities.

LEGISLATIVE FISCAL ESTIMATE

[First Reprint]

ASSEMBLY, No. 5840

STATE OF NEW JERSEY 220th LEGISLATURE

DATED: JANUARY 5, 2024

SUMMARY

- Synopsis:** Extends certain accommodations implemented during COVID-19 public health emergency for businesses participating in State economic development programs.
- Type of Impact:** Net State revenue decrease.
- Agencies Affected:** Economic Development Authority.

Office of Legislative Services Estimate

Fiscal Impact	
Net State Revenue Decrease	Indeterminate

- The Office of Legislative Services (OLS) concludes that this bill will overall lead to a net decrease in State revenues. The decrease in State revenues would occur as a result of tax credits that would be awarded from January 1, 2024 through March 31, 2024 pursuant to the bill's provisions.
- First, the bill will result in a State revenue decrease to the extent that businesses participating in certain State economic development programs choose to waive the requirement that full-time employees employed by the businesses spend at least 60 percent of their time at the qualified business facility.
- Second, the bill will result in an increase in State revenues stemming from certain payments made by participating businesses under the bill. Any State revenue increase resulting from these payments, however, may be offset by an increase in State expenditures because the bill requires the Economic Development Authority to make the funds it receives via these payments available to support certain economic development activities.

BILL DESCRIPTION

This bill provides certain accommodations to businesses participating in the Business Employment Incentive Program, the Business Retention and Relocation Assistance Grant Program, the Grow New Jersey Assistance Program, and the Urban Transit Hub Program.

During the COVID-19 public health emergency, the New Jersey Economic Development Authority implemented certain accommodations for businesses that had previously been approved awards under these programs. As part of these accommodations, the authority waived the requirement that a full-time employee employed by a business participating in any of the programs is to spend at least 80 percent of the employee's time at the qualified business facility to be eligible for an award under the program. The New Jersey Economic Recovery Act of 2020 lowered the requirement for spending time at the qualified business facility to 60 percent of the employee's time, as provided by law. As a condition of waiving these on-site work requirements, participating businesses are required to ensure that any full-time employee employed by the business spend at least 10 percent of the employee's time at the qualified business facility. The businesses are also required to make payments equal to five percent of the tax credit they receive as a result of receiving the waiver.

The bill extends the accommodations provided during the COVID-19 public health emergency from the current expiration date of December 31, 2023 to March 31, 2024.

FISCAL ANALYSIS

EXECUTIVE BRANCH

None received.

OFFICE OF LEGISLATIVE SERVICES

The OLS concludes that this bill will overall lead to a net decrease in State revenues. The decrease in State revenues would occur as a result of tax credits that would be awarded from January 1, 2024 through March 31, 2024 pursuant to the bill's provisions.

First, the bill will result in a State revenue decrease to the extent that businesses participating in certain State economic development programs choose to waive the requirement that full-time employees employed by the businesses spend at least 60 percent of their time at the qualified business facility. Although the bill extends accommodations that participating businesses have been able to utilize since July of 2022, the continuation of the waiver would allow businesses to remain eligible for tax credits which they may not have otherwise received under current law.

Second, the bill will result in an increase in State revenues stemming from certain payments made by participating businesses under the bill. The bill requires that participating businesses electing to waive the on-site work requirements would make payments equal to five percent of the tax credit they received, through March 31, 2024. Any State revenue increase resulting from these payments, however, may be offset by an increase in State expenditures because the bill requires the Economic Development Authority to make the funds it receives via these payments available to support certain economic development activities.

Section: Revenue, Finance, and Appropriations

*Analyst: Christopher Myles
Senior Fiscal 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.).

SENATE, No. 4217

STATE OF NEW JERSEY
220th LEGISLATURE

INTRODUCED DECEMBER 11, 2023

Sponsored by:

Senator PAUL A. SARLO

District 36 (Bergen and Passaic)

SYNOPSIS

Extends certain accommodations implemented during COVID-19 public health emergency for businesses participating in State economic development programs for 2024 tax period and beyond; modifies tax credit award requirements under “Emerge Program Act.”

CURRENT VERSION OF TEXT

As introduced.



1 AN ACT concerning State economic development programs and
2 amending various parts of the statutory law.

3

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

6

7 1. Section 9 of P.L.1996, c.25 (C.34:1B-120) is amended to
8 read as follows:

9 9. a. As determined by the authority, a business which is
10 awarded a grant of tax credits under P.L.1996, c.25 (C.34:1B-112 et
11 seq.) shall submit annually, no later than March 1st of each year,
12 commencing in the year in which the grant of tax credits is issued
13 and for the remainder of the commitment duration, a certificate of
14 compliance that indicates that the business continues to maintain
15 the number of retained full-time jobs as specified in the project
16 agreement. Upon receipt and review thereof during the tax credit
17 term, the authority shall issue a certificate of compliance indicating
18 the amount of tax credits that the business may apply against
19 liability pursuant to section 7 of P.L.2004, c.65 (C.34:1B-115.3).
20 Any reduction in the number of retained full-time jobs below the
21 number prescribed under the terms of the project agreement shall
22 proportionately reduce the amount of tax credits the business may
23 apply against liability in that tax period and the credits that may no
24 longer be applied for that tax period shall be forfeited. However, if
25 in any tax period, the number of retained full-time jobs drops below
26 the minimum number of retained full-time jobs indicated in the
27 paragraph of subsection b. of section 7 of P.L.2004, c.65
28 (C.34:1B-115.3) pursuant to which the project agreement was
29 executed such that the business would no longer be eligible to apply
30 the credits for the number of years for which it was approved, then
31 the authority shall reduce the amount of tax credits the business
32 may apply against liability and the number of years in which the
33 business may apply the tax credits. The grant shall be subject to
34 recapture provisions pursuant to the project agreement.

35 b. Following the termination of the public health emergency
36 declared by the Governor pursuant to Executive Order No. 103 of
37 2020, as extended, a business that has entered into an incentive
38 agreement may elect, before December 31, 2023, to waive, for the
39 period beginning on July 1, 2022 and ending on December 31,
40 2023, the requirement that a full-time employee who is employed
41 by the business shall spend at least 60 percent of the employee's
42 time at the qualified business facility; provided, however, that a
43 business that makes such an election shall satisfy the following
44 criteria:

45 (1) any full-time employee employed by the business shall
46 spend at least 10 percent of the employee's time at the qualified
47 business facility **【through】** for the 2023 tax period only; and

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 (2) following the receipt by the business of its tax credit
2 certificate or tax credit transfer certificate for the 2022 tax period,
3 the business shall make a payment of an amount equal to five
4 percent of the amount of tax credit the business receives for the
5 2022 tax period, which payment shall be made to the authority, and
6 which payment the authority shall hold and make available for the
7 provision of loans, guarantees, equity investments, and grants, or
8 other forms of financing to support small business and downtown or
9 commercial corridor activation activities within the municipality in
10 which the qualified business facility is located, as may be
11 designated by the chief executive officer of the authority.

12 c. For the 2024 tax period and all subsequent tax periods, a
13 business may elect to waive for each tax period the requirement that
14 a full-time employee who is employed by the business shall spend
15 at least 60 percent of the employee's time at the qualified business
16 facility; provided, however, that a business that makes such an
17 election shall satisfy the following criteria:

18 (1) to qualify as an eligible position or full-time job, the business
19 shall demonstrate to the authority's satisfaction that the employee
20 spends at least 80 percent of the employee's work time in this State
21 and that the eligible position requires an employee to have the
22 employee's primary place of work in this State, which need not be
23 at the qualified business facility for the business to receive the full
24 award amount;

25 (2) not less than 80 percent of the aggregate withholdings of new
26 and retained full-time jobs at the business shall be subject to the
27 "New Jersey Gross Income Tax Act," N.J.S.54A:1-1 et seq., except
28 for an employee who is a resident of another state and whose
29 income is not subject to the "New Jersey Gross Income Tax Act,"
30 N.J.S.54A:1-1 et seq., due to a reciprocity agreement with another
31 state; and

32 (3) following the receipt by the business of its tax credit
33 certificate or tax credit transfer certificate for such tax period that
34 an election is made, the business shall make a payment of an
35 amount equal to five percent of the amount of the tax credit the
36 business receives for such tax period, which payment shall be made
37 to the authority, and which payment the authority shall hold and
38 make available for the provision of loans, guarantees, equity
39 investments, and grants, or other forms of financing to support
40 small business and downtown or commercial corridor activation
41 activities within the municipality in which the qualified business
42 facility is located, as may be designated by the chief executive
43 officer of the authority.

44 (cf: P.L.2022, c.134, s.1)

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1 2. Section 6 of P.L.1996, c.26 (C.34:1B-129) is amended to
2 read as follows:

3 6. a. The amount of the employment incentive awarded as a
4 grant by the authority shall either be awarded in cash or as a tax
5 credit. In each case, the amount of the grant shall be not less than
6 10 percent and not more than 50 percent of the withholdings of the
7 business, or not less than 10 percent and not more than 30 percent
8 of the estimated tax of the partners of an eligible partnership
9 whether paid directly by the partner or by the eligible partnership
10 on behalf of the partner's account, or any combination thereof, and
11 shall be subject to the provisions of sections 10 and 11 of P.L.1996,
12 c.26 (C.34:1B-133 and C.34:1B-134). In no case shall the aggregate
13 amount of the employment incentive grant awarded pursuant to a
14 business employment incentive agreement entered into on or after
15 July 1, 2003 exceed an average of \$50,000 for all new employees
16 over the term of the grant. The employment incentive shall be based
17 on criteria developed by the authority after considering the
18 following:

- 19 (1) The number of eligible positions to be created;
- 20 (2) The expected duration of those positions;
- 21 (3) The type of contribution the business can make to the long-
22 term growth of the State's economy;
- 23 (4) The amount of other financial assistance the business will
24 receive from the State for the project;
- 25 (5) The total dollar investment the business is making in the
26 project;
- 27 (6) Whether the business is a designated industry;
- 28 (7) Impact of the business on State tax revenues; and
- 29 (8) Such other related factors determined by the authority.

30 b. A business may be eligible to be awarded a grant, either in
31 cash or in tax credits, of up to 80 percent of the withholdings of the
32 business or up to 50 percent of the estimated tax of the partners of
33 an eligible partnership if the grant promotes smart growth and the
34 goals, strategies, and policies of the State Development and
35 Redevelopment Plan, established pursuant to section 5 of P.L.1985,
36 c.398 (C.52:18A-200), as determined by and based upon criteria
37 promulgated by the authority following consultation with the Office
38 of State Planning in the Department of State.

39 c. The term of the grant shall not exceed 10 years.

40 d. At the discretion of the authority, the grant may apply to
41 new employees or partners in eligible positions created during the
42 base years, and during the remainder of the term of the grant.

43 e. Within 180 days of the date of enactment of P.L.2015, c.194
44 (C.34:1B-137.1 et al.), a business that was approved for a grant
45 prior to the enactment of P.L.2015, c.194 (C.34:1B-137.1 et al.),
46 may direct the authority to convert the grant to a tax credit against
47 the tax liability otherwise due pursuant to section 5 of P.L.1945,
48 c.162 (C.54:10A-5), sections 2 and 3 of P.L.1945, c.132

1 (C.54:18A-2 and 54:18A-3), section 1 of P.L.1950, c.231
2 (C.17:32-15), or N.J.S.17B:23-5. The direction to convert the grant
3 to a tax credit shall be irrevocable. An approved tax credit shall be
4 issued in the manner and for the amounts as follows and may only
5 be applied in the tax period for which they are issued and shall not
6 be carried forward:

7 (1) For grants accrued but not paid during calendar years 2008
8 through 2013, the tax credit shall be equal to an approved amount
9 and shall be issued in five installments over a five-year period
10 beginning in the 2017 tax accounting or privilege period of the
11 business or tax credit transferee in the following percentages: in
12 year one, five percent of the accrued amount; in year two, 20
13 percent of the accrued amount; in year three, 25 percent of the
14 accrued amount; in year four, 25 percent of the accrued amount; in
15 year five, 25 percent of the accrued amount. To the extent any
16 amount in this paragraph has not been approved by the authority by
17 the commencement of State fiscal year 2017, the aggregate tax
18 credit that would have been issued in State fiscal year 2017 shall be
19 issued in the year the amount is approved and the five-year period
20 shall commence in that fiscal year;

21 (2) For a grant accrued but not paid during calendar year 2014,
22 the tax credit shall be equal to any approved amount and shall be
23 issued in four equal installments over a four-year period beginning
24 in the 2019 tax accounting or privilege period of the business or tax
25 credit transferee;

26 (3) For a grant accrued but not paid during calendar year 2015,
27 the tax credit shall be equal to any approved amount and shall be
28 issued in four equal installments over a four-year period beginning
29 in the 2019 tax accounting or privilege period of the business or tax
30 credit transferee;

31 (4) For a grant accrued but not paid during calendar year 2016,
32 the tax credit shall be equal to any approved amount and shall be
33 issued in three equal installments over a three-year period
34 beginning in the 2020 tax accounting or privilege period of the
35 business or tax credit transferee;

36 (5) For a grant accrued but not paid during calendar year 2017,
37 the tax credit shall be equal to any approved amount and shall be
38 issued in three equal installments over a three-year period
39 beginning in the 2020 tax accounting or privilege period of the
40 business or tax credit transferee;

41 (6) For a grant accrued but not paid during calendar year 2018,
42 the tax credit shall be equal to any approved amount and shall be
43 issued in two equal installments over a two-year period beginning
44 in the 2022 tax accounting or privilege period of the business or tax
45 credit transferee;

46 (7) For a grant accrued but not paid during calendar year 2019,
47 the tax credit shall be equal to any approved amount and shall be
48 issued in two equal installments over a two-year period beginning

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1 in the 2022 tax accounting or privilege period of the business or tax
2 credit transferee;

3 (8) For a grant accrued but not paid during calendar year 2020,
4 the tax credit shall be equal to any approved amount and shall be
5 issued in two equal installments over a two-year period beginning
6 in the 2023 tax accounting or privilege period of the business or tax
7 credit transferee;

8 (9) For a grant accrued but not paid during calendar year 2021,
9 the tax credit shall be equal to any approved amount and shall be
10 issued in two equal installments over a two-year period beginning
11 in the 2023 tax accounting or privilege period of the business or tax
12 credit transferee;

13 (10) For a grant accrued but not paid during calendar year 2022,
14 the tax credit shall be equal to any approved amount and shall be
15 paid in two equal installments over a two-year period beginning in
16 the 2023 tax accounting or privilege period of the business or tax
17 credit transferee;

18 (11) For a grant accrued but not paid during calendar year 2023,
19 the tax credit shall be equal to any approved amount and shall be
20 issued in two equal installments over a two-year period beginning
21 in the 2023 tax accounting or privilege period of the business or tax
22 credit transferee;

23 (12) For a grant accrued but not paid during calendar year 2024,
24 the tax credit shall be equal to any approved amount and shall be
25 issued in the 2025 tax accounting or privilege period of the business
26 or tax credit transferee; and

27 (13) For a grant accrued but not paid during calendar year 2025,
28 the tax credit shall be equal to any approved amount and shall be
29 issued in the 2025 tax accounting or privilege period of the business
30 or tax credit transferee.

31 f. The amount of the credit allowed pursuant to this section
32 shall be applied against the tax otherwise due under section 5 of
33 P.L.1945, c.162 (C.54:10A-5), sections 2 and 3 of P.L.1945, c.132
34 (C.54:18A-2 and C.54:18A-3), section 1 of P.L.1950, c.231
35 (C.17:32-15), or N.J.S.17B:23-5, prior to all other credits and
36 payments. If the credit exceeds the amount of tax liability otherwise
37 due from a business that pays taxes under section 5 of P.L.1945,
38 c.162 (C.54:10A-5), sections 2 and 3 of P.L.1945, c.132
39 (C.54:18A-2 and C.54:18A-3), section 1 of P.L.1950, c.231
40 (C.17:32-15), or N.J.S.17B:23-5, that amount of excess shall be an
41 overpayment for the purposes of R.S.54:49-15, provided, however,
42 that section 7 of P.L.1992, c.175 (C.54:49-15.1) shall not apply.

43 g. (1) A business that does not pay taxes under section 5 of
44 P.L.1945, c.162 (C.54:10A-5), sections 2 and 3 of P.L.1945, c.132
45 (C.54:18A-2 and 54:18A-3), section 1 of P.L.1950, c.231
46 (C.17:32-15), or N.J.S.17B:23-5 may apply to the executive director
47 of the authority for a tax credit transfer certificate, covering one or
48 more years.

1 (2) A business that has received a tax credit pursuant to
2 subsection e. of this section, which credit exceeds the amount of the
3 tax liability otherwise due, may apply to the executive director of
4 the authority for a tax credit transfer certificate, covering one or
5 more years.

6 (3) Upon the executive director's approval of an application for
7 a tax credit transfer certificate, the division shall review and issue
8 the tax credit transfer certificate. The tax credit transfer certificate,
9 upon receipt thereof by the business, may be sold or assigned, in
10 full or in part, in an amount not less than \$100,000, or the amount
11 of the refundable tax credit issued if less than \$100,000, of tax
12 credits to any other person that may have a tax liability pursuant to
13 section 5 of P.L.1945, c.162 (C.54:10A-5), sections 2 and 3 of
14 P.L.1945, c.132 (C.54:18A-2 and 54:18A-3), section 1 of P.L.1950,
15 c.231 (C.17:32-15), or N.J.S.17B:23-5. The tax credit transfer
16 certificate provided to the business shall include a statement
17 waiving the business's right to claim that amount of the credit
18 against the taxes that the business has elected to sell or assign. The
19 sale or assignment of any amount of a tax credit transfer certificate
20 allowed under this section shall not be exchanged for consideration
21 received by the business of less than 75 percent of the transferred
22 credit amount before considering any further discounting to present
23 value which shall be permitted. Any amount of a tax credit transfer
24 certificate used by a purchaser or assignee against a tax liability
25 shall be subject to the same privileges, limitations, and conditions
26 that apply to the use of the credit by the business that originally
27 applied for and was allowed the tax credit, including treating the
28 amount of excess as an overpayment under subsection f. of this
29 section. The tax credit transferee may not transfer its tax credit to
30 any other party.

31 h. Following the termination of the public health emergency
32 declared by the Governor pursuant to Executive Order No. 103 of
33 2020, as extended, a business that has entered into an incentive
34 agreement may elect, before December 31, 2023, to waive, for the
35 period beginning on July 1, 2022 and ending on December 31,
36 2023, the requirement that a full-time employee who is employed
37 by the business shall spend at least 60 percent of the employee's
38 time at the qualified business facility; provided, however, that a
39 business that makes such an election shall satisfy the following
40 criteria:

41 (1) any full-time employee employed by the business shall spend
42 at least 10 percent of the employee's time at the qualified business
43 facility **【through】** for the 2023 tax period only; and

44 (2) following the receipt by the business of its tax credit
45 certificate or tax credit transfer certificate for the 2022 tax period,
46 the business shall make a payment of an amount equal to five
47 percent of the amount of tax credit the business receives for the
48 2022 tax period, which payment shall be made to the authority, and

1 which payment the authority shall hold and make available for the
2 provision of loans, guarantees, equity investments, and grants, or
3 other forms of financing to support small business and downtown or
4 commercial corridor activation activities within the municipality in
5 which the qualified business facility is located, as may be
6 designated by the chief executive officer of the authority.

7 i. For the 2024 tax period and all subsequent tax periods, a
8 business may elect to waive for each tax period the requirement that
9 a full-time employee who is employed by the business shall spend
10 at least 60 percent of the employee's time at the qualified business
11 facility; provided, however, that a business that makes such an
12 election shall satisfy the following criteria:

13 (1) to qualify as an eligible position or full-time job, the
14 business must demonstrate to the authority's satisfaction that the
15 employee spends at least 80 percent of the employee's work time in
16 this State and that the eligible position requires an employee to have
17 the employee's primary place of work in this State, which need not
18 be at the qualified business facility for the business to receive the
19 full award amount;

20 (2) not less than 80 percent of the aggregate withholdings of
21 new and retained full-time jobs at the business shall be subject to
22 the "New Jersey Gross Income Tax Act," N.J.S.54A:1-1 et seq.,
23 except for an employee who is a resident of another state and whose
24 income is not subject to the "New Jersey Gross Income Tax Act,"
25 N.J.S.54A:1-1 et seq., due to a reciprocity agreement with another
26 state; and

27 (3) following the receipt by the business of its tax credit
28 certificate or tax credit transfer certificate for such tax period that
29 an election is made, the business shall make a payment of an
30 amount equal to five percent of the amount of tax credit the
31 business receives for such tax period, which payment shall be made
32 to the authority, and which payment the authority shall hold and
33 make available for the provision of loans, guarantees, equity
34 investments, and grants, or other forms of financing to support
35 small business and downtown or commercial corridor activation
36 activities within the municipality in which the qualified business
37 facility is located, as may be designated by the chief executive
38 officer of the authority.

39 (cf: P.L.2022, c.134, s.2)

40
41 3. Section 3 of P.L.2007, c.346 (C.34:1B-209) is amended to
42 read as follows:

43 3. a. (1) A business, upon application to and approval from
44 the authority, shall be allowed a credit of 100 percent of its capital
45 investment, made after the effective date of P.L.2007, c.346
46 (C.34:1B-207 et seq.) but prior to its submission of documentation
47 pursuant to subsection c. of this section, in a qualified business
48 facility within an eligible municipality, pursuant to the restrictions

1 and requirements of this section. To be eligible for any tax credits
2 authorized under this section, a business shall demonstrate to the
3 authority, at the time of application, that the State's financial
4 support of the proposed capital investment in a qualified business
5 facility will yield a net positive benefit to both the State and the
6 eligible municipality. The value of all credits approved by the
7 authority pursuant to P.L.2007, c.346 (C.34:1B-207 et seq.) shall
8 not exceed \$1,750,000,000, except as may be increased by the
9 authority as set forth in paragraph (5) of subsection a. of section 35
10 of P.L.2009, c.90 (C.34:1B-209.3) and section 6 of P.L.2010, c.57
11 (C.34:1B-209.4).

12 (2) A business, other than a tenant eligible pursuant to
13 paragraph (3) of this subsection, shall make or acquire capital
14 investments totaling not less than \$50,000,000 in a qualified
15 business facility, at which the business shall employ not fewer than
16 250 full-time employees to be eligible for a credit under this
17 section. A business that acquires a qualified business facility shall
18 also be deemed to have acquired the capital investment made or
19 acquired by the seller.

20 (3) A business that is a tenant in a qualified business facility, the
21 owner of which has made or acquired capital investments in the
22 facility totaling not less than \$50,000,000, shall occupy a leased
23 area of the qualified business facility that represents at least
24 \$17,500,000 of the capital investment in the facility at which the
25 tenant business and up to two other tenants in the qualified business
26 facility shall employ not fewer than 250 full-time employees in the
27 aggregate to be eligible for a credit under this section. The amount
28 of capital investment in a facility that a leased area represents shall
29 be equal to that percentage of the owner's total capital investment in
30 the facility that the percentage of net leasable area leased by the
31 tenant is of the total net leasable area of the qualified business
32 facility. Capital investments made by a tenant shall be deemed to be
33 included in the calculation of the capital investment made or
34 acquired by the owner, but only to the extent necessary to meet the
35 owner's minimum capital investment of \$50,000,000. Capital
36 investments made by a tenant and not allocated to meet the owner's
37 minimum capital investment threshold of \$50,000,000 shall be
38 added to the amount of capital investment represented by the
39 tenant's leased area in the qualified business facility.

40 (4) A business shall not be allowed tax credits under this section
41 if the business participates in a business employment incentive
42 agreement, pursuant to P.L.1996, c.26 (C.34:1B-124 et seq.),
43 relating to the same capital and employees that qualify the business
44 for this credit, or if the business receives assistance pursuant to
45 P.L.1996, c.25 (C.34:1B-112 et seq.). A business that is allowed a
46 tax credit under this section shall not be eligible for incentives
47 authorized pursuant to P.L.2002, c.43 (C.52:27BBB-1 et al.). A
48 business shall not qualify for a tax credit under this section, based

1 upon its capital investment and the employment of full-time
2 employees, if that capital investment or employment was the basis
3 for which a grant was provided to the business pursuant to the
4 "InvestNJ Business Grant Program Act," P.L.2008, c.112
5 (C.34:1B-237 et seq.).

6 (5) Full-time employment for an accounting or a privilege
7 period shall be determined as the average of the monthly full-time
8 employment for the period.

9 (6) The capital investment of the owner of a qualified business
10 facility is that percentage of the capital investment made or
11 acquired by the owner of the building that the percentage of net
12 leasable area of the qualified business facility not leased to tenants
13 is of the total net leasable area of the qualified business facility.

14 (7) A business shall be allowed a tax credit of 100 percent of its
15 capital investment, made after the effective date of P.L.2011, c.89
16 but prior to its submission of documentation pursuant to subsection
17 c. of this section, in a qualified business facility that is part of a
18 mixed use project, provided that (a) the qualified business facility
19 represents at least \$17,500,000 of the total capital investment in the
20 mixed use project, (b) the business employs not fewer than 250 full-
21 time employees in the qualified business facility, and (c) the total
22 capital investment in the mixed use project of which the qualified
23 business facility is a part is not less than \$50,000,000. The
24 allowance of credits under this paragraph shall be subject to the
25 restrictions and requirements, to the extent that those are not
26 inconsistent with the provisions of this paragraph, set forth in
27 paragraphs (1) through (6) of this subsection, including, but not
28 limited to, the requirement that the business shall demonstrate to the
29 authority, at the time of application, that the State's financial
30 support of the proposed capital investment in a qualified business
31 facility will yield a net positive benefit to both the State and the
32 eligible municipality.

33 (8) In determining whether a proposed capital investment will
34 yield a net positive benefit, the authority shall not consider the
35 transfer of an existing job from one location in the State to another
36 location in the State as the creation of a new job, unless (a) the
37 business proposes to transfer existing jobs to a municipality in the
38 State as part of a consolidation of business operations from two or
39 more other locations that are not in the same municipality whether
40 in-State or out-of-State, or (b) the business's chief executive officer,
41 or equivalent officer, submits a certification to the authority
42 indicating that the existing jobs are at risk of leaving the State and
43 that the business's chief executive officer, or equivalent officer, has
44 reviewed the information submitted to the authority and that the
45 representations contained therein are accurate, and the business
46 intends to employ not fewer than 500 full-time employees in the
47 qualified business facility. In the event that this certification by the
48 business's chief executive officer, or equivalent officer, is found to

1 be willfully false, the authority may revoke any award of tax credits
2 in their entirety, which revocation shall be in addition to any other
3 criminal or civil penalties that the business and the officer may be
4 subject to. When considering an application involving intra-State
5 job transfers, the authority shall require the company to submit the
6 following information as part of its application: a full economic
7 analysis of all locations under consideration by the company; all
8 lease agreements, ownership documents, or substantially similar
9 documentation for the business's current in-State locations; and all
10 lease agreements, ownership documents, or substantially similar
11 documentation for the potential out-of-State location alternatives, to
12 the extent they exist. Based on this information, and any other
13 information deemed relevant by the authority, the authority shall
14 independently verify and confirm, by way of making a factual
15 finding by separate vote of the authority's board, the business's
16 assertion that the jobs are actually at risk of leaving the State,
17 before a business may be awarded any tax credits under this section.

18 b. (1) If applications under this section have been received by
19 the authority prior to the effective date of the "New Jersey
20 Economic Opportunity Act of 2013," P.L.2013, c.161
21 (C.52:27D-489p et al.), then, to the extent that there remains
22 sufficient financial authorization for the award of a tax credit, the
23 authority is authorized to consider those applications and to make
24 awards of tax credits to eligible applicants, provided that the
25 authority shall take final action on those applications no later than
26 December 31, 2013.

27 (2) A business shall apply for the credit under this section prior
28 to the effective date of the "New Jersey Economic Opportunity Act
29 of 2013," P.L.2013, c.161 (C.52:27D-489p et al.), and shall submit
30 its documentation for approval of its credit amount no later than
31 December 31, 2023.

32 (3) If a business has submitted an application under this section
33 and that application has not been approved for any reason, the lack
34 of approval shall not serve to prejudice in any way the
35 consideration of a new application as may be submitted for the
36 qualified business facility for the provision of incentives offered
37 pursuant to the "New Jersey Economic Opportunity Act of 2013,"
38 P.L.2013, c.161 (C.52:27D-489p et al.).

39 (4) Tax credits awarded pursuant to P.L.2007, c.346
40 (C.34:1B-207 et seq.) for applications submitted to and approved by
41 the authority prior to the effective date of the "New Jersey
42 Economic Opportunity Act of 2013," P.L.2013, c.161
43 (C.52:27D-489p et al.), shall be administered by the authority in the
44 manner established prior to that date.

45 (5) With respect to an application received by the authority prior
46 to the effective date of the "New Jersey Economic Opportunity Act
47 of 2013," P.L.2013, c.161 (C.52:27D-489p et al.) for a qualified
48 business facility that is located on or adjacent to the campus of an

1 acute care medical facility, (a) the minimum number of full-time
2 employees required for eligibility under the program may be
3 employed by any number of tenants or other occupants of the
4 facility, in the aggregate, and the initial satisfaction of the
5 requirement following completion of the project shall be deemed to
6 satisfy the employment requirements of the program in all respects,
7 and (b) if the capital investment in the facility exceeds
8 \$100,000,000, the determination of the net positive benefit yield
9 shall be based on the benefits generated during a period of up to 30
10 years following the completion of the project, as determined by the
11 authority.

12 c. (1) The amount of credit allowed shall, except as otherwise
13 provided, be equal to the capital investment made by the business,
14 or the capital investment represented by the business's leased area,
15 or area owned by the business as a condominium, and shall be taken
16 over a 10-year period, at the rate of one-tenth of the total amount of
17 the business's credit for each tax accounting or privilege period of
18 the business, beginning with the tax period in which the business is
19 first certified by the authority as having met the investment capital
20 and employment qualifications, subject to any reduction or
21 disqualification as provided by subsection d. of this section as
22 determined by annual review by the authority. In conducting its
23 annual review, the authority may require a business to submit any
24 information determined by the authority to be necessary and
25 relevant to its review.

26 The credit amount that may be taken for a tax period of the
27 business that exceeds the final liabilities of the business for the tax
28 period may be carried forward for use by the business in the next 20
29 successive tax periods, and shall expire thereafter, provided that the
30 value of all credits approved by the authority against tax liabilities
31 pursuant to P.L.2007, c.346 (C.34:1B-207 et seq.) in any fiscal year
32 shall not exceed \$260,000,000.

33 The amount of credit allowed for a tax period to a business that
34 is a tenant in a qualified business facility shall not exceed the
35 business's total lease payments for occupancy of the qualified
36 business facility for the tax period.

37 A business may elect to suspend its obligations for the 2020,
38 2021, 2022, or 2023 tax period, or any combination thereof, due to
39 the COVID-19 pandemic, provided that the business shall make
40 such election in writing to the authority before the issuance of the
41 tax credit for the corresponding tax year and such suspension shall
42 extend the term of the eligibility period by a corresponding amount
43 of time. The authority shall modify the approval letter, and the
44 business shall execute the modification within the time period
45 provided by the authority. The modification shall provide that the
46 failure to submit the annual report due to the suspension shall not be
47 a forfeiture or an uncertified tax period.

1 (2) A business that is a partnership shall not be allowed a credit
2 under this section directly, but the amount of credit of an owner of a
3 business shall be determined by allocating to each owner of the
4 partnership that proportion of the credit of the business that is equal
5 to the owner of the partnership's share, whether or not distributed,
6 of the total distributive income or gain of the partnership for its tax
7 period ending within or at the end of the owner's tax period, or that
8 proportion that is allocated by an agreement, if any, among the
9 owners of the partnership that has been provided to the Director of
10 the Division of Taxation in the Department of the Treasury by the
11 time and accompanied by the additional information as the director
12 may require.

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

18 d. (1) If, in any tax period, fewer than 200 full-time employees
19 of the business at the qualified business facility are employed in
20 new full-time positions, the amount of the credit otherwise
21 determined pursuant to final calculation of the award of tax credits
22 pursuant to subsection c. of this section shall be reduced by 20
23 percent for that tax period and each subsequent tax period until the
24 first period for which documentation demonstrating the restoration
25 of the 200 full-time employees employed in new full-time positions
26 at the qualified business facility has been reviewed and approved by
27 the authority, for which tax period and each subsequent tax period
28 the full amount of the credit shall be allowed; provided, however,
29 that for businesses applying before January 1, 2010, there shall be
30 no reduction if a business relocates to an urban transit hub from
31 another location or other locations in the same municipality. For the
32 purposes of this paragraph, a "new full-time position" means a
33 position created by the business at the qualified business facility
34 that did not previously exist in this State.

35 (2) If, in any tax period, the business reduces the total number
36 of full-time employees in its Statewide workforce by more than 20
37 percent from the number of full-time employees in its Statewide
38 workforce in the last tax accounting or privilege period prior to the
39 credit amount approval under subsection a. of this section, then the
40 business shall forfeit its credit amount for that tax period and each
41 subsequent tax period, until the first tax period for which
42 documentation demonstrating the restoration of the business's
43 Statewide workforce to the threshold levels required by this
44 paragraph has been reviewed and approved by the authority, for
45 which tax period and each subsequent tax period the full amount of
46 the credit shall be allowed.

47 (3) If, in any tax period, (a) the number of full-time employees
48 employed by the business at the qualified business facility located

1 in an urban transit hub within an eligible municipality drops below
2 250, or (b) the number of full-time employees, who are not the
3 subject of intra-State job transfers, pursuant to paragraph (8) of
4 subsection a. of this section, employed by the business at any other
5 business facility in the State, whether or not located in an urban
6 transit hub within an eligible municipality, drops by more than 20
7 percent from the number of full-time employees in its workforce in
8 the last tax accounting or privilege period prior to the credit amount
9 approval under this section, then the business shall forfeit its credit
10 amount for that tax period and each subsequent tax period, until the
11 first tax period for which documentation demonstrating the
12 restoration of the number of full-time employees employed by the
13 business at the qualified business facility to 250 or an increase
14 above the 20 percent reduction has been reviewed and approved by
15 the authority, for which tax period and each subsequent tax period
16 the full amount of the credit shall be allowed.

17 (4) (i) If the qualified business facility is sold in whole or in
18 part during the 10-year eligibility period, the new owner shall not
19 acquire the capital investment of the seller and the seller shall
20 forfeit all credits for the tax period in which the sale occurs and all
21 subsequent tax periods; provided, however, that any credits of
22 tenants shall remain unaffected.

23 (ii) If a tenant subleases its tenancy in whole or in part during
24 the 10-year eligibility period, the new tenant shall not acquire the
25 credit of the sublessor, and the sublessor tenant shall forfeit all
26 credits for the tax period of its sublease and all subsequent tax
27 periods.

28 (5) Following the termination of the public health emergency
29 declared by the Governor pursuant to Executive Order No. 103 of
30 2020, as extended, a business that has entered into an incentive
31 agreement may elect, before December 31, 2023, to waive, for the
32 period beginning on July 1, 2022 and ending on December 31,
33 2023, the requirement that a full-time employee who is employed
34 by the business shall spend at least 60 percent of the employee's
35 time at the qualified business facility; provided, however, that a
36 business that makes such an election shall satisfy the following
37 criteria:

38 (i) any full-time employee employed by the business shall
39 spend at least 10 percent of the employee's time at the qualified
40 business facility **【through】** for the 2023 tax period only; and

41 (ii) following the receipt by the business of its tax credit
42 certificate or tax credit transfer certificate for the 2022 tax period,
43 the business shall make a payment of an amount equal to five
44 percent of the amount of tax credit the business receives for the
45 2022 tax period, which payment shall be made to the authority, and
46 which payment the authority shall hold and make available for the
47 provision of loans, guarantees, equity investments, and grants, or
48 other forms of financing to support small business and downtown or

1 commercial corridor activation activities within the municipality in
2 which the qualified business facility is located, as may be
3 designated by the chief executive officer of the authority.

4 (6) For the 2024 tax period and all subsequent tax periods, a
5 business may elect to waive for each tax period the requirement that
6 a full-time employee who is employed by the business shall spend
7 at least 60 percent of the employee's time at the qualified business
8 facility; provided, however, that a business that makes such an
9 election shall satisfy the following criteria:

10 (i) to qualify as an eligible position or full-time job, the business
11 shall demonstrate to the authority's satisfaction that the employee
12 spends at least 80 percent of the employee's work time in this State
13 and that the eligible position requires an employee to have the
14 employee's primary place of work in this State, which need not be
15 at the qualified business facility for the business to receive the full
16 award amount;

17 (ii) not less than 80 percent of the aggregate withholdings of new
18 and retained full-time jobs at the business shall be subject to the
19 "New Jersey Gross Income Tax Act," N.J.S.54A:1-1 et seq., except
20 for an employee who is a resident of another state and whose
21 income is not subject to the "New Jersey Gross Income Tax Act,"
22 N.J.S.54A:1-1 et seq., due to a reciprocity agreement with another
23 state; and

24 (iii) following the receipt by the business of its tax credit
25 certificate or tax credit transfer certificate for such tax period that
26 an election is made, the business shall make a payment of an
27 amount equal to five percent of the amount of tax credit the
28 business receives for such tax period, which payment shall be made
29 to the authority, and which payment the authority shall hold and
30 make available for the provision of loans, guarantees, equity
31 investments, and grants, or other forms of financing to support
32 small business and downtown or commercial corridor activation
33 activities within the municipality in which the qualified business
34 facility is located, as may be designated by the chief executive
35 officer of the authority.

36 e. (1) The Executive Director of the New Jersey Economic
37 Development Authority, in consultation with the Director of the
38 Division of Taxation in the Department of the Treasury, shall adopt
39 rules in accordance with the "Administrative Procedure Act,"
40 P.L.1968, c.410 (C.52:14B-1 et seq.) as are necessary to implement
41 P.L.2007, c.346 (C.34:1B-207 et seq.), including, but not limited to:
42 examples of and the determination of capital investment; the
43 enumeration of eligible municipalities; specific delineation of urban
44 transit hubs; the determination of the limits, if any, on the expense
45 or type of furnishings that may constitute capital improvements; the
46 promulgation of procedures and forms necessary to apply for a
47 credit, including the enumeration of the certification procedures and
48 allocation of tax credits for different phases of a qualified business

1 facility or mixed use project; and provisions for credit applicants to
2 be charged an initial application fee, and ongoing service fees, to
3 cover the administrative costs related to the credit.

4 (2) Through regulation, the authority shall establish standards
5 based on the green building manual prepared by the Commissioner
6 of Community Affairs, pursuant to section 1 of P.L.2007, c.132
7 (C.52:27D-130.6), regarding the use of renewable energy, energy-
8 efficient technology, and non-renewable resources in order to
9 reduce environmental degradation and encourage long-term cost
10 reduction.

11 f. A business that has executed an approval letter may request
12 before December 31, 2023 to terminate the award, commencing
13 with the 2020 tax period or any subsequent tax period ending on or
14 before December 31, 2023, due to the COVID-19 public health
15 emergency; provided that the business shall submit a certification
16 from the business's chief executive officer or equivalent officer
17 stating that the termination is due, directly or indirectly, to the
18 public health emergency and describing the impact of the public
19 health emergency on the business. All credits for the tax period in
20 which the termination is requested and all subsequent tax periods
21 shall be forfeited, provided however that any credits of the business
22 shall remain unaffected. A termination agreement executed by the
23 authority and business shall not be amended.

24 (cf: P.L.2022, c.134, s.3)

25
26 4. Section 6 of P.L.2011, c.149 (C.34:1B-247) is amended to
27 read as follows:

28 6. a. (1) The combined value of all credits approved by the
29 authority pursuant to P.L.2007, c.346 (C.34:1B-207 et seq.) and
30 P.L.2011, c.149 (C.34:1B-242 et al.) prior to December 31, 2013
31 shall not exceed \$1,750,000,000, except as may be increased by the
32 authority as set forth in paragraph (5) of subsection a. of section 35
33 of P.L.2009, c.90 (C.34:1B-209.3). Following the enactment of the
34 "New Jersey Economic Opportunity Act of 2013," P.L.2013, c.161
35 (C.52:27D-489p et al.), there shall be no monetary cap on the value
36 of credits approved by the authority attributable to the program
37 pursuant to the "New Jersey Economic Opportunity Act of 2013,"
38 P.L.2013, c.161 (C.52:27D-489p et al.).

39 (2) (Deleted by amendment, P.L.2013, c.161)

40 (3) (Deleted by amendment, P.L.2013, c.161)

41 (4) (Deleted by amendment, P.L.2013, c.161)

42 (5) (Deleted by amendment, P.L.2013, c.161)

43 b. (1) A business shall submit an application for tax credits
44 prior to July 1, 2019. The authority shall not approve an application
45 for tax credits unless the application was submitted prior to July 1,
46 2019.

47 (2) (a) A business shall submit its documentation indicating
48 that it has met the capital investment and employment requirements

1 and all conditions of approvals specified in the incentive agreement
2 for certification of its tax credit amount, to the authority's
3 satisfaction, within three years following the date of approval of its
4 application by the authority. The authority shall have the discretion
5 to grant two six-month extensions of this deadline. If the authority
6 accepts the documentation, the authority shall request that the
7 Division of Taxation in the Department of the Treasury issue a tax
8 credit based on the approved documentation to be used by the
9 business during the eligibility period. Except as provided in
10 subparagraphs (b) and (c) of this paragraph, in no event shall the
11 incentive effective date occur later than four years following the
12 date of approval of an application by the authority.

13 (b) As of the effective date of P.L.2017, c.314, a business which
14 applied for the tax credit prior to July 1, 2014 under P.L.2011,
15 c.149 (C.34:1B-242 et al.), shall submit its documentation to the
16 authority no later than July 28, 2019, indicating that it has met the
17 capital investment and employment requirements specified in the
18 incentive agreement for certification of its tax credit amount.

19 (c) If the Governor declares an emergency, then the chief
20 executive officer of the authority shall have the discretion to grant
21 an extension for the duration of the emergency and the board of the
22 authority, upon recommendation of the chief executive officer, may
23 grant two additional six-month extensions; provided that (i) the
24 extensions are due to the economic disruption caused by the
25 emergency; (ii) the project is delayed due to unforeseeable acts
26 related to the project beyond the eligible business's control and
27 without its fault or negligence; (iii) the eligible business is using
28 best efforts, with all due diligence, to proceed with the completion
29 of the project and the submission of the certification; and (iv) the
30 eligible business has made, and continues to make, all reasonable
31 efforts to prevent, avoid, mitigate, and overcome the delay.

32 (3) Full-time employment for an accounting or privilege period
33 shall be determined as the average of the monthly full-time
34 employment for the period.

35 (4) A business seeking a credit for a mega project shall apply for
36 the credit within four years after the effective date of the "New
37 Jersey Economic Opportunity Act of 2013," P.L.2013, c.161
38 (C.52:27D-489p et al.).

39 c. (1) In conducting its annual review, the authority may
40 require a business to submit any information determined by the
41 authority to be necessary and relevant to its review.

42 **【The credit amount for any tax period for which the**
43 **documentation of a business's credit amount remains uncertified as**
44 **of a date three years after the closing date of that period shall be**
45 **forfeited, although credit amounts for the remainder of the years of**
46 **the eligibility period shall remain available to it.】**

47 The credit amount may be taken by the tax certificate holder for
48 the tax period for which it was issued or may be carried forward for

1 use by the tax certificate holder in any of the next 20 successive tax
2 periods, and shall expire thereafter. The tax certificate holder may
3 transfer the tax credit amount on or after the date of issuance or at
4 any time **【within three years of】** after the date of issuance for use
5 by the transferee in the tax period for which it was issued or in any
6 of the next 20 successive tax periods. Notwithstanding the
7 foregoing, no more than the amount of tax credits equal to the total
8 credit amount divided by the duration of the eligibility period in
9 years may be taken in any tax period.

10 A business may elect to suspend its obligations for the 2020,
11 2021, 2022, or 2023 tax period, or any combination thereof, due to
12 the COVID-19 pandemic, provided that the business shall make
13 such election in writing to the authority before the issuance of the
14 tax credit for the corresponding tax year and such suspension shall
15 extend the term of the eligibility period by a corresponding amount
16 of time. The authority shall amend the incentive agreement, and the
17 business shall execute the amended incentive agreement within the
18 time period provided by the authority. The amended incentive
19 agreement shall provide that the failure to submit the annual report
20 due to the suspension shall not be a forfeiture or an uncertified tax
21 period.

22 (2) Credits granted to a partnership shall be passed through to
23 the partners, members, or owners, respectively, pro-rata or pursuant
24 to an executed agreement among the partners, members, or owners
25 documenting an alternate distribution method provided to the
26 Director of the Division of Taxation in the Department of the
27 Treasury accompanied by any additional information as the director
28 may require.

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

34 (4) In order to respond to the profoundly negative impact of the
35 COVID-19 pandemic on the State's economy and finances, the
36 authority may request a tax certificate holder, at the tax certificate
37 holder's discretion, to defer the application of a credit amount
38 allowed pursuant to this section to a later tax period. Upon request,
39 the authority and the tax certificate holder shall negotiate the terms
40 of the deferral, which shall hold the certificate holder harmless,
41 which will be made in the incentive agreement or as an addendum
42 to the incentive agreement.

43 d. (1) If, in any tax period, the business reduces the total
44 number of full-time employees in its Statewide workforce by more
45 than 20 percent from the number of full-time employees in its
46 Statewide workforce in the last tax period prior to the credit amount
47 approval under section 3 of P.L.2011, c.149 (C.34:1B-244), then the
48 business shall forfeit its credit amount for that tax period and each

1 subsequent tax period, until the first tax period for which
2 documentation demonstrating the restoration of the business's
3 Statewide workforce to the threshold levels required by the
4 incentive agreement has been reviewed and approved by the
5 authority, for which tax period and each subsequent tax period the
6 full amount of the credit shall be allowed.

7 (2) If, in any tax period, the number of full-time employees
8 employed by the business at the qualified business facility located
9 within a qualified incentive area drops below 80 percent of the
10 number of new and retained full-time jobs specified in the incentive
11 agreement, then the business shall forfeit its credit amount for that
12 tax period and each subsequent tax period, until the first tax period
13 for which documentation demonstrating the restoration of the
14 number of full-time employees employed by the business at the
15 qualified business facility to 80 percent of the number of jobs
16 specified in the incentive agreement.

17 (3) (a) If the qualified business facility is sold by the owner in
18 whole or in part during the eligibility period, the new owner shall
19 not acquire the capital investment of the seller and the seller shall
20 forfeit all credits for the tax period in which the sale occurs and all
21 subsequent tax periods, provided however that any credits of the
22 business shall remain unaffected.

23 (b) In connection with a regional distribution facility of
24 foodstuffs, the business entity or entities which own or lease the
25 facility shall qualify as a business regardless of: (i) the type of the
26 business entity or entities which own or lease the facility; (ii) the
27 ownership or leasing of the facility by more than one business
28 entity; or (iii) the ownership of the business entity or entities which
29 own or lease the facility. The ownership or leasing, whether by
30 members, shareholders, partners, or other owners of the business
31 entity or entities, shall be treated as ownership or leasing by
32 affiliates. The members, shareholders, partners, or other ownership
33 or leasing participants and others that are tenants in the facility shall
34 be treated as affiliates for the purpose of counting the full-time
35 employees and capital investments in the facility. The business
36 entity or entities may distribute credits to members, shareholders,
37 partners, or other ownership or leasing participants in accordance
38 with their respective interests. If the business entity or entities or
39 their members, shareholders, partners, or other ownership or leasing
40 participants lease space in the facility to members, shareholders,
41 partners, or other ownership or leasing participants or others as
42 tenants in the facility, the leases shall be treated as a lease to an
43 affiliate, and the business entity or entities shall not be subject to
44 forfeiture of the credits. For the purposes of this section, leasing
45 shall include subleasing and tenants shall include subtenants.

46 (4) (a) For a project located within a Garden State Growth
47 Zone, if, in any tax period, the number of full-time employees
48 employed by the business at the qualified business facility located

1 within a qualified incentive area increases above the number of full-
2 time employees specified in the incentive agreement, then the
3 business shall be entitled to an increased base credit amount for that
4 tax period and each subsequent tax period, for each additional full-
5 time employee added above the number of full-time employees
6 specified in the incentive agreement, until the first tax period for
7 which documentation demonstrating a reduction of the number of
8 full-time employees employed by the business at the qualified
9 business facility, at which time the tax credit amount will be
10 adjusted accordingly pursuant to this section.

11 (b) For a project located within a Garden State Growth Zone
12 which qualifies under the "Municipal Rehabilitation and Economic
13 Recovery Act," P.L.2002, c.43 (C.52:27BBB-1 et al.), or which
14 contains a Tourism District as established pursuant to section 5 of
15 P.L.2011, c.18 (C.5:12-219) and regulated by the Casino
16 Reinvestment Development Authority, and which qualifies for a tax
17 credit pursuant to subparagraph (ii) of subparagraphs (a) through
18 (e) of paragraph (6) of subsection d. of section 5 of P.L.2011, c.149
19 (C.34:1B-246), if, in any tax period the number of full-time
20 employees employed by the business at the qualified business
21 facility located within a qualified incentive area increases above the
22 number of full-time employees specified in the incentive agreement
23 such that the business shall then meet the minimum number of
24 employees required in subparagraph (b), (c), (d), or (e) of paragraph
25 (6) of subsection d. of section 5 of P.L.2011, c.149 (C.34:1B-246),
26 then the authority shall recalculate the total tax credit amount per
27 full-time job by using the certified capital investment of the project
28 allowable under the applicable subparagraph and the number of
29 full-time jobs certified on the date of the recalculation and applying
30 those numbers to subparagraph (b), (c), (d), or (e) of paragraph (6)
31 of subsection d. of section 5 of P.L.2011, c.149 (C.34:1B-246),
32 until the first tax period for which documentation demonstrating a
33 reduction of the number of full-time employees employed by the
34 business at the qualified business facility, at which time the tax
35 credit amount shall be adjusted accordingly pursuant to this section.

36 e. The authority shall not enter into an incentive agreement
37 with a business that has previously received incentives pursuant to
38 the "Business Retention and Relocation Assistance Act," P.L.1996,
39 c.25 (C.34:1B-112 et seq.), the "Business Employment Incentive
40 Program Act," P.L.1996, c.26 (C.34:1B-124 et al.), or any other
41 program administered by the authority unless:

42 (1) the business has satisfied all of its obligations underlying the
43 previous award of incentives or is compliant with section 4 of
44 P.L.2011, c.149 (C.34:1B-245); or

45 (2) the capital investment incurred and new or retained full-time
46 jobs pledged by the business in the new incentive agreement are
47 separate and apart from any capital investment or jobs underlying
48 the previous award of incentives.

1 f. A business which has already applied for a tax credit
2 incentive award prior to the effective date of the "New Jersey
3 Economic Opportunity Act of 2013," P.L.2013, c.161
4 (C.52:27D-489p et al.), but who has not yet been approved for the
5 tax credits, or has not executed an agreement with the authority,
6 may proceed under that application or seek to amend the application
7 or reapply for a tax credit incentive award for the same project or
8 any part thereof for the purpose of availing itself of any more
9 favorable provisions of the program.

10 g. A business that has entered into an incentive agreement may
11 request before December 31, 2023 to terminate the incentive
12 agreement, commencing with the 2020 tax period or any subsequent
13 tax period ending on or before December 31, 2023, due to the
14 COVID-19 public health emergency; provided that the business
15 shall submit a certification from the business's chief executive
16 officer or equivalent officer stating that the termination is due,
17 directly or indirectly, to the public health emergency and describing
18 the impact of the public health emergency on the business. All
19 credits for the tax period in which the termination occurs and all
20 subsequent tax periods shall be forfeited, provided however that any
21 credits of the business shall remain unaffected. A termination
22 agreement executed by the authority and business shall not be
23 amended.

24 h. A business that has entered into an incentive agreement may
25 request, before December 31, 2023, to reduce the number of new or
26 retained full-time jobs specified in the incentive agreement based
27 on a certification of the business of the eligible positions at the
28 qualified business facility commencing with the 2020 tax period
29 and, at the discretion of the business, whether the reduction shall
30 continue for each subsequent tax period remaining in the eligibility
31 period, provided that the business maintains the minimum number
32 of new or retained full-time jobs required to be eligible pursuant to
33 subsection c. of section 3 of P.L.2011, c.149 (C.34:1B-244). The
34 reduction in employment shall first apply to the number of new full-
35 time employees, and then shall apply to the number of retained full-
36 time employees.

37 The authority shall calculate a new tax credit total amount for the
38 2020 tax period and the remainder of the eligibility period based on
39 the reduced employment and shall amend the incentive agreement
40 to reflect the recalculated award amount. In no event shall the
41 modification result in an increase in employment or tax credit
42 amount.

43 i. Following the termination of the public health emergency
44 declared by the Governor pursuant to Executive Order No. 103 of
45 2020, as extended, a business that has entered into an incentive
46 agreement may elect, before December 31, 2023, to waive, for the
47 period beginning on July 1, 2022 and ending on December 31,
48 2023, the requirement that a full-time employee who is employed

1 by the business shall spend at least 60 percent of the employee's
2 time at the qualified business facility; provided, however, that a
3 business that makes such an election shall satisfy the following
4 criteria:

5 (1) any full-time employee employed by the business shall
6 spend at least 10 percent of the employee's time at the qualified
7 business facility through the 2023 tax period; and

8 (2) following the receipt by the business of its tax credit
9 certificate or tax credit transfer certificate for the 2022 tax period,
10 the business shall make a payment of an amount equal to five
11 percent of the amount of tax credit the business receives for the
12 2022 tax period, which payment shall be made to the authority, and
13 which payment the authority shall hold and make available for the
14 provision of loans, guarantees, equity investments, and grants, or
15 other forms of financing to support small business and downtown or
16 commercial corridor activation activities within the municipality in
17 which the qualified business facility is located, as may be
18 designated by the chief executive officer of the authority.

19 j. For the 2024 tax period and all subsequent tax periods, a
20 business may elect to waive for each tax period the requirement that
21 a full-time employee who is employed by the business shall spend
22 at least 60 percent of the employee's time at the qualified business
23 facility; provided, however, that a business that makes such an
24 election shall satisfy the following criteria:

25 (1) to qualify as an eligible position or full-time job, the business
26 shall demonstrate to the authority's satisfaction that the employee
27 spends at least 80 percent of the employee's work time in this State
28 and that the eligible position requires an employee to have the
29 employee's primary place of work in this State, which need not be
30 at the qualified business facility for the business to receive the full
31 award amount;

32 (2) not less than 80 percent of the aggregate withholdings of new
33 and retained full-time jobs at the business shall be subject to the
34 "New Jersey Gross Income Tax Act," N.J.S.54A:1-1 et seq., except
35 for an employee who is a resident of another state and whose
36 income is not subject to the "New Jersey Gross Income Tax Act,"
37 N.J.S.54A:1-1 et seq., due to a reciprocity agreement with another
38 state; and

39 (3) following the receipt by the business of its tax credit
40 certificate or tax credit transfer certificate for such tax period that
41 an election is made, the business shall make a payment of an
42 amount equal to five percent of the amount of tax credit the
43 business receives for such tax period, which payment shall be made
44 to the authority, and which payment the authority shall hold and
45 make available for the provision of loans, guarantees, equity
46 investments, and grants, or other forms of financing to support
47 small business and downtown or commercial corridor activation
48 activities within the municipality in which the qualified business

1 facility is located, as may be designated by the chief executive
2 officer of the authority.

3 (cf: P.L.2022, c.134, s.4)

4

5 5. Section 71 of P.L.2020, c.156 (C.34:1B-339) is amended to
6 read as follows:

7 71. a. Beginning on the effective date of P.L.2020, c.156
8 (C.34:1B-269 et al.), but prior to March 1, 2029, to be eligible for
9 tax credits under the program, a business's chief executive officer,
10 or equivalent officer, shall demonstrate to the authority at the time
11 of application that:

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

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

18 (3) the qualified business facility is located in a qualified
19 incentive area;

20 (4) the award of tax credits will be a material factor in the
21 business's decision to create or retain the number of new and
22 retained full-time jobs set forth in its application;

23 (5) the award of tax credits, the capital investment resultant
24 from the award of tax credits, and the resultant creation and
25 retention of new and retained full-time jobs will yield a net positive
26 benefit to the State equaling at least 400 percent of the requested
27 tax credit allocation amount, or for a phased project the requested
28 tax credit allocation amount for the initial phase, and on a
29 cumulative basis each phase thereafter, which determination shall
30 be calculated prior to considering the value of the requested tax
31 credit under the program and shall be based on the benefits
32 generated during the period of time from approval through the end
33 of the commitment period, or through the end of the longer period
34 of extended commitment that the business may elect for purposes of
35 receiving credit for benefits projected to occur after the expiration
36 of the commitment period, except that:

37 (a) an award of tax credits to a business for a qualified business
38 facility located in a distressed municipality or an enhanced area
39 shall yield a net positive benefit to the State, based on the benefits
40 generated during the period of time from approval through the end
41 of the commitment period, that equals at least 300 percent of the
42 requested tax credit amount;

43 (b) an award of tax credits to a business for a qualified business
44 facility located in a government-restricted municipality, or for a
45 mega project, shall yield a net positive benefit to the State, based on
46 the benefits generated during the period of time from approval
47 through the end of the commitment period, that equals at least 200
48 percent of the requested tax credit amount;

1 (c) the net economic benefits shall be evaluated on a present
2 value basis with the requested tax credit allocation amount
3 discounted to present value at the same discount rate as the benefits
4 from capital investment resultant from the award of tax credits and
5 the resultant retention and creation of full-time jobs as provided in
6 subparagraph (d) of this paragraph; and

7 (d) a business may elect a period of extended commitment
8 beyond the commitment period for which time the economic
9 benefits shall be creditable to the determination of the net economic
10 benefit of the project, and a business electing a period of extended
11 commitment and failing to maintain the project through the
12 expiration of that extended commitment period shall be obligated to
13 repay a proportion of the incremental benefits received on account
14 of having extended the commitment period, taking into
15 consideration the number of years of extended commitment during
16 which the business maintained the project;

17 (e) in making the determination required pursuant to this
18 paragraph, the authority shall not consider the value of any taxes
19 exempted, abated, rebated, or retained under the "Five-Year
20 Exemption and Abatement Law," P.L.1991, c.441 (C.40A:21-1 et
21 seq.), the "Long Term Tax Exemption Law," P.L.1991, c.431
22 (C.40A:20-1 et al.), the "New Jersey Urban Enterprise Zones Act,"
23 P.L.1983, c.303 (C.52:27H-60 et seq.), or any other law that has the
24 effect of lowering or eliminating the business's State or local tax
25 liability, and the business's chief executive officer or equivalent
26 officer shall certify, under the penalty of perjury, that all documents
27 submitted, and factual assertions made, to the authority to
28 demonstrate that the award of tax credits will yield a net positive
29 benefit to the State in accordance with this paragraph are true and
30 accurate at the time of submission;

31 (f) If, during the term of the program, the methodology used by
32 the authority in projecting benefits of a project in making the
33 determination required pursuant to this paragraph is modified, the
34 respective percentages by which the benefits must exceed the
35 requested tax credit allocation amount set forth pursuant to this
36 paragraph (5) may be adjusted to ensure consistent application of
37 the respective thresholds in this paragraph (5) applied to each
38 application;

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

41 (7) the project shall comply with the authority's affirmative
42 action requirements, adopted pursuant to section 4 of P.L.1979,
43 c.303 (C.34:1B-5.4); and

44 (8) (a) each worker employed to perform construction work or
45 building services work at the qualified business facility shall be
46 paid not less than the prevailing wage rate for the worker's craft or
47 trade, as determined by the Commissioner of Labor and Workforce

1 Development pursuant to P.L.1963, c.150 (C.34:11-56.25 et seq.)
2 and P.L.2005, c.379 (C.34:11-56.58 et seq.), unless:

3 (i) the work performed under the contract is performed at a
4 qualified business facility owned by a landlord that is not a business
5 receiving authority assistance;

6 (ii) the landlord is a party to the construction contract, building
7 services contract, or both; and

8 (iii) the qualified business facility constitutes a lease of less than
9 35 percent of the entire facility at the time of contract and under any
10 agreement to subsequently lease the qualified business facility.

11 (b) In accordance with section 1 of P.L.1979, c.303
12 (C.34:1B-5.1), nothing in this paragraph shall be construed as
13 requiring the payment of prevailing wage for construction
14 commencing more than two years after the authority has issued the
15 first certificate of compliance pursuant to paragraph (2) of
16 subsection a. of section 77 of P.L.2020, c.156 (C.34:1B-345).

17 b. (1) The minimum capital investment required to be eligible
18 under the program shall be as follows:

19 (a) for the rehabilitation, improvement, fit-out, or retrofit of an
20 existing industrial, warehousing, logistics, or research and
21 development portion of the premises for continued similar use by
22 the business, a minimum investment of \$20 per square foot of gross
23 leasable area;

24 (b) for the new construction of an industrial, warehousing,
25 logistics, or research and development portion of the premises for
26 use by the business, a minimum investment of \$60 per square foot
27 of gross leasable area;

28 (c) for the rehabilitation, improvement, fit-out, or retrofit of
29 existing portion of the premises that does not qualify pursuant to
30 subparagraph (a) or (b) of this paragraph, a minimum investment of
31 \$40 per square foot of gross leasable area;

32 (d) for the new construction of a portion of the premises that
33 does not qualify pursuant to subparagraph (a) or (b) of this
34 paragraph, a minimum investment of \$120 per square foot of gross
35 leasable area; and

36 (e) for a small business, no new minimum capital investment
37 shall be required, provided the applicant has demonstrated evidence
38 satisfactory to the authority of its intent to remain in the State for
39 the commitment period.

40 (2) In the event the business invests less than that amount set
41 forth in paragraph (1) of this subsection in the qualified business
42 facility, the business shall donate the uninvested balance to the
43 infrastructure fund established pursuant to section 79 of P.L.2020,
44 c.156 (C.52:27D-520).

45 (3) Notwithstanding the provisions of paragraphs (1) and (2) of
46 this subsection, the authority may adopt, pursuant to the provisions
47 of the "Administrative Procedure Act," P.L.1968, c.410
48 (C.52:14B-1 et seq.), rules and regulations adjusting the minimum

1 capital investment amounts required under the program when
2 necessary to respond to the prevailing economic conditions in the
3 State.

4 c. (1) The minimum number of new or retained full-time jobs
5 required to be eligible under the program shall be as follows:

6 (a) for a small business, 25 percent growth of its workforce with
7 new full-time jobs within the eligibility period in accordance with
8 subsection e. of section 76 of P.L.2020, c.156 (C.34:1B-344);

9 (b) for a business engaged primarily in a targeted industry which
10 does not qualify as a small business, 25 new full-time jobs;

11 (c) for any other business, a minimum of 35 new full-time jobs;

12 (d) for a business eligible for new full-time jobs under
13 subparagraphs (b) or (c) of this paragraph, the business shall also be
14 eligible for retained full-time jobs in addition to the new full-time
15 jobs if the business will retain 150 retained full-time jobs when
16 locating in a government-restricted municipality, 250 retained full-
17 time jobs when locating in a qualified incentive tract or enhanced
18 area municipality, or 500 retained full-time jobs when locating
19 anywhere else in the State;

20 (e) for a business not eligible under subparagraphs (b), (c), or
21 (d) of this paragraph and locating in a qualified incentive tract,
22 enhanced area, or government-restricted municipality that will
23 retain 500 or more retained full-time jobs, a minimum of the
24 business's retained full-time jobs at the time of application;

25 (f) for a business not eligible under subparagraphs (b), (c), (d),
26 or (e) of this paragraph and located in the State that will retain
27 1,000 or more retained full-time jobs, a minimum of the business's
28 retained full-time jobs at the time of application.

29 (2) Notwithstanding the provisions of paragraph (1) of this
30 subsection, the authority may adopt, pursuant to the provisions of
31 the "Administrative Procedure Act," P.L.1968, c.410 (C.52:14B-1 et
32 seq.), rules and regulations adjusting the minimum number of new
33 or retained full-time jobs required under the program when
34 necessary to respond to the prevailing economic conditions in the
35 State.

36 d. A business that provides and adheres to a plan that
37 demonstrates that the qualified business facility is capable of
38 accommodating more than half of the business's new and retained
39 full-time employees as approved and that certifies, under the
40 penalty of perjury, that not less than 80 percent of the withholdings
41 of new and retained full-time jobs are subject to the "New Jersey
42 Gross Income Tax Act," N.J.S.54A:1-1 et seq. shall be eligible. A
43 business must demonstrate to the authority's satisfaction that the
44 full-time employee spends at least 80 percent of the employee's
45 work time in this State and that the eligible position requires an
46 employee to have the employee's primary place of work in this
47 State, which need not be at the qualified business facility for the
48 business to receive the full award amount. The requirements set

1 forth in this subsection may be modified by the authority to respond
2 to an emergency, disaster, or other factors that result in employees
3 of an eligible business having to work from a location other than the
4 qualified business facility.

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

9 f. A business eligible pursuant to this section may submit an
10 application to the authority in accordance with the provisions of
11 section 72 of P.L.2020, c.156 (C.34:1B-340) on or after the
12 effective date of P.L.2020, c.156 (C.34:1B-269 et al.) but prior to
13 March 1, 2029.

14 (cf: P.L.2023, c.98, s.12)

15

16 6. This act shall take effect immediately.

17

18

19

STATEMENT

20

21 This bill provides certain accommodations to businesses
22 participating in the Business Employment Incentive Program, the
23 Business Retention and Relocation Assistance Grant Program, the
24 Grow New Jersey Assistance Program, and the Urban Transit Hub
25 Program for the 2024 tax period and subsequent tax periods.

26 During the COVID-19 public health emergency, the New Jersey
27 Economic Development Authority (EDA) implemented certain
28 accommodations for businesses that had previously been approved
29 awards under these programs. As part of these accommodations,
30 the EDA waived the requirement that a full-time employee
31 employed by a business participating in any of the programs is to
32 spend at least 80 percent of the employee's time at the qualified
33 business facility to be eligible for an award under the program. The
34 New Jersey Economic Recovery Act of 2020 lowered the
35 requirement for spending time at the qualified business facility to
36 60 percent of the employee's time, as provided by law.

37 Due to the permanent impacts of COVID-19, starting in the 2024
38 tax period and for all subsequent tax periods, this bill allows
39 businesses to waive the requirement that a full-time employee who
40 is employed by the business is to spend at least 60 percent of the
41 employee's time at the qualified business facility. A business that
42 makes such an election is required to satisfy the following criteria:
43 (1) to qualify as an eligible position or full-time job, the business
44 must demonstrate to the authority's satisfaction that the employee
45 spends at least 80 percent of the individual's work time in this State
46 and that the eligible position requires an employee to have the
47 employee's primary place of work in this State, which need not be
48 at the qualified business facility for the business to receive the full

1 award amount; (2) not less than 80 percent of the aggregate
2 withholdings of new and retained full-time jobs at the business are
3 to be subject to the “New Jersey Gross Income Tax Act,”
4 N.J.S.54A:1-1 et seq.; and (3) following the receipt by the business
5 of its tax credit certificate or tax credit transfer certificate for such
6 tax period that an election is made, the business shall make a
7 payment of an amount equal to five percent of the amount of tax
8 credit the business receives for such tax period, which payment
9 shall be made to the authority, and which payment the authority
10 shall hold and make available for the provision of loans, guarantees,
11 equity investments, and grants, or other forms of financing to
12 support small business and downtown or commercial corridor
13 activation activities within the municipality in which the qualified
14 business facility is located, as may be designated by the chief
15 executive officer of the authority.

16 The bill also provides that a business that receives a tax credit
17 award through the Emerge Program must demonstrate to the New
18 Jersey Economic Development Authority that a full-time employee
19 spends at least 80 percent of their work time in this State and that
20 the eligible position requires an employee to have the employee’s
21 primary place of work in this State, which need not be at the
22 qualified business facility, for the business to receive the full tax
23 credit award.

SENATE BUDGET AND APPROPRIATIONS COMMITTEE

STATEMENT TO

SENATE, No. 4217

with committee amendments

STATE OF NEW JERSEY

DATED: DECEMBER 21, 2023

The Senate Budget and Appropriations Committee reports favorably and with committee amendments Senate Bill No. 4217.

As amended and reported by the committee, this bill provides certain accommodations to businesses participating in the Business Employment Incentive Program, the Business Retention and Relocation Assistance Grant Program, the Grow New Jersey Assistance Program, and the Urban Transit Hub Program.

During the COVID-19 public health emergency, the New Jersey Economic Development Authority (EDA) implemented certain accommodations for businesses that had previously been approved awards under these programs. As part of these accommodations, the EDA waived the requirement that a full-time employee employed by a business participating in any of the programs is to spend at least 80 percent of the employee's time at the qualified business facility to be eligible for an award under the program. The New Jersey Economic Recovery Act of 2020 lowered the requirement for spending time at the qualified business facility to 60 percent of the employee's time, as provided by law. The bill, as amended, extends these accommodations through March 31, 2024.

COMMITTEE AMENDMENTS:

The committee amendments:

(1) extend the accommodations enacted by P.L.2022, c.134 through March 31, 2024;

(2) remove the provisions allowing, for the 2024 tax period and for all subsequent tax periods, businesses participating in certain economic development programs to waive the requirement that a full-time employee who is employed by the business is to spend at least 60 percent of the employee's time at the qualified business facility;

(3) remove the modifications to the tax credit award requirements under the "Emerge Program Act"; and

(4) update the bill's synopsis to reflect these changes.

FISCAL IMPACT:

The Office of Legislative Services (OLS) concludes that this bill will overall lead to a net decrease in State revenues. The decrease in

State revenues would occur under the bill through March 31, 2024. First, the bill will result in a State revenue decrease to the extent that businesses participating in certain State economic development programs choose to waive the requirement that full-time employees employed by the businesses spend at least 60 percent of their time at the qualified business facility. Although the bill extends accommodations that participating businesses have been able to utilize since July of 2022, the continuation of the waiver would allow businesses to remain eligible for tax credits which they may not have otherwise received under current law.

Second, the bill will result in an increase in State revenues stemming from certain payments made by participating businesses under the bill. The bill requires that participating businesses electing to waive the on-site work requirements would make payments equal to five percent of the tax credit they received, through March 31, 2024. Any State revenue increase resulting from these payments, however, may be offset by an increase in State expenditures because the bill requires the Economic Development Authority to make the funds it receives via these payments available to support certain economic development activities.

LEGISLATIVE FISCAL ESTIMATE

[First Reprint]

SENATE, No. 4217

STATE OF NEW JERSEY 220th LEGISLATURE

DATED: JANUARY 5, 2024

SUMMARY

- Synopsis:** Extends certain accommodations implemented during COVID-19 public health emergency for businesses participating in State economic development programs.
- Type of Impact:** Net State revenue decrease.
- Agencies Affected:** Economic Development Authority.

Office of Legislative Services Estimate

Fiscal Impact	
Net State Revenue Decrease	Indeterminate

- The Office of Legislative Services (OLS) concludes that this bill will overall lead to a net decrease in State revenues. The decrease in State revenues would occur as a result of tax credits that would be awarded for the period between January 1, 2024 and March 31, 2024 pursuant to the bill's provisions.
- First, the bill will result in a State revenue decrease to the extent that businesses participating in certain State economic development programs choose to waive the requirement that full-time employees employed by the businesses spend at least 60 percent of their time at the qualified business facility.
- Second, the bill will result in an increase in State revenues stemming from certain payments made by participating businesses under the bill. Any State revenue increase resulting from these payments, however, may be offset by an increase in State expenditures because the bill requires the Economic Development Authority to make the funds it receives via these payments available to support certain economic development activities.

BILL DESCRIPTION

This bill provides certain accommodations to businesses participating in the Business Employment Incentive Program, the Business Retention and Relocation Assistance Grant Program, the Grow New Jersey Assistance Program, and the Urban Transit Hub Program.

During the COVID-19 public health emergency, the New Jersey Economic Development Authority implemented certain accommodations for businesses that had previously been approved awards under these programs. As part of these accommodations, the authority waived the requirement that a full-time employee employed by a business participating in any of the programs is to spend at least 80 percent of the employee's time at the qualified business facility to be eligible for an award under the program. The New Jersey Economic Recovery Act of 2020 lowered the requirement for spending time at the qualified business facility to 60 percent of the employee's time, as provided by law. As a condition of waiving these on-site work requirements, participating businesses are required to ensure that any full-time employee employed by the business spend at least 10 percent of the employee's time at the qualified business facility. The businesses are also required to make payments equal to five percent of the tax credit they receive as a result of receiving the waiver.

The bill extends the accommodations provided during the COVID-19 public health emergency from the current expiration date of December 31, 2023 to March 31, 2024.

FISCAL ANALYSIS

EXECUTIVE BRANCH

None received.

OFFICE OF LEGISLATIVE SERVICES

The OLS concludes that this bill will overall lead to a net decrease in State revenues. The decrease in State revenues would occur as a result of tax credits that would be awarded for the period between January 1, 2024 and March 31, 2024 pursuant to the bill's provisions.

First, the bill will result in a State revenue decrease to the extent that businesses participating in certain State economic development programs choose to waive the requirement that full-time employees employed by the businesses spend at least 60 percent of their time at the qualified business facility. Although the bill extends accommodations that participating businesses have been able to utilize since July of 2022, the continuation of the waiver would allow businesses to remain eligible for tax credits which they may not have otherwise received under current law.

Second, the bill will result in an increase in State revenues stemming from certain payments made by participating businesses under the bill. The bill requires that participating businesses electing to waive the on-site work requirements would make payments equal to five percent of the tax credit they received, through March 31, 2024. Any State revenue increase resulting from these payments, however, may be offset by an increase in State expenditures because the bill requires the Economic Development Authority to make the funds it receives via these payments available to support certain economic development activities.

Section: Revenue, Finance, and Appropriations

*Analyst: Christopher Myles
Senior Fiscal 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.).

Governor Murphy Takes Action on Legislation

01/12/2024

TRENTON – Today, Governor Murphy signed the following bills into law:

A-5840/S-4217 (Pintor Marin, Wimberly/Sarlo) - Extends certain accommodations implemented during COVID-19 public health emergency for businesses participating in State economic development programs.