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LEGISLATIVE FISCAL ESTIMATE:	Yes	07/03/2024 12/26/2024

A2076 (3R)

INTRODUCED BILL: (Includes sponsor(s) statement) Yes

REPRINT(S):	Yes	AHE 5/13/24 1R AAP 6/24/24 2R AAP 12/16/24 3R

TECHNICAL REVIEW OF BILL: No

COMMITTEE STATEMENT:	ASSEMBLY:	Yes	Commerce, Econ Development & Agriculture Appropriations 06/24/2024 Appropriations 12/16/2024

SENATE: No

(Audio archived recordings of the committee meetings, corresponding to the date of the committee statement, ***may possibly*** be found at www.njleg.state.nj.us)

FLOOR AMENDMENT STATEMENT: No

LEGISLATIVE FISCAL ESTIMATE:	Yes	06/26/2024
		07/03/2024
		12/26/2024

VETO MESSAGE: No

GOVERNOR'S PRESS RELEASE ON SIGNING: Yes

LEGISLATOR STATEMENT: No

FOLLOWING WERE PRINTED:

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REPORTS: No

HEARINGS: No

NEWSPAPER ARTICLES: Yes

Press staff reports, 'Digest', *Press of Atlantic City, The* (online), 25 Jan 2025
3A:<https://infoweb.newsbank.com/apps/news/document-view?p=NewsBank&docref=news/19E5325D24379F28>,
1/31/25, 9:57 AM NewsBank

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P.L. 2025, CHAPTER 2, *approved January 23, 2025*
Senate, No. 1323 (*Second Reprint*)

1 AN ACT concerning the New Jersey Aspire Program, amending
2 ²**[various parts of the statutory law]** P.L.2020, c.156 and
3 P.L.2023, c.98², and supplementing P.L.2020, c.156.

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

7
8 1. Section 55 of P.L.2020, c.156 (C.34:1B-323) is amended to
9 read as follows:

10 55. As used in sections 54 through 67 of P.L.2020, c.156
11 (C.34:1B-322 through 34:1B-335):

12 "Agency" means the New Jersey Housing and Mortgage Finance
13 Agency established pursuant to P.L.1983, c.530 (C.55:14K-1 et
14 seq.).

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

17 "Aviation district" means all areas within the boundaries of the
18 Atlantic City International Airport, established pursuant to section
19 24 of P.L.1991, c.252 (C.27:25A-24), and the Federal Aviation
20 Administration William J. Hughes Technical Center and the area
21 within a one-mile radius of the outermost boundary of the Atlantic
22 City International Airport and the Federal Aviation Administration
23 William J. Hughes Technical Center ¹, and the Trenton-Mercer
24 Airport, established pursuant to R.S.40:8-2 and the area within a
25 one-mile radius of the outermost boundary of the ²**[terminal located**
26 **at 1100 Terminal Circle Drive, Ewing Township¹]** Trenton-Mercer
27 Airport².

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

31 "Building services" means any cleaning or routine building
32 maintenance work, including but not limited to sweeping,
33 vacuuming, floor cleaning, cleaning of rest rooms, collecting refuse
34 or trash, window cleaning, securing, patrolling, or other work in

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:
¹Senate SBA committee amendments adopted June 26, 2024.
²Assembly floor amendments adopted December 19, 2024.

1 connection with the care or securing of an existing building,
2 including services typically provided by a door-attendant or
3 concierge. "Building services" shall not include any skilled
4 maintenance work, professional services, or other public work for
5 which a contractor is required to pay the "prevailing wage" as
6 defined in section 2 of P.L.1963, c.150 (C.34:11-56.26).

7 "Cash flow" means the profit or loss that an investment property
8 earns from rent, deposits, and other fees after financial obligations,
9 such as debt, maintenance, government payments, and other
10 expenses, have been paid.

11 "Collaborative workspace" means coworking, accelerator,
12 incubator, or other shared working environments that promote
13 collaboration, interaction, socialization, and coordination among
14 tenants through the clustering of multiple businesses or individuals.
15 For this purpose, the collaborative workspace shall be the greater
16 of: 2,500 of dedicated square feet or 10 percent of the total property
17 on which the redevelopment project is situated. The collaborative
18 workspace shall include a community manager, be focused on
19 collaboration among the community members, and include
20 regularly scheduled education events for the community members.
21 The collaborative workspace shall also include a physical open
22 space that supports the engagement of its community members.

23 "Commercial project" means a redevelopment project, which is
24 predominantly commercial and, if located in a government-
25 restricted municipality, contains 25,000 or more square feet, or if
26 located in any other municipality, contains 50,000 or more square
27 feet of office and retail space, industrial space ¹including, but not
28 limited to, any industrial space that is predominantly used for
29 warehouse distribution or fulfillment centers and has at least \$10
30 million in environmental remediation costs¹, or film studios,
31 professional stages, television studios, recording studios, screening
32 rooms, or other infrastructure for film production, and may include
33 a parking component. The term "commercial project" includes a
34 redevelopment project comprised solely of a health care or health
35 services center, which contains not less than 10,000 square feet
36 devoted to health care or health services, and which may include a
37 parking component. ²The term "commercial project" also includes
38 an industrial space that is predominantly used for warehouse
39 distribution or fulfillment centers if the eligible project cost
40 includes at least \$10,000,000 in environmental remediation costs.²

41 "Developer" means a person who enters or proposes to enter into
42 an incentive award agreement pursuant to the provisions of section
43 60 of P.L.2020, c.156 (C.34:1B-328), including, but not limited, to
44 a lender that completes a redevelopment project, operates a
45 redevelopment project, or completes and operates a redevelopment
46 project.

47 "Director" means the Director of the Division of Taxation in the
48 Department of the Treasury.

1 "Distressed municipality" means a municipality that is qualified
2 to receive assistance under P.L.1978, c.14 (C.52:27D-178 et seq.), a
3 municipality under the supervision of the Local Finance Board
4 pursuant to the provisions of the "Local Government Supervision
5 Act (1947)," P.L.1947, c.151 (C.52:27BB-1 et seq.), a municipality
6 identified by the Director of the Division of Local Government
7 Services in the Department of Community Affairs to be facing
8 serious fiscal distress, a SDA municipality, or a municipality in
9 which a major rail station is located.

10 "Economic development incentive" means a financial incentive,
11 awarded by the authority, or agreed to between the authority and a
12 business or person, for the purpose of stimulating economic
13 development or redevelopment in New Jersey, including, but not
14 limited to, a bond, grant, loan, loan guarantee, matching fund, tax
15 credit, or other tax expenditure.

16 "Eligibility period" means the period not to exceed ²~~15~~ 10²
17 years ²~~for a commercial or mixed-use project or the period not to~~
18 ~~exceed 10 years for a residential project~~ ², as² specified in an
19 incentive award agreement during which a developer may claim a
20 tax credit under the program, as such period shall be determined by
21 the authority pursuant to subsection b. of section 60 of P.L.2020,
22 c.156 (C.34:1B-328) ², provided that a developer may elect a period
23 not to exceed five years for a project located in a government-
24 restricted municipality or for a special mission non-profit project².

25 "Enhanced area" means (1) a municipality that contains an urban
26 transit hub, as defined in section 2 of P.L.2007, c.346 (C.34:1B-
27 208); (2) the five municipalities with the highest poverty rates
28 according to the 2017 Municipal Revitalization Index; and (3) the
29 three municipalities with the highest percentage of SNAP recipients
30 according to the 2017 Municipal Revitalization Index.

31 "Environmental remediation costs" means any costs incurred by
32 a developer in the completion of any actions necessary to
33 investigate, clean up, or respond to a known, suspected, or
34 threatened discharge of contaminants, including, as necessary, the
35 preliminary assessment, site investigation, remedial investigation,
36 and remedial action, pursuant to sections 23 through 43 and section
37 45 of P.L.1993, c.139 (C.58:10B-1 et seq.).

38 "Food delivery source" means access to nutritious foods, such as
39 fresh fruits and vegetables, through grocery operators, including,
40 but not limited to a full-service supermarket or grocery store, and
41 other healthy food retailers of at least 16,000 square feet, including,
42 but not limited to, a prepared food establishment selling primarily
43 nutritious ready-to-serve meals.

44 "Food desert community" means a physically contiguous area in
45 the State in which residents have limited access to nutritious foods,
46 such as fresh fruits and vegetables, and that has been designated as

1 a food desert community pursuant to subsection b. of section 38 of
2 P.L.2020, c.156 (C.34:1B-306).

3 "Government-restricted municipality" means a municipality in
4 this State with a municipal revitalization index distress score of at
5 least 75, that met the criteria for designation as an urban aid
6 municipality in the 2019 State fiscal year, and that, on the effective
7 date of P.L.2020, c.156 (C.34:1B-269 et al.), is subject to financial
8 restrictions imposed pursuant to the "Municipal Stabilization and
9 Recovery Act," P.L.2016, c.4 (C.52:27BBBB-1 et seq.), or is
10 restricted in its ability to levy property taxes on property in that
11 municipality as a result of the State of New Jersey owning or
12 controlling property representing at least 25 percent of the total land
13 area of the municipality or as a result of the federal government of
14 the United States owning or controlling at least 50 acres of the total
15 land area of the municipality, which is dedicated as a national
16 natural landmark. ²The term "government-restricted municipality"
17 also includes any municipality that: has a population greater than
18 50,000 and less than 60,000 according to the latest federal decennial
19 census, is designated as the county seat of a county of the second
20 class with a population greater than 800,000 according to the latest
21 federal decennial census, and has an MRI distress score of 62.1; has
22 a population greater than 70,000 and less than 100,000 according to
23 the latest federal decennial census, is designated as the county seat
24 of a county of the second class with a population greater than
25 515,000 and less than 525,000 according to the latest federal
26 decennial census, and has an MRI distress score of 100; or contains
27 the intersection of Interstate 280 and the Garden State Parkway, and
28 corresponding land areas occupied by such highways under the
29 ownership or control of the federal government of the United States
30 or of this State within its municipal boundary, and has an MRI
31 distress score of 55.5.²

32 "Health care or health services center" means an establishment
33 that consists of not less than 10,000 square feet devoted to health
34 care or health services, where patients are admitted for or seek
35 examination and treatment by one or more physicians, dentists,
36 psychologists, or other medical practitioners, and which is located
37 in a municipality with a ²**【Municipal Revitalization Index】 MRI**²
38 distress score of at least 50, a distressed municipality, or a qualified
39 incentive tract.

40 "Hospitality establishment" means a hotel, motel, or any
41 business, however organized, that sells food, beverages, or both for
42 consumption by patrons on the premises.

43 "Incentive area" means an aviation district; a port district; an
44 area designated pursuant to the "State Planning Act," P.L.1985,
45 c.398 (C.52:18A-196 et seq.), as Planning Area 1 (Metropolitan),
46 Planning Area 2 (Suburban), **【or】** ²or² a Designated Center ²**【,】**²
47 **【provided an area designated as Planning Area 2 (Suburban) or a**

1 Designated Center shall be located within a one-half mile radius of
2 the mid-point, with bicycle and pedestrian connectivity, of a New
3 Jersey Transit Corporation, Port Authority Transit Corporation, or
4 Port Authority Trans-Hudson Corporation rail, bus, or ferry station,
5 including all light rail stations, or a high-frequency bus stop as
6 certified by the New Jersey Transit Corporation] ²or an Endorsed
7 Plan under the State Development and Redevelopment Plan²; an
8 area designated as a brownfield site pursuant to the "Brownfield and
9 Contaminated Site Remediation Act," sections 23 through 43 and
10 section 45 of P.L.1993, c.139 (C.58:10B-1 et seq.); and an area of
11 not less than 100 acres for which a licensed site remediation
12 professional has certified environmental remediation costs, as
13 defined in this section and in accordance with the "Site Remediation
14 Reform Act," sections 1 through 29 of P.L.2009, c.60 (C.58:10C-1
15 et seq.), in an amount not less than \$10,000,000, provided that any
16 portion of such area is located in an area that otherwise qualifies as
17 an incentive area.

18 "Incentive award" means an award of tax credits to reimburse a
19 developer for all or a portion of the project financing gap of a
20 redevelopment project pursuant to the provisions of sections 54
21 through 67 of P.L.2020, c.156 (C.34:1B-322 through 34:1B-335).

22 "Incentive award agreement" means the contract executed
23 between a developer and the authority pursuant to section 60 of
24 P.L.2020, c.156 (C.34:1B-328), which sets forth the terms and
25 conditions under which the developer may receive the incentive
26 awards authorized pursuant to the provisions of sections 54 through
27 67 of P.L.2020, c.156 (C.34:1B-322 through 34:1B-335).

28 "Incubator facility" means a commercial property, which
29 contains 5,000 or more square feet of office, laboratory, or
30 industrial space, which is located near, and presents opportunities
31 for collaboration with, a research institution, teaching hospital,
32 college, or university, and within which at least 75 percent of the
33 gross leasable area is restricted for use by one or more technology
34 startup companies.

35 "Individuals with special needs" means individuals with mental
36 illness, individuals with physical or developmental disabilities, and
37 individuals in other emerging special needs groups identified by the
38 authority, based on guidelines established for the administration of
39 the Special Needs Housing Trust Fund established pursuant to
40 section 1 of P.L.2005, c.163 (C.34:1B-21.25a) or developed in
41 consultation with other State agencies.

42 "Labor harmony agreement" means an agreement between a
43 business that serves as the owner or operator of a retail
44 establishment, hospitality establishment, or distribution center and
45 one or more labor organizations, which requires, for the duration of
46 the agreement: that any participating labor organization and its
47 members agree to refrain from picketing, work stoppages, boycotts,
48 or other economic interference against the business; and that the

1 business agrees to maintain a neutral posture with respect to efforts
2 of any participating labor organization to represent employees at an
3 establishment or other unit in the retail establishment, hospitality
4 establishment, or distribution center, agrees to permit the labor
5 organization to have access to the employees, and agrees to
6 guarantee to the labor organization the right to obtain recognition as
7 the exclusive collective bargaining representatives of the employees
8 in an establishment or unit at the retail establishment, hospitality
9 establishment, or distribution center by demonstrating to the New
10 Jersey State Board of Mediation, Division of Private Employment
11 Dispute Settlement, or a mutually agreed-upon, neutral, third party
12 that a majority of workers in the unit have shown their preference
13 for the labor organization to be their representative by signing
14 authorization cards indicating that preference. The labor
15 organization or organizations shall be from a list of labor
16 organizations which have requested to be on the list and which the
17 Commissioner of Labor and Workforce Development has
18 determined represent substantial numbers of retail establishment,
19 hospitality establishment, or distribution center employees in the
20 State.

21 "Low-income housing" means housing affordable according to
22 federal Department of Housing and Urban Development or other
23 recognized standards for home ownership and rental costs and
24 occupied or reserved for occupancy by households with a gross
25 household income equal to 50 percent or less of the median gross
26 household income for households of the same size within the
27 housing region in which the housing is located.

28 "Major cultural institution" means a public or nonprofit
29 institution, not including an institution of higher education, within
30 this State that engages in the cultural, intellectual, scientific,
31 environmental, educational, or artistic enrichment of the people of
32 this State, and which institution is designated by the board as a
33 major cultural institution.

34 "Major rail station" means a railroad station that is located within
35 a qualified incentive area and that provides to the public access to a
36 minimum of six rail passenger service lines operated by the New
37 Jersey Transit Corporation.

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

45 ²["Mixed-use project" means a redevelopment project that
46 includes both a residential component and a nonresidential
47 component.]²

1 "Moderate-income housing" means housing affordable according
2 to federal Department of Housing and Urban Development or other
3 recognized standards for home ownership and rental costs and
4 occupied or reserved for occupancy by households with a gross
5 household income equal to more than 50 percent, but less than 80
6 percent, of the median gross household income for households of
7 the same size within the housing region in which the housing is
8 located.

9 ²"MRI distress score" means a municipal revitalization index
10 distress score, as documented in the 2023 Municipal Revitalization
11 Index developed by the Department of Community Affairs.²

12 "Municipal Revitalization Index" means the index by the
13 Department of Community Affairs ranking New Jersey's
14 municipalities according to eight separate indicators that measure
15 diverse aspects of social, economic, physical, and fiscal conditions
16 in each locality.

17 "Port district" means the portions of a qualified incentive area
18 that are located within:

19 a. the "Port of New York District" of the Port Authority of
20 New York and New Jersey, as defined in Article II of the Compact
21 Between the States of New York and New Jersey of 1921; or

22 b. a 15-mile radius of the outermost boundary of each marine
23 terminal facility established, acquired, constructed, rehabilitated, or
24 improved by the South Jersey Port District established pursuant to
25 "The South Jersey Port Corporation Act," P.L.1968, c.60
26 (C.12:11A-1 et seq.).

27 "Program" means the New Jersey Aspire Program established by
28 section 56 of P.L.2020, c.156 (C.34:1B-324).

29 "Project cost" or "¹**total** eligible¹ project cost" means the costs
30 incurred in connection with a redevelopment project by a developer
31 until the issuance of a permanent certificate of occupancy, or until
32 such other time specified by the authority, for a specific investment
33 or improvement, including the costs relating to lands, except the
34 cost of acquiring such lands, buildings, improvements, real or
35 personal property, or any interest therein, including leases
36 discounted to present value, including lands under water, riparian
37 rights, space rights, and air rights acquired, owned, developed or
38 redeveloped, constructed, reconstructed, rehabilitated, or improved,
39 any environmental remediation costs, plus costs not directly related
40 to construction, including capitalized interest paid to third parties,
41 of an amount not to exceed 20 percent of the total costs and the cost
42 of infrastructure improvements, including ancillary infrastructure
43 projects. When 100 percent of the residential units constructed in a
44 residential project are reserved for occupancy by low- and
45 moderate-income households, the term "project cost" shall also
46 include the developer fees paid before acquiring permanent
47 financing, as well as the deferred developer fees approved pursuant
48 to the rules established by the agency. In addition to the foregoing,

1 the term "project cost" shall include ²the following costs when
 2 incurred by a developer ², ²for a redevelopment project located in a
 3 ²government restricted ²government-restricted² municipality ²:
 4 any development, redevelopment, and relocation costs, including,
 5 but not limited to ², land ¹and costs ², which land costs shall be
 6 capped at no more than ²in an amount not to exceed² 20 percent of
 7 the ²total ²eligible² project cost ²; ¹building acquisition costs;
 8 ¹carrying costs and interest expenses on construction loans and
 9 other financing up to project completion; ¹any soft costs, including
 10 engineering, legal, accounting, and other professional services
 11 required for the completion of the project; any environmental
 12 remediation costs; and any infrastructure improvement for the
 13 project area, including, but not limited to, costs of on- and off-site
 14 utility, road, pier, wharf, bulkhead, or sidewalk construction or
 15 repair ². The fees associated with the application or administration
 16 of a grant under sections 54 through 67 of P.L.2020, c.156
 17 (C.34:1B-322 through 34:1B-335) shall not constitute a project cost
 18 ², regardless of the location of the redevelopment project ².

19 "Project financing gap" means the part of the total project cost,
 20 including reasonable and appropriate return on investment, that
 21 remains to be financed after all other sources of capital have been
 22 accounted for, including, but not limited to developer contributed
 23 capital, which shall not be less than 20 percent of the ¹total ¹
 24 ²total ²project cost, and investor or financial entity capital or loans
 25 for which the developer, after making all good faith efforts to raise
 26 additional capital, certifies that additional capital cannot be raised
 27 from other sources on a non-recourse basis; provided, however, that
 28 for a redevelopment project located in a government-restricted
 29 municipality, the developer contributed capital shall not be less than
 30 10 percent of the ¹total ¹ ²total ²project cost. Developer
 31 contributed capital may consist of cash, deferred development fees,
 32 costs for project feasibility incurred within the 12 months prior to
 33 application, property value less any mortgages when the developer
 34 owns the project site, and any other investment by the developer in
 35 the project deemed acceptable by the authority, as provided by
 36 regulations promulgated by the authority. Property value shall be
 37 valued at the lesser of: (i) the purchase price, provided the property
 38 was purchased pursuant to an arm's length transaction within 12
 39 months of application; or (ii) the value as determined by a current
 40 appraisal.

41 "Project labor agreement" means a form of pre-hire collective
 42 bargaining agreement covering terms and conditions of a specific
 43 project that satisfies the requirements set forth in section 5 of
 44 P.L.2002, c.44 (C.52:38-5).

45 "Qualified incentive tract" means (i) a population census tract
 46 having a poverty rate of 20 percent or more; or (ii) a census tract in
 47 which the median family income for the census tract does not

1 exceed 80 percent of the greater of the Statewide median family
2 income or the median family income of the metropolitan statistical
3 area in which the census tract is situated.

4 "Quality childcare facility" is a child care center licensed by the
5 Department of Children and Families or a registered family child
6 care home with the Department of Human Services, operating
7 continuously, which has not been subject to an enforcement action,
8 and which has and maintains a licensed capacity for children age 13
9 years or younger who attend for less than 24 hours a day.

10 "Reasonable and appropriate return on investment" means the
11 discount rate at which the present value of the future cash flows of
12 an investment equals the cost of the investment. In determining the
13 "reasonable and appropriate return on investment," an investment
14 shall not include any federal, State, or local tax credits. For a
15 residential project that utilizes federal low-income housing tax
16 credits awarded by the agency, the "reasonable and appropriate
17 return on investment" shall be based on the approval of deferred
18 developer fees pursuant to the rules established by the agency. In
19 the event that a residential project, which utilizes federal low-
20 income housing tax credits awarded by the agency, generates
21 returns on equity other than federal or local grants or proceeds from
22 the sale of federal or local tax credits, the "reasonable and
23 appropriate return on investment" shall be based on both the
24 discount rate at which the present value of the future cash flows of
25 an investment equal the cost of the investment for the entire project,
26 and when evaluating only the units financed with federal low-
27 income housing tax credits awarded by the agency, the approval of
28 deferred developer fees pursuant to the rules established by the
29 agency.

30 "Redevelopment project" means a specific construction project
31 or improvement or phase of a project or improvement undertaken
32 by a developer, owner or tenant, or both, and any ancillary
33 infrastructure project. A redevelopment project may involve
34 construction or improvement upon lands, buildings, improvements,
35 or real and personal property, or any interest therein, including
36 lands under water, riparian rights, space rights, and air rights,
37 acquired, owned, developed or redeveloped, constructed,
38 reconstructed, rehabilitated, or improved.

39 "Residential project" means a redevelopment project that is
40 predominantly residential, intended for multi-family residency, and
41 may include a parking component.

42 "SDA district" means an SDA district as defined in section 3 of
43 P.L.2000, c.72 (C.18A:7G-3).

44 "SDA municipality" means a municipality in which an SDA
45 district is situated.

46 ¹"Special mission non-profit project" means a project located in
47 a government-restricted municipality or in an enhanced area that:
48 serves a special mission, as determined by the authority, to

1 accomplish the public purpose of a non-profit that is a developer of
 2 or is affiliated with the project; and includes no more than 100 units
 3 of 100 percent ²**[affordable]** supportive² housing units ²for tenants
 4 requiring special needs or social services, which social services may
 5 include licensed social workers,² and no more than ²**[10,000]**
 6 25,000² square feet of commercial space ²for the provision of on-
 7 site social service programs that require a license from the
 8 Department of Children and Families as a licensed child care center.
 9 Special mission non-profit projects shall be exempt from the net
 10 benefit test requirement, affordable housing requirements, and the
 11 requirement to provide a market study as part of its application to
 12 the authority².¹

13 ²**["Stranded asset"** means any building previously used for
 14 commercial, retail, office space, manufacturing, or industrial
 15 purposes, which building is no longer used for such purposes, and
 16 which has been abandoned, experienced significant vacancies for at
 17 least two consecutive years, or has fallen into such disrepair as to be
 18 untenantable. ¹"Stranded asset" includes vacant land that has been
 19 left fallow for at least two consecutive years because of
 20 environmental contamination.

21 "Targeted industry" means any industry identified from time to
 22 time by the authority, which industry shall initially include
 23 advanced transportation and logistics, advanced manufacturing,
 24 aviation, autonomous vehicle and zero-emission vehicle research or
 25 development, clean energy, life sciences, hemp processing,
 26 information and high technology, finance and insurance,
 27 professional services, film and digital media, non-retail food and
 28 beverage businesses including food innovation, and other
 29 innovative industries that disrupt current technologies or business
 30 models.¹²

31 "Technology startup company" means a for-profit business that
 32 has been in operation fewer than seven years at the time that it
 33 initially occupies or expands in a qualified business facility and is
 34 developing or possesses a proprietary technology or business
 35 method of a high technology or life science-related product,
 36 process, or service, which proprietary technology or business
 37 method the business intends to move to commercialization. The
 38 business shall be deemed to have begun operation on the date that
 39 the business first hired at least one employee in a full-time position.

40 "Total **[project]** ¹**[development]** project¹ cost" ¹**[or "total**
 41 redevelopment cost"]¹ means the costs incurred in connection with
 42 the redevelopment project by the developer until the issuance of a
 43 permanent certificate of occupancy, or upon such other event
 44 evidencing project completion as set forth in the incentive grant
 45 agreement, for a specific investment or improvement.

46 "Tourism destination project" means a non-gaming business
 47 facility that will be among the most visited privately owned or

1 operated tourism or recreation sites in the State, and which has been
2 determined by the authority to be in an area appropriate for
3 development and in need of economic development incentive
4 assistance, including a non-gaming business within an established
5 Tourism District with a significant impact on the economic viability
6 of that district.

7 "Transit hub" means an urban transit hub, as defined in section 2
8 of P.L.2007, c.346 (C.34:1B-208), that is located within an eligible
9 municipality, as defined in section 2 of P.L.2007, c.346 (C.34:1B-
10 208) and is located within a qualified incentive area.

11 "Transit hub municipality" means a Transit Village or a
12 municipality: a. which qualifies for State aid pursuant to P.L.1978,
13 c.14 (C.52:27D-178 et seq.), or which has continued to be a
14 qualified municipality thereunder pursuant to P.L.2007, c.111; and
15 b. in which 30 percent or more of the value of real property was
16 exempt from local property taxation during tax year 2006. The
17 percentage of exempt property shall be calculated by dividing the
18 total exempt value by the sum of the net valuation which is taxable
19 and that which is tax exempt.

20 "Transit Village" means a municipality that has been designated
21 as a transit village by the Commissioner of Transportation and the
22 Transit Village Task Force ¹established pursuant to P.L.1985,
23 c.398 (C.27:1A-5)]¹.
24 (cf: P.L.2023, c.98, s.1)

25
26 2. Section 56 of P.L.2020, c.156 (C.34:1B-324) is amended to
27 read as follows:

28 56. a. (1) The New Jersey Aspire Program is hereby established
29 as a program under the jurisdiction of the New Jersey Economic
30 Development Authority. The authority shall administer the
31 program to encourage redevelopment projects through the provision
32 of incentive awards to reimburse developers for certain project
33 financing gap costs. The board may approve the award of an
34 incentive award to a developer upon application to the authority
35 pursuant to sections 58 and 59 of P.L.2020, c.156 (C.34:1B-326 and
36 C.34:1B-327). The value of all tax credits approved by the
37 authority pursuant to sections 54 through 67 of P.L.2020, c.156
38 (C.34:1B-322 through 34:1B-335) shall be subject to the limitations
39 set forth in section 98 of P.L.2020, c.156 (C.34:1B-362).

40 (2) The authority, in consultation with the agency, shall adopt
41 rules and regulations, pursuant to subsection b. of section 67 of
42 P.L.2020, c.156 (C.34:1B-335), concerning the establishment and
43 administration of the affordability controls that shall apply to the
44 residential units constructed for occupancy by low- and moderate-
45 income households under the program, including, but not limited to,
46 residential units within residential projects that utilize federal low-
47 income housing tax credits awarded by the agency.
48 Notwithstanding any provision of law or regulation to the contrary,

1 the affordability controls shall, at a minimum, be consistent with the
 2 affordability controls established in the rules and regulations
 3 adopted pursuant to the "Fair Housing Act," P.L.1985, c.222
 4 (C.52:27D-301 et al.), as in effect immediately prior to the effective
 5 date of P.L.2023, c.98 (C.34:1B-335.1 et al.), including, but not
 6 limited to, any requirements concerning the **bedroom**
 7 **distributions,** ²bedroom distributions,² affordability averages,
 8 affirmative marketing, and long-term deed restrictions of residential
 9 units constructed for occupancy by low- and moderate-income
 10 households ²except not including the bedroom distribution
 11 requirements for three-bedroom housing units².

12 b. The chief executive officer of the authority shall designate
 13 one staff member per government-restricted municipality in order to
 14 keep the municipality informed on activities within the municipality
 15 and to coordinate economic development initiatives.
 16 (cf: P.L.2023, c.98, s.2)

17
 18 3. Section 57 of P.L.2020, c.156 (C.34:1B-325) is amended to
 19 read as follows:

20 57. a. Prior to March 1, 2029, a developer shall be eligible to
 21 receive an incentive award for a redevelopment project only if the
 22 developer demonstrates to the authority at the time of application
 23 that:

24 (1) without the incentive award, the redevelopment project is
 25 not economically feasible;

26 (2) a project financing gap exists, or the authority determines
 27 that the redevelopment project will generate a below market rate of
 28 return;

29 (3) the redevelopment project, except a film studio, professional
 30 stage, television studio, recording studio, screening room, or other
 31 infrastructure used for film production, ²or a special mission non-
 32 profit project,² is located in the incentive area;

33 (4) ²[(a)]² except for demolition and site remediation activities,
 34 the developer has not commenced any construction at the site of the
 35 redevelopment project prior to submitting an application, unless the
 36 authority determines that the redevelopment project would not be
 37 completed otherwise or, in the event the redevelopment project is to
 38 be undertaken in phases, the requested incentive award is limited to
 39 only phases for which construction has not yet commenced;

40 ²[(b) if the developer has commenced demolition and site
 41 remediation activities at the site of the redevelopment project prior
 42 to submitting an application ¹that includes those demolition and site
 43 remediation costs as part of the eligible project cost¹, all
 44 construction workers employed to undertake demolition and site
 45 remediation activities at the site were paid not less than the
 46 prevailing wage rate for the worker's craft or trade, as determined
 47 by the Commissioner of Labor and Workforce Development

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

3 (5) the redevelopment project shall comply with minimum
4 environmental and sustainability standards;

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

8 (7) (a) during the eligibility period, each worker employed to
9 perform construction work at the redevelopment project shall be
10 paid not less than the prevailing wage rate for the worker's craft or
11 trade, as determined by the Commissioner of Labor and Workforce
12 Development pursuant to P.L.1963, c.150 (C.34:11-56.25 et seq.)
13 and P.L.2005, c.379 (C.34:11-56.58 et seq.);

14 (b) during the eligibility period, each worker employed to
15 perform building services work at the redevelopment project,
16 whether pursuant to contract by the developer or a commercial
17 tenant, commercial subtenant, or other commercial occupant, shall
18 be paid not less than the prevailing wage rate for the worker's craft
19 or trade, as determined by the Commissioner of Labor and
20 Workforce Development pursuant to P.L.1963, c.150 (C.34:11-
21 56.25 et seq.) and P.L.2005, c.379 (C.34:11-56.58 et seq.), except
22 that this requirement shall not apply to workers employed to
23 perform building services work by **[a]** ²any residential tenant or
24 any ²a commercial tenant, commercial subtenant, or other
25 commercial occupant that has a leasehold interest or other
26 occupancy right in a redevelopment project, which leasehold
27 interest or other occupancy right encompasses less than 5,000
28 square feet of space within the project. The developer shall include
29 in all commercial leases or other commercial occupancy
30 agreements, and shall require that all subleases or other commercial
31 occupancy agreements applicable to the redevelopment project
32 include, a provision setting forth the requirements of this
33 subparagraph, which provision shall be in a form acceptable to the
34 authority. Notwithstanding any provisions of law to the contrary, if
35 a commercial tenant, commercial subtenant, or other commercial
36 occupant violates this provision due to the underpayment of the
37 required prevailing wage rate, then the issuance of tax credits to the
38 developer and any co-applicant shall be delayed until such time as
39 documentation demonstrating compliance has been provided to the
40 Commissioner of Labor and Workforce Development, subsequently
41 reviewed and approved by the Commissioner of Labor and
42 Workforce Development, and verified by the authority, which
43 reviews and verification shall be completed. If a violation is not
44 cured, or is not capable of being cured, within one year of receipt of
45 notice of the violation, then the developer and any co-applicant
46 shall forfeit 50 percent of the tax credits otherwise authorized for
47 the tax period in which the notice of violation was issued. If the
48 violation is not cured on or before the conclusion of that tax period,

1 the developer and any co-applicant shall forfeit up to 100 percent of
2 the tax credits otherwise authorized, as determined by the authority,
3 in each subsequent tax period until the first tax period for which
4 documentation demonstrating compliance has been provided to the
5 Commissioner of Labor and Workforce Development, subsequently
6 reviewed and approved by the Commissioner of Labor and
7 Workforce Development, and verified by the authority, which
8 reviews and verifications shall be completed. In this event, the
9 developer and any co-applicant shall be allowed the full tax credit
10 amount beginning in the tax period in which documentation of
11 compliance was reviewed and approved by the Commissioner of
12 Labor and Workforce Development and verified by the authority,
13 including each subsequent tax period in which the tax credits are
14 otherwise authorized ². The requirement of this subparagraph shall
15 not apply to the residential tenants or residential subtenants of a
16 redevelopment project²;

17 (c) in the event a redevelopment project, or any portion thereof,
18 is undertaken by a tenant pursuant to a contract and the tenant has a
19 leasehold of more than 55 percent of space in the building owned or
20 controlled by the developer, the requirement that each worker
21 employed to perform building service work at the building be paid
22 not less than the prevailing wage shall apply to the entire building,
23 except as otherwise provided in subparagraph (b) of this paragraph
24 for ²all residential tenants and all² commercial tenants,
25 commercial subtenants, or other commercial occupants with a
26 leasehold interest or other occupancy right encompassing less than
27 5,000 square feet ². The requirement of this subparagraph shall not
28 apply to the residential tenants or residential subtenants of a
29 redevelopment project²;

30 (8) (a) the redevelopment project shall be completed, and the
31 developer shall be issued a certificate of occupancy for the
32 redevelopment project facilities by the applicable enforcing agency,
33 within four years of executing the incentive award agreement, or in
34 the case of a redevelopment project with a ²total¹² project cost
35 in excess of \$50,000,000, the incentive phase agreement
36 corresponding to the redevelopment project; or

37 (b) in the discretion of the authority, a redevelopment project
38 with a ²total¹² project cost in excess of \$50,000,000, and that is
39 authorized to be completed in phases, may be allowed no more than
40 six years from the date on which the incentive award agreement is
41 executed to be issued a certificate of occupancy by the applicable
42 enforcement agency;

43 (9) the developer has complied with all requirements for filing
44 tax and information returns and for paying or remitting required
45 State taxes and fees by submitting, as a part of the application, a tax
46 clearance certificate, as described in section 1 of P.L.2007, c.101
47 (C.54:50-39); and

1 (10) the developer is not more than 24 months in arrears at the
2 time of application.

3 b. In addition to the requirements set forth in subsection a. of
4 this section, for a commercial project to qualify for an incentive
5 award the developer shall demonstrate that the developer shall
6 contribute capital of at least 20 percent of the ¹total¹ ²total²
7 project cost, except that if a redevelopment project is located in a
8 government-restricted municipality, the developer shall contribute
9 capital of at least 10 percent of the ¹total¹ ²total² project cost.

10 c. In addition to the requirements set forth in subsection a. of
11 this section, for a residential project or a commercial project
12 comprised solely of a health care or health service center to qualify
13 for an incentive award, the residential project or health care or
14 health service center shall:

15 (1) have a total project cost of at least \$17,500,000, if the project
16 is located in a municipality with a population greater than 200,000
17 according to the latest federal decennial census;

18 (2) have a total project cost of at least \$10,000,000 if the project
19 is located in a municipality with a population less than 200,000
20 according to the latest federal decennial census; or

21 (3) have a total project cost of at least \$5,000,000 if the project is
22 in a qualified incentive tract or government-restricted municipality.

23 d. In addition to the requirements set forth in subsections a. and
24 c. of this section, for a residential project consisting of newly-
25 constructed residential units to qualify for an incentive award, the
26 developer shall reserve at least 20 percent of the residential units
27 constructed for occupancy by low- and moderate-income
28 households with affordability controls as adopted by the authority,
29 in consultation with the agency, in accordance with paragraph (2) of
30 subsection a. of section 56 of P.L.2020, c.156 (C.34:1B-324),
31 except that a residential project receiving a federal historic
32 rehabilitation tax credit pursuant to section 47 of the federal
33 Internal Revenue Code of 1986, 26 U.S.C. s.47, or a tax credit
34 pursuant to the "Historic Property Reinvestment Act," sections 2
35 through 8 of P.L.2020, c.156 (C.34:1B-270 through 34:1B-276),
36 shall be exempt from the affordability controls related to bedroom
37 distribution.

38 e. Prior to the board considering an application submitted by a
39 developer, the authority shall confirm with the Department of Labor
40 and Workforce Development, the Department of Environmental
41 Protection, and the Department of the Treasury whether the
42 developer is in substantial good standing with the respective
43 department, or has entered into an agreement with the respective
44 department that includes a practical corrective action plan for the
45 developer. The developer shall certify that any contractors or
46 subcontractors that will perform work at the redevelopment project:
47 (1) are registered as required by "The Public Works Contractor
48 Registration Act," P.L.1999, c.238 (C.34:11-56.48 et seq.); (2) have

not been debarred by the Department of Labor and Workforce Development from engaging in or bidding on Public Works Contracts in the State; and (3) possess a tax clearance certificate issued by the Division of Taxation in the Department of the Treasury. The authority may also contract with an independent third party to perform a background check on the developer.

f. Beginning ¹[on] ²[after¹] on² the ²[third] fourth² year ²[following the date of issuance of a final certificate of occupancy] of the eligibility period² for a commercial project, and through the conclusion of the eligibility period, if the average occupancy rate of the commercial project is less than 60 percent during any applicable tax period, the developer and co-applicant shall forfeit all credits otherwise allowed for the tax period and for each subsequent tax period until the authority verifies documentation, submitted by the developer or co-applicant, demonstrating that the average occupancy rate has reached or surpassed 60 percent for the tax period. The full amount of credit shall be allowed to a developer and any co-applicant for the tax period in which the average occupancy rate reaches or surpasses 60 percent. Occupancy for the tax period shall be determined by the average of the monthly occupancy for the applicable tax period. The occupancy requirement in this subsection shall not apply to residential projects. (cf: P.L.2023, c.98, s.3)

4. Section 60 of P.L.2020, c.156 (C.34:1B-328) is amended to read as follows:

60. a. (1) Following approval and selection of an application pursuant to sections 58 and 59 of P.L.2020, c.156 (C.34:1B-326 and C.34:1B-327), the authority shall enter into an incentive award agreement with the developer. The chief executive officer of the authority shall negotiate the terms and conditions of the incentive award agreement on behalf of the State.

(2) For a phased project, the incentive phase agreement shall set forth, for each phase of the project and for the total project, the capital investment requirements and the time periods in which each phase of the project shall be commenced and completed. The awarding of tax credits shall be conditioned on the developer's compliance with the requirements of the agreement. A redevelopment project may be completed in phases in accordance with rules adopted by the authority if the redevelopment project has ²[a total] an eligible² project cost in excess of \$50,000,000.

b. An incentive award agreement shall specify the amount of the incentive award the authority shall award to the developer and the duration of the eligibility period. The duration of the eligibility period [shall not exceed 15 years for a commercial or mixed-use project and] shall not exceed 10 years for a commercial project, mixed-use project, or residential project, except that [to] ²[the

1 authority shall² ¹consider reducing ²reduce¹ the eligibility
 2 period if a shorter period would ²to² reduce the total value of tax
 3 credits needed to reimburse a developer for all or part of the project
 4 financing gap of a redevelopment project, the authority may, in its
 5 discretion, approve a duration for the eligibility period that is
 6 shorter than the applicable maximum periods ²enhance access to
 7 tax credit monetization on cost effective terms, or otherwise
 8 enhance the effectiveness of the program the authority may, in its
 9 discretion, approve a duration for the eligibility period that is
 10 shorter than the applicable maximum periods². The incentive award
 11 agreement shall provide an estimated date of completion and
 12 include a requirement for periodic progress reports, including the
 13 submittal of executed financing commitments and documents that
 14 evidence site control; provided however, that the developer may sell
 15 one or more buildings during the eligibility period, ²provided that
 16 such sale is: an arms-length transaction to an unrelated party, or for
 17 an amount at least equal to fair market value based on an appraisal
 18 conducted within one year; and subject to the purchaser's
 19 assumption of all obligations relating to the buildings pursuant to
 20 sections 54 through 67 of P.L.2020, c.156 (C.34:1B-322 through
 21 C.34:1B-335)) subject to such rules and regulations as may be
 22 adopted by the authority². If the authority does not receive periodic
 23 progress reports, or if the progress reports demonstrate
 24 unsatisfactory progress, then the authority may rescind the incentive
 25 award. If the authority rescinds an incentive award in the same
 26 calendar year in which the authority approved the incentive award,
 27 then the authority may assign the incentive award to another
 28 applicant. The incentive award agreement may also provide for a
 29 verification of the financing gap at the time the developer provides
 30 executed financing commitments to the authority and a verification
 31 of the developer's projected cash flow at the time of certification
 32 that the project is completed ², provided that the authority shall not
 33 resize or reduce the tax credit based on the executed financing
 34 commitments or the updated projected cash flow but that the
 35 authority shall use the commitments and cash flow to calculate the
 36 return on investment required pursuant to subsection c. of this
 37 section².

38 c. To ensure the protection of taxpayer money, ²if the
 39 authority determines at project certification that the actual capital
 40 financing approach utilized by the project has resulted in a
 41 financing gap that is smaller than the financing gap determined at
 42 board approval, the authority shall reduce the amount of the tax
 43 credit or accept payment from the developer on a pro rata basis. If
 44 there is no project financing gap due to the actual capital financing
 45 approach utilized by the project, then the developer shall forfeit the
 46 incentive award. At at project certification and at² the end of the
 47 seventh year of the eligibility period, the authority shall evaluate the

1 developer's rate of return on investment and compare that rate of
2 return on investment to the reasonable and appropriate rate of return
3 at the time of board approval. If the actual rate of return on
4 investment exceeds the reasonable and appropriate rate of return on
5 investment at the time of board approval by more than 15 percent,
6 the authority shall require the developer to pay up to 20 percent of
7 the amount in excess of the reasonable and appropriate rate of
8 return on investment. ²For any year during the eligibility period in
9 which the director purchases a tax credit certificate or tax credit
10 transfer certificate issued for a redevelopment project pursuant to
11 section 89 of P.L.2020, c.156 (C.52:18A-263), if the actual rate of
12 return on investment exceeds the reasonable and appropriate rate of
13 return on investment at the time of board approval by more than 10
14 percent, the authority shall require the developer to pay up to 20
15 percent of the amount in excess of the reasonable and appropriate
16 rate of return on investment, except as otherwise provided in
17 paragraph (2) of subsection a. of section 89 of P.L.2020, c.156
18 (C.52:18A-263).² The authority shall require an escrow account to
19 be held by the authority ²for any payment received pursuant to this
20 subsection² until the end of the eligibility period. ²For any payment
21 amount calculated at project certification, the developer shall make
22 equal annual payments, which in aggregate shall equal the
23 calculated payment amount, with each annual report for the first
24 seven years of the eligibility period. At the end of the seventh year
25 of the eligibility period, the developer shall pay the authority any
26 additional amount required. For projects that have an eligibility
27 period of fewer than 10 years, the authority may adjust the year of
28 the eligibility period in which the evaluation of the rate of return
29 and contribution to the escrow account, as may be appropriate, are
30 required. The authority shall not reduce or recapture any tax credits
31 at project certification or at the end of the seventh year of the
32 eligibility period solely due to an increase to the return on
33 investment.² Following the final year of the eligibility period, the
34 authority shall determine if the developer's rate of return exceeded
35 the reasonable and appropriate rate of return determined at board
36 approval. If the final rate of return does not exceed the reasonable
37 and appropriate rate of return determined at board approval, the
38 authority shall release to the developer the escrowed funds. If the
39 project final rate of return exceeds the reasonable and appropriate
40 rate of return determined at board approval, the authority shall
41 require the developer to pay up to 20 percent of the amount of the
42 excess, which shall include the funds held in escrow, and such
43 funds shall be deposited in the State General Fund.

44 d. The incentive award agreement shall include a requirement
45 that the authority confirm with the Department of Environmental
46 Protection, the Department of Labor and Workforce Development,
47 and the Department of the Treasury that the developer is in

1 substantial good standing with the respective department, or the
2 developer has entered into an agreement with the respective
3 department that includes a practical corrective action for the
4 developer, and the developer shall confirm that each contractor or
5 subcontractor performing work at the redevelopment project: (1) is
6 registered as required by "The Public Works Contractor
7 Registration Act," P.L.1999, c.238 (C.34:11-56.48 et seq.); (2) has
8 not been debarred, suspended, or disqualified by the Department of
9 Labor and Workforce Development from engaging in or bidding on
10 Public Works Contracts in the State, or been debarred, suspended,
11 or disqualified by a federal agency from engaging in federally-
12 funded construction projects or bidding on federal contracting
13 opportunities; and (3) possesses a tax clearance certificate issued by
14 the Division of Taxation in the Department of the Treasury. The
15 incentive award agreement shall also include a provision that the
16 developer shall forfeit the incentive award in any year in which the
17 developer is neither in substantial good standing with each
18 department nor has entered into a practical corrective action. The
19 incentive award agreement shall also require a developer to engage
20 in on-site consultations with the Division of Workplace Safety and
21 Health in the Department of Health.

22 e. (1) Except as provided in paragraph (2) of this subsection,
23 the authority shall not enter into an incentive award agreement for a
24 redevelopment project that includes at least one retail establishment
25 which will have more than 10 employees, at least one distribution
26 center which will have more than 20 employees, or at least one
27 hospitality establishment which will have more than 10 employees,
28 unless the incentive award agreement includes a precondition that
29 any business that serves as the owner or operator of the retail
30 establishment, distribution center, or hospitality establishment
31 enters into a labor harmony agreement with a labor organization or
32 cooperating labor organizations which represent retail
33 establishment, hospitality establishment, or distribution center
34 employees in the State.

35 (2) A labor harmony agreement shall be required only if the
36 State has a proprietary interest in the redevelopment project and
37 shall remain in effect for as long as the State acts as a market
38 participant in the redevelopment project. The authority may enter
39 into an incentive award agreement with a developer without the
40 labor harmony agreement required under paragraph (1) of this
41 subsection if the authority determines that the redevelopment
42 project would not be able to go forward if a labor harmony
43 agreement is required. The authority shall support the
44 determination by a written finding, which provides the specific
45 basis for the determination.

46 (3) (Deleted by amendment, P.L.2023, c.98)

47 f. (1) Except for ²a special mission non-profit project in any
48 location, or² a residential project that is located in a government-

1 restricted municipality ²**[,]**² and in which 100 percent of the
 2 residential units constructed in the residential project are reserved
 3 for occupancy by low- and moderate-income households, for a
 4 redevelopment project whose ¹**[total]**¹ ²total² project cost equals or
 5 exceeds \$10 million, in addition to the incentive award agreement, a
 6 developer shall enter into a community benefits agreement with the
 7 authority and the county or municipality in which the
 8 redevelopment project is located. The agreement may include, but
 9 shall not be limited to, requirements for training, employment, and
 10 youth development and free services to underserved communities in
 11 and around the community in which the redevelopment project is
 12 located. Prior to entering a community benefits agreement, ²**[the**
 13 governing body of]**]**² the county or municipality in which the
 14 redevelopment project is located shall hold at least one ²previously
 15 advertised² public hearing at which ²**[the governing body shall**
 16 **hear]**² testimony from residents, community groups, and other
 17 stakeholders ²shall have an opportunity to be heard² on the needs of
 18 the community that the agreement should address², and the minutes
 19 of the meeting shall be included in the resolution of the governing
 20 body of the municipality or county adopting the community benefits
 21 agreement².

22 (2) The community benefits agreement shall provide for the
 23 creation of a community advisory committee to oversee the
 24 implementation of the agreement, monitor successes, ensure
 25 compliance with the terms of the agreement, and produce an annual
 26 public report. The community advisory committee created pursuant
 27 to this paragraph shall be comprised of representatives of diverse
 28 community groups and residents of the county or municipality in
 29 which the redevelopment project is located.

30 (3) At the time the developer submits the annual report required
 31 pursuant to section 62 of P.L.2020, c.156 (C.34:1B-330) to the
 32 authority, the developer shall certify, under the penalty of perjury,
 33 that it is in compliance with the terms of the community benefits
 34 agreement. If the developer fails to provide the certification
 35 required pursuant to this paragraph or the authority determines that
 36 the developer is not in compliance with the terms of the community
 37 benefits agreement based on the reports submitted by the
 38 community advisory committee pursuant to paragraph (2) of this
 39 subsection, then the authority may rescind an award or recapture all
 40 or part of any tax credits awarded.

41 (4) Notwithstanding any requirement of this subsection to the
 42 contrary, ²**[**¹because all redevelopment agreements require a
 43 certificate of completion issued by the municipality to confirm the
 44 developer's compliance with the redevelopment agreement,¹² a
 45 developer shall be considered to have met the requirements of a
 46 community benefits agreement **[pursuant to this subsection]** ²**[, and**
 47 the requirements of paragraphs (2) and (3) of this subsection shall

1 ~~not apply.] pursuant to this subsection~~² if the developer submits to
2 the authority:

3 (a) a copy of either the developer's approval letter from the
4 authority or a redevelopment agreement applicable to the qualified
5 business facility, provided that the approval letter ²~~[is certified by~~
6 ~~the municipality]~~² or ²~~[the]~~² redevelopment agreement is
7 ~~[certified]~~ ²~~[adopted by resolution at a public meeting]~~ ~~certified~~²
8 by the municipality in which the redevelopment project is located,
9 and includes provisions that meet ~~[or exceed]~~ ²~~or exceed~~² the
10 ~~[standards]~~ ²~~[community benefit]~~ ~~standards~~² required ~~[for]~~
11 ²~~[under]~~ ~~for~~² a community benefits agreement ¹~~[in]~~ ²~~[pursuant~~
12 ~~to]~~ ~~in~~² this subsection ~~], as determined by the chief executive~~
13 ~~officer pursuant to rules adopted by the authority]~~ ²~~, as determined~~
14 ~~by the chief executive officer pursuant to rules adopted by the~~
15 ~~authority~~²; or

16 (b) a resolution adopted by the governing body of the
17 municipality in which the redevelopment project is located, which
18 resolution shall be adopted after at least one public hearing at which
19 the governing body provides an opportunity for residents,
20 community groups, and other stakeholders to testify, and which
21 resolution shall state that the governing body has determined that
22 the redevelopment project will provide economic and social benefits
23 to the community that fulfill the purposes of this subsection, which
24 benefits render a separate community benefit agreement
25 unnecessary, and explain the reasons supporting the governing
26 body's determination.

27 ²~~(c) The developer and the municipality or county shall submit~~
28 ~~the executed community benefits agreement, redevelopment~~
29 ~~agreement, or approved resolution to the authority within the same~~
30 ~~time as all other conditions subsequent required in the approval~~
31 ~~letter.~~²

32 g. A developer shall submit, prior to the first disbursement of
33 tax credits under the incentive award agreement, but no later than
34 six months following project completion, satisfactory evidence of
35 actual project costs, as certified by a certified public accountant,
36 evidence of a temporary certificate of occupancy, or other event
37 evidencing project completion that begins the eligibility period
38 indicated in the incentive award agreement. The developer, or an
39 authorized agent of the developer, shall certify that the information
40 provided pursuant to this subsection is true under the penalty of
41 perjury. Claims, records, or statements submitted by a developer to
42 the authority in order to receive tax credits shall not be considered
43 claims, records, or statements made in connection with State tax
44 laws.

45 h. The incentive award agreement shall include a provision
46 allowing the authority to extend, in individual cases, the deadline
47 for any annual reporting or certification requirement.

i. The incentive award agreement shall include one or more provisions, as determined by the authority, concerning the terms and conditions for default and the remedies for the developer of a redevelopment project in the event of default. The incentive award agreement shall not allow the authority to declare a cross-default when the developer of a redevelopment project, including any business affiliate of the developer or any other entity with common principals as the developer, is in default with any other assistance program administered by the authority.

(cf: P.L.2023, c.98, s.6)

5. Section 61 of P.L.2020, c.156 (C.34:1B-329) is amended to read as follows:

61. a. Up to the limits established in subsection b. of this section and in accordance with an incentive award agreement, beginning upon the receipt of occupancy permits for any portion of the redevelopment project, or upon any other event evidencing project completion as set forth in the incentive award agreement, a developer shall be allowed a total tax credit **that shall not exceed** ²as follows, subject to the enhancements set forth in subsection c. of this section that shall not exceed²:

(1) ²**[80]** (a) 85² percent of the ¹**[total]** eligible¹ project cost for a redevelopment project that ^{2;2} is located in a government-restricted municipality ², which municipality qualified as a government-restricted municipality prior to the effective date of P.L. , c. (C.) (pending before the Legislature as this bill);² ¹or is a special mission non-profit project¹; ²or

(b) 80 percent of the eligible project cost for a redevelopment project that is located in a government-restricted municipality, which municipality did not qualify as a government-restricted municipality prior to the effective date of P.L. , c. (C.) (pending before the Legislature as this bill);²

(2) 60 percent of the ¹**[total]** eligible¹ project cost for a residential project that receives a four-percent allocation from the federal Low Income Housing Tax Credit Program administered by the agency , or a redevelopment project that is located in a qualified incentive tract, enhanced area, or a municipality with a Municipal Revitalization Index score of at least 50; or

(3) 50 percent of the ¹**[total]** eligible¹ project cost for any other redevelopment project.

b. The value of all tax credits approved by the authority under the program for a redevelopment project phase shall not exceed:

(1) \$120,000,000 per redevelopment project or phase for a redevelopment project that is located in a government-restricted municipality ¹or is a special mission non-profit project¹;

1 (2) \$90,000,000 per redevelopment project or phase for a
2 redevelopment project that is allowed a tax credit under paragraph
3 (2) of subsection a. of this section; and

4 (3) \$60,000,000 for any other redevelopment project or phase.

5 ²[c. Notwithstanding the limitations set forth in subsection a. of
6 this section, but subject to the limitations of subsections b. and d. of
7 this section and the demonstration of a financing gap, a developer
8 shall be eligible for each of the following enhancements to the total
9 tax credit award:

10 (1) for a redevelopment project that includes the redevelopment
11 of a stranded asset, an enhancement of up to 10 percent of the
12 project cost of the redevelopment project;

13 (2) for a residential project that meets the three-bedroom
14 distribution requirement under the Uniform Housing Affordability
15 Controls, an enhancement of up to five percent of the project cost of
16 the residential project; and

17 (3) for a redevelopment project that meets local first source
18 hiring requirements for residents in the municipality or county in
19 which the project is located and in surrounding municipalities, as
20 appropriate, an enhancement of up to three percent of the project
21 cost of the redevelopment project.

22 d. Except for a redevelopment project that is located in a
23 government restricted municipality:

24 (1) the total tax credits awarded for the redevelopment project,
25 together with all tax credits awarded under any other program
26 administered by the authority, shall not exceed 80 percent of the
27 project cost of the redevelopment project; and

28 (2) for a redevelopment project that receives tax credits under
29 the Federal Low-Income Housing Tax Credit Program, the total tax
30 credits awarded for the redevelopment project, together with all tax
31 credits awarded under any other program administered by the
32 authority and under the Federal Low-Income Housing Tax Credit
33 Program, shall not exceed 90 percent of the project cost.】²

34 (cf: P.L.2023, c.98, s.7)

35
36 6. Section 62 of P.L.2020, c.156 (C.34:1B-330) is amended to
37 read as follows:

38 62. a. A developer approved for an incentive award pursuant to
39 sections 58 and 59 of P.L.2020, c.156 (C.34:1B-326 and C.34:1B-
40 327) and that enters an incentive award agreement pursuant to
41 section 60 of P.L.2020, c.156 (C.34:1B-328) shall submit annually,
42 commencing in the year in which the incentive award is issued and
43 for the remainder of the eligibility period, a report indicating
44 whether the developer is aware of any condition, event, or act that
45 would cause the developer not to be in compliance with the
46 incentive award agreement or the provisions of sections 54 through
47 67 of P.L.2020, c.156 (C.34:1B-322 through C.34:1B-335) and any
48 additional reporting requirements contained in the incentive award

1 agreement or tax credit certificate. The developer, or an authorized
2 agent of the developer, shall certify that the information provided
3 pursuant to this subsection is true under the penalty of perjury.

4 b. (1) Upon receipt and review of each report submitted during
5 the eligibility period, the authority shall provide to the developer
6 and the director a certificate of compliance indicating the amount of
7 tax credits that the developer may apply against the developer's tax
8 liability. ²['The authority shall preliminarily determine whether

9 the annual report submitted by the developer is complete as early as
10 practicable after accepting each annual report. Within 90]

11 Notwithstanding any provision of law or regulation to the contrary,
12 the authority shall not require the developer to include a permanent
13 certificate of occupancy in the first annual report, but the developer
14 shall include the permanent certificate of occupancy in the next
15 annual report after the developer receives the permanent certificate
16 of occupancy. Subject to forfeiture, reduction, or other action for
17 failure to comply with a program requirement, within 120² days
18 after the authority preliminarily determines that an annual report is
19 complete, the authority shall either: (a) approve the annual report
20 and notify the director that the authority has approved the report
21 and that the director is to issue the tax credit certificate; or (b)
22 request more information from the developer to finalize the
23 approval. If the authority fails to act within ²[90] 120² days from
24 its preliminary determination that the annual report is complete, the
25 annual report shall be deemed approved by the authority, and the
26 developer shall be entitled to receive its tax credit certificate.¹

27 (2) Upon receipt by the director of the certificate of compliance,
28 the director shall allow the developer a credit against the tax
29 imposed pursuant to section 5 of P.L.1945, c.162 (C.54:10A-5). A
30 developer shall apply the credit awarded against the developer's
31 liability under section 5 of P.L.1945, c.162 (C.54:10A-5), sections 2
32 and 3 of P.L.1945, c.132 (C.54:18A-2 and C.54:18A-3), section 1
33 of P.L.1950, c.231 (C.17:32-15), or N.J.S.17B:23-5 ¹['for the
34 privilege period [during] identified in the tax credit certificate
35 which the director [allows] issues to the developer [a tax credit]
36 pursuant to this subsection, or within the three successive tax
37 periods immediately following the tax period in which the tax credit
38 certificate is received by the developer] in the tax period for which
39 it was issued, in the tax period in which it was issued, or in any
40 ²[successive]² tax period ²[, as authorized pursuant to this
41 subsection] during the eligibility period², without the need to
42 amend the tax return for the tax period for which the credit was
43 issued, subject to the carry-forward provision in this section.
44 Notwithstanding the foregoing, no more than the amount of tax
45 credits equal to the total credit amount divided by the duration of
46 the tax credit term, in years, may be taken in any tax period¹. A
47 developer may carry forward an unused credit resulting from the

1 limitations of paragraph (3) of this subsection, if necessary, for use
 2 in the seven privilege periods next following the privilege period
 3 for which the credits are **【awarded】** applied. Credits granted to a
 4 partnership shall be passed through to the partners, members, or
 5 owners, respectively, pro-rata, or pursuant to an executed agreement
 6 among the partners, members, or owners documenting an alternate
 7 distribution method provided to the director accompanied by any
 8 additional information as the director may prescribe.

9 (3) The director shall prescribe the order of priority of the
 10 application of the credit allowed under this section and any other
 11 credits allowed by law against the tax imposed under section 5 of
 12 P.L.1945, c.162 (C.54:10A-5). The amount of the credit applied
 13 under this section against the tax imposed pursuant to section 5 of
 14 P.L.1945, c.162 (C.54:10A-5) for a privilege period, together with
 15 any other credits allowed by law, shall not reduce the tax liability to
 16 an amount less than the statutory minimum provided in subsection
 17 (e) of section 5 of P.L.1945, c.162 (C.54:10A-5).
 18 (cf: P.L.2022, c.46, s.1)
 19

20 7. Section 63 of P.L.2020, c.156 (C.34:1B-331) is amended to
 21 read as follows:

22 63. a. ¹~~(1)~~¹A developer may apply to the director and the chief
 23 executive officer of the authority for a tax credit transfer certificate,
 24 covering one or more years, in lieu of the developer being allowed
 25 any amount of the credit against the tax liability of the developer.
 26 ²**【¹The authority shall preliminarily determine whether the**
 27 **application submitted by the developer is complete as early as**
 28 **practicable after accepting the application. Within 90】** Subject to
 29 **the forfeiture, reduction, or other action for failure to comply with a**
 30 **program requirement, within 120² days after the authority**
 31 **preliminarily determines that an application is complete, the**
 32 **authority shall either: (a) approve the application and notify the**
 33 **director that the authority has approved the application and that the**
 34 **director is to issue the tax credit transfer certificate; or (b) request**
 35 **more information from the developer to finalize the approval. If the**
 36 **authority fails to act within ²**【90】 120² days from its preliminary****
 37 **determination that the application is complete, the application shall**
 38 **be deemed approved by the authority, and the developer shall be**
 39 **entitled to receive its tax credit transfer certificate.**

40 ⁽²⁾¹ The tax credit transfer certificate, upon receipt thereof by
 41 the developer from the director and the chief executive officer of
 42 the authority, may be sold or assigned, in full or in part in an
 43 amount not less than \$25,000, in the privilege period during which
 44 the developer receives the tax credit transfer certificate from the
 45 director, to another person, who may apply the credit against a tax
 46 liability pursuant to section 5 of P.L.1945, c.162 (C.54:10A-5),
 47 sections 2 and 3 of P.L.1945, c.132 (C.54:18A-2 and C.54:18A-3),

1 section 1 of P.L.1950, c.231 (C.17:32-15), or N.J.S.17B:23-5. The
 2 certificate provided to the developer shall include a statement
 3 waiving the developer's right to claim the amount of the credit that
 4 the developer has elected to sell or assign against the developer's
 5 tax liability.

6 b. The developer shall not sell or assign, including a collateral
 7 assignment, a tax credit transfer certificate allowed under this
 8 section for consideration received by the developer of less than 85
 9 percent of the transferred credit amount before considering any
 10 further discounting to present value which shall be permitted,
 11 except a developer of a residential project consisting of newly-
 12 constructed residential units may assign a tax credit transfer
 13 certificate for consideration of less than 85 percent subject to the
 14 submission of a plan to the authority and the agency to use the
 15 proceeds derived from the assignment of tax credits to complete the
 16 residential project, except a developer of a residential project
 17 consisting of newly-constructed residential units that has received
 18 federal low income housing tax credits under 26 U.S.C.
 19 s.42(b)(1)(B)(i) may assign a tax credit transfer certificate for
 20 consideration of no less than 65 percent subject to the submission of
 21 a plan to the authority and the New Jersey Housing and Mortgage
 22 Finance Agency to use the proceeds derived from the assignment of
 23 tax credits to complete the residential project. The tax credit
 24 transfer certificate issued to a developer by the director shall be
 25 subject to any limitations and conditions imposed on the application
 26 of State tax credits pursuant to sections 54 through 67 of P.L.2020,
 27 c.156 (C.34:1B-322 through 34:1B-335) and any other terms and
 28 conditions that the director may prescribe; provided, however, that
 29 the holder of a tax credit certificate may transfer all or part of the
 30 tax credit amount, ¹['within the three successive tax periods
 31 immediately following the tax period in which the tax credit
 32 certificate is received by the developer] ²['at any time after the date
 33 of receipt of the tax credit certificate'], ²on or after the date of
 34 issuance of the tax credit transfer certificate, for use by the
 35 transferee in the tax period for which it was issued ¹['or within the
 36 three successive tax periods immediately following the tax period in
 37 which the tax credit transfer certificate is received by the transferee,
 38 and the transferee may carry forward all or part of the tax credit
 39 amount in any of the next five successive tax periods after the tax
 40 period for which it was used] , in the tax period in which it was
 41 issued, or in any ²of the next three² successive tax ²['period]
 42 periods. The tax certificate holder or transferee may first use the
 43 credit against tax liabilities in the tax period in which it was issued
 44 or in a succeeding tax period², as authorized in this subsection,
 45 without the need to amend the tax return for the tax period for
 46 which the credit was issued, subject to the ²['carry-forward
 47 provision in] provisions of² this section. A transferee may carry

1 forward an unused credit for use in any of the next five successive
2 tax periods, and the unused credit shall expire thereafter¹.

3 Notwithstanding any provision of this section to the contrary, the
4 amount of tax credits that may be claimed by the transferee in any
5 tax period shall not exceed the total tax credit amount divided by
6 the duration of the eligibility period in years.

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

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

- 13 (1) the name of the transferor;
14 (2) the name of the transferee;
15 (3) the value of the tax credit transfer certificate; and
16 (4) the consideration received by the transferor.

17 ¹[e. When a tax credit certificate is issued to a developer after
18 the tax period in which all or part of the tax credits may be used by
19 the developer or a holder of the credit transfer certificate, the
20 developer or transferee shall be allowed to use the tax credit for the
21 same tax period specified in the tax credit certificate, or within the
22 three successive tax periods immediately following the tax period in
23 which the certificate is received by the developer or transferee. In
24 this circumstance, the developer or transferee shall not be required
25 to amend its tax return for the tax period in which it applies the tax
26 credit or for a tax period preceding the tax period in which the tax
27 credit is applied.]¹

28 (cf: P.L.2023, c.98, s.8)

29

30 8. Section 65 of P.L.2020, c.156 (C.34:1B-333) is amended to
31 read as follows:

32 65. a. As used in this section, "transformative project" means a
33 redevelopment project: that has a project financing gap; that has a
34 total project cost of at least \$150,000,000; that ¹[, subject to the
35 provisions of subsection h. of this section,]¹ includes 200,000 or
36 more square feet of new or substantially renovated industrial,
37 commercial, or residential space for a project located in a
38 government-restricted municipality, that includes 250,000 or more
39 square feet of film studios, professional stages, television studios,
40 recording studios, screening rooms, or other infrastructure for film
41 production, that includes 300,000 or more square feet of new or
42 substantially renovated industrial, commercial, or residential space
43 for a project located in an enhanced area, or that includes 500,000
44 or more square feet of new or substantially renovated industrial,
45 commercial, or residential space for any other project; and, for a
46 commercial project, that is of special economic importance as
47 measured by the level of new jobs, new capital investment,

1 opportunities to leverage leadership in a high-priority targeted
 2 industry, or other state priorities as determined by the authority
 3 pursuant to rules and regulations promulgated to implement this
 4 section. Notwithstanding the provisions of subsection b. of section
 5 14 of P.L.2023, c.98 (C.34:1B-335.1) to the contrary, for
 6 applications submitted on and after the effective date of P.L.2023,
 7 c.98 (C.34:1B-335.1 et al.), if the redevelopment project is located
 8 entirely on land designated by the Department of Environmental
 9 Protection as a brownfield development area pursuant to section 7
 10 of P.L.2005, c.223 (C.58:10B-25.1), and the ²['total'] eligible²
 11 project cost of the redevelopment project includes at least
 12 \$15,000,000 in environmental remediation costs, the redevelopment
 13 project shall constitute a project of special economic importance. A
 14 transformative project may be completed in phases, which phases
 15 may be determined by the authority based on factors such as written
 16 architectural plans and specifications completed before or during
 17 the physical work, certificates of occupancy, or financial and
 18 operational plans. The criteria developed by the authority shall
 19 include, but shall not be limited to:

20 (1) the extent to which the proposed transformative project
 21 would create modern facilities that enhance the State's
 22 competitiveness in attracting targeted industries;

23 (2) (a) for a residential project, the construction of 700 or more
 24 new residential units; ²[or]²

25 (b) for a ²mixed-use² residential project containing ~~less~~ fewer
 26 than 700 new residential units ²[,] :

27 (i) ²the construction of 200 or more new residential units if the
 28 project is located in a government-restricted municipality, 300 or
 29 more ¹new¹ residential units if the project is located in an enhanced
 30 area, or 400 or more ¹new¹ residential units for all other mixed-use
 31 projects; ²[or] and

32 (ii) the construction of 30,000 square feet or more of
 33 commercial space, which commercial space may include retail
 34 space; and²

35 (c) ²[for a residential project ¹[containing] , not located in a
 36 government-restricted municipality or an enhanced area, that
 37 contains¹ ~~less~~ fewer than 700 new residential units, the
 38 construction of ~~[50,000]~~ 20,000 square feet or more of commercial
 39 space, which commercial space may include retail space; and]
 40 (Deleted by amendment, P.L. , c. (pending before the
 41 Legislature as this bill)²

42 (d) for a residential project, 20 percent of the new residential
 43 units shall be constructed for occupancy by low- and moderate-
 44 income households with affordability controls as adopted by the
 45 authority, in consultation with the agency, in accordance with
 46 paragraph (2) of subsection a. of section 56 of P.L.2020, c.156
 47 (C.34:1B-324), except that a residential project receiving a federal

1 historic rehabilitation tax credit pursuant to section 47 of the federal
2 Internal Revenue Code of 1986, 26 U.S.C. s.47, or a tax credit
3 pursuant to the "Historic Property Reinvestment Act," sections 2
4 through 8 of P.L.2020, c.156 (C.34:1B-270 through 34:1B-276),
5 shall be exempt from the affordability controls related to bedroom
6 distribution; and

7 (3) the extent to which the proposed project would leverage the
8 competitive economic development advantages of the State's mass
9 transit assets, higher education assets, and other economic
10 development assets in attracting or retaining both employers and
11 skilled workers generally or in targeted industries.

12 A "transformative project" shall not include a redevelopment
13 project at which more than 50 percent of the premises is occupied
14 by one or more businesses engaged in final point of sale retail.

15 b. (1) The authority may award incentive awards to
16 transformative projects in accordance with the provisions of
17 sections 55 through 67 of P.L.2020, c.156 (C.34:1B-323 through
18 34:1B-335).

19 (2) (a) For transformative projects completed in phases, the
20 developer shall enter into a transformative phase agreement with the
21 authority.

22 (b) As used in this subsection, "transformative phase agreement"
23 shall mean a sub-agreement of the incentive award agreement that
24 governs the timing, capital investment, and other applicable details
25 of the respective phase of a phased project.

26 (3) Notwithstanding the provisions of section 57 of P.L.2020,
27 c.156 (C.34:1B-325), or any other section of P.L.2020, c.156
28 (C.34:1B-269 et al.) to the contrary, a transformative project shall
29 be completed, and the developer shall be issued a certificate of
30 occupancy for the transformative project facilities by the applicable
31 enforcing agency, within five years of executing the incentive
32 award agreement, except that the authority may, in its discretion,
33 extend this deadline by up to one additional year. For
34 transformative projects completed in phases, the transformative
35 project shall be completed, and the developer shall be issued
36 certificates of occupancy for all phases of the transformative project
37 facilities by the applicable enforcing agency, within 10 years of
38 executing either the incentive award agreement or the first
39 transformative phase agreement corresponding to the transformative
40 project.

41 (4) Notwithstanding the provisions of sections 55 and 60 of
42 P.L.2020, c.156 (C.34:1B-323 and C.34:1B-328), or any other
43 section of P.L.2020, c.156 (C.34:1B-269 et al.) to the contrary, each
44 phase of a transformative project completed in phases shall have a
45 separate eligibility period. After completing each phase, the
46 developer shall submit a certification that the phase is completed.
47 If the authority approves the certification, the tax credit allowed to
48 the developer shall be increased by the tax credit amount

1 corresponding to that phase. Notwithstanding the different
2 eligibility periods for each phase, all conditions and requirements
3 applicable during an eligibility period pursuant to sections 55
4 through 67 of P.L.2020, c.156 (C.34:1B-323 through 34:1B-335)
5 shall apply to ¹the entire ²each phase of a ¹the entire ²
6 transformative project until the end of the eligibility period ¹for
7 the last ²of each completed ¹for the last ² phase.

8 (5) Notwithstanding the provisions of section 60 of P.L.2020,
9 c.156 (C.34:1B-328), or any other section of P.L.2020, c.156
10 (C.34:1B-269 et al.) to the contrary, for a transformative project
11 completed in phases, a review of the project financing gap shall be
12 performed at the certification of completion of each phase, and the
13 authority shall re-evaluate the developer's rate of return in the
14 seventh year and at the end of the eligibility period for the last
15 phase, provided that the authority may also re-evaluate the
16 developer's rate of return during the fifth year of any earlier phase.

17 (6) A transformative project receiving an incentive award
18 pursuant to this section, other than a project that includes 250,000
19 or more square feet of film studios, professional stages, television
20 studios, recording studios, screening rooms or other infrastructure
21 for film production, shall be located in an incentive area, a
22 distressed municipality, a government-restricted municipality, or an
23 enhanced area. A transformative project receiving an incentive
24 award pursuant to this section that includes 250,000 or more square
25 feet of film studios, professional stages, television studios,
26 recording studios, screening rooms or other infrastructure for film
27 production may be located anywhere in the State. The authority
28 shall not consider an application for a transformative project unless
29 the applicant submits with its application a letter evidencing support
30 for the transformative project from the governing body of the
31 municipality in which the transformative project is located.

32 c. The authority shall review the transformative project cost,
33 evaluate and validate the project financing gap estimated by the
34 developer, and conduct a State fiscal impact analysis to ensure that
35 the overall public assistance provided to the transformative project
36 will result in a net positive benefit to the State. In determining
37 whether a transformative project will result in a net positive benefit
38 to the State, the authority shall not consider the value of any taxes
39 exempted, abated, rebated, or retained under the "Five-Year
40 Exemption and Abatement Law," P.L.1991, c.441 (C.40A:21-1 et
41 seq.), the "Long Term Tax Exemption Law," P.L.1991, c.431
42 (C.40A:20-1 et al.), the "New Jersey Urban Enterprise Zones Act,"
43 P.L.1983, c.303 (C.52:27H-60 et seq.), or any other law that has the
44 effect of lowering or eliminating the developer's State or local tax
45 liability. The determination made pursuant to this subsection shall
46 be based on the potential tax liability of the developer without
47 regard for potential tax losses if the developer were to locate in
48 another state. The authority shall assess the cost of these reviews to

1 the applicant. A developer shall pay to the authority the full
2 amount of the direct costs of an analysis concerning the developer's
3 application for an incentive award that a third party retained by the
4 authority performs, if the authority deems such retention to be
5 necessary. The authority shall evaluate the net economic benefits
6 on a present value basis under which the requested tax credit
7 allocation amount is discounted to present value at the same
8 discount rate as the projected benefits from the implementation of
9 the proposed transformative project for which an award of tax
10 credits is being sought. Projects that are predominantly residential
11 ²or that qualify as special mission non-profit projects² shall be
12 excluded from the calculation of the net benefit test required
13 pursuant to this subsection.

14 d. In determining net benefits for any business or person
15 considering locating in a transformative project and applying to
16 receive from the authority any other economic development
17 incentive subsequent to the award of transformative project tax
18 credits pursuant to section 65 of P.L.2020, c.156 (C.34:1B-333), the
19 authority shall not credit the business or person with any benefit
20 that was previously credited to the transformative project pursuant
21 to section 65 of P.L.2020, c.156 (C.34:1B-333).

22 e. The authority shall administer the credits awarded pursuant
23 to this section in accordance with the provisions of sections 62 and
24 63 of P.L.2020, c.156 (C.34:1B-330 and C.34:1B-331).

25 f. Prior to allocating an incentive award to a developer, the
26 authority shall confirm with the Department of Labor and
27 Workforce Development, the Department of Environmental
28 Protection, and the Department of the Treasury that the developer is
29 in substantial good standing with the respective department, or the
30 developer has entered into an agreement with the respective
31 department that includes a practical corrective action plan, and the
32 developer shall certify that each contractor or subcontractor
33 performing work at the transformative project: (1) is registered as
34 required by "The Public Works Contractor Registration Act,"
35 P.L.1999, c.238 (C.34:11-56.48 et seq.); (2) has not been debarred
36 by the Department of Labor and Workforce Development from
37 engaging in or bidding on Public Works Contracts in the State; and
38 (3) possesses a tax clearance certificate issued by the Division of
39 Taxation in the Department of the Treasury. The authority may also
40 contract with an independent third party to perform a background
41 check on the developer.

42 g. Notwithstanding the limitation on incentive awards set forth
43 in subsection b. of section 61 and section 98 of P.L.2020, c.156
44 (C.34:1B-329 and C.34:1B-362) to the contrary, the authority may
45 allow a developer of a transformative project a tax credit in an
46 amount not to exceed the lesser of:

47 (1) (a) ²**[80]** (i) ²85² percent of the ¹**[total]** eligible¹ project cost
48 for a transformative project that is located in a government-

1 restricted municipality ², which municipality qualified as a
 2 government-restricted municipality prior to the effective date of
 3 P.L. , c. (C.) (pending before the Legislature as this bill)² ;
 4 ²or
 5 (ii) 80 percent of the eligible project cost for a transformative
 6 project that is located in a government-restricted municipality,
 7 which municipality did not qualify as a government-restricted
 8 municipality prior to the effective date of P.L. , c. (C.)
 9 (pending before the Legislature as this bill);²
 10 (b) 60 percent of the ¹['total'] eligible¹ project cost for a
 11 residential transformative project that receives a four-percent
 12 allocation from the federal Low Income Housing Tax Credit
 13 Program administered by the agency or a transformative project that
 14 is located in a qualified incentive tract, enhanced area, or a
 15 municipality with a Municipal Revitalization Index score of at least
 16 50; or
 17 (c) 50 percent of the ¹['total'] eligible¹ project cost for any other
 18 transformative project;
 19 (2) the total value of the project financing gap; or
 20 (3) \$400,000,000 except that for a transformative project that is
 21 developed in phases, the \$400,000,000 limitation on incentive
 22 awards set forth in this paragraph shall apply to the total aggregate
 23 award for all phases of the transformative project.
 24 ²[h. Notwithstanding the limitations set forth in subsection g. of
 25 this section, a developer of a transformative project shall be eligible
 26 for each of the following enhancements to the total tax credit award
 27 ¹, individually or in combination, subject to the demonstration of a
 28 financing gap and need for support¹ :
 29 (1) for a transformative project that includes the redevelopment
 30 of a stranded asset, an enhancement of up to 10 percent of the
 31 project cost of the transformative project;
 32 (2) for a residential transformative project that meets the three-
 33 bedroom distribution requirement under the Uniform Housing
 34 Affordability Controls, an enhancement of up to five percent of the
 35 project cost of the residential transformative project; and
 36 (3) for a transformative project that meets local first source
 37 hiring requirements for residents in the municipality or county in
 38 which the project is located and in surrounding municipalities, as
 39 appropriate, an enhancement of up to three percent of the project
 40 cost of the transformative project.]²
 41 ¹[i. (1) The parking component of a transformative project shall
 42 be included in the calculation of the total square footage of the
 43 project, provided that the parking component shall be constructed in
 44 conformity with local zoning, planning, or similar requirements, or
 45 up to the amount required by the Residential Site Improvement
 46 Standards, regardless of whether the Residential Site Improvement
 47 Standards apply to the parking component. Any portion of the

parking component that exceeds the local parking requirements or the Residential Site Improvement Standards shall not be included in the calculation of the total square footage of the project.

(2) Notwithstanding any provision of paragraph (1) of this subsection to the contrary, the entire parking component of a project located in a government restricted municipality shall be included in the calculation of the total square footage of the project.¹

(cf: P.L.2023, c.98, s.9)

²**9.** Section 14 of P.L.2023, c.98 (C.34:1B-335.1) is amended to read as follows:

14. a. (1) Except as otherwise provided in subsection b. of this section, all program applications **completed after** submitted to ¹or approved by¹ the authority ¹**on or**¹ after ¹**the date six months prior to the effective date of** **P.L.2023, c.98 (C.34:1B-335.1 et al.)** **P.L. , c. (C.) (pending before the Legislature as this bill)** **January 1, 2023**¹ shall be subject to the "New Jersey Aspire Program Act," sections 54 through 67 of P.L.2020, c.156 (C.34:1B-322 through 34:1B-335), as amended as supplemented by P.L.2023, c.98 (C.34:1B-335.1 et al.), and as further amended and supplemented by P.L. , c. (C.) (pending before the Legislature as this bill), including the rules and regulations adopted pursuant to subsection b. of section 67 of P.L.2020, c.156 (C.34:1B-335), except that applications submitted to the authority prior to the effective date of P.L. , c. (C.) (pending before the Legislature as this bill) shall be subject to the rules and regulations concerning application fees that were in effect immediately before the effective date of P.L. , c. (C.) (pending before the Legislature as this bill).

(2) **Except as otherwise provided in subsection b. of this section, all program applications completed on or before the effective date of P.L.2023, c.98 (C.34:1B-335.1 et al.) shall be subject to the provisions of the "New Jersey Aspire Program Act," sections 54 through 67 of P.L.2020, c.156 (C.34:1B-322 through 34:1B-335), as such provisions remained in effect immediately before the effective date of P.L.2023, c.98 (C.34:1B-335.1 et al.), including the rules and regulations adopted pursuant to subsection a. of section 67 of P.L.2020, c.156 (C.34:1B-335).** **(Deleted by amendment, P.L. , c. (C.) (pending before the Legislature as this bill))**

b. Notwithstanding any provision of P.L.2020, c.156 (C.34:1B-269 et al.) to the contrary, if a completed application for a residential project is submitted to the authority on or before the 121st calendar day next following effective date of P.L.2023, c.98 (C.34:1B-335.1 et al.), the applicant for the residential project has received all applicable approvals pursuant to the "Municipal Land Use Law," P.L.1975, c.291 (C.40:55D-1 et seq.) on or before the 121st calendar day next following the effective date of P.L.2023, c.98 (C.34:1B-335.1 et al.),

1 and the applicant submits written notice to the authority, before the
 2 authority's approval or denial of the application, electing for the
 3 application to be governed under the provisions of this subsection,
 4 then the residential units constructed for occupancy by low- and
 5 moderate-income households within the residential project shall not be
 6 subject to the affordability controls adopted by the authority, in
 7 consultation with the agency, pursuant to paragraph (2) of subsection
 8 a. of section 56 of P.L.2020, c.156 (C.34:1B-324) and subsection b. of
 9 section 67 of P.L.2020, c.156 (C.34:1B-335). In this event, the
 10 application for the residential project shall be reviewed, approved, and
 11 administered in accordance with the provisions of the "New Jersey
 12 Aspire Program Act," sections 54 through 67 of P.L.2020, c.156
 13 (C.34:1B-322 through 34:1B-335), as such provisions remained in
 14 effect immediately before the effective date of P.L.2023, c.98
 15 (C.34:1B-335.1 et al.), including the rules and regulations adopted
 16 pursuant to subsection a. of section 67 of P.L.2020, c.156 (C.34:1B-
 17 335), except that the application shall be subject to:

18 (1) the determination of a reasonable and appropriate return on
 19 investment, as defined in section 55 of P.L.2020, c.156 (C.34:1B-323),
 20 as amended by P.L.2023, c.98 (C.34:1B-335.1 et al.); ¹**and**¹

21 (2) the limitation on tax credit awards set forth in subsection b. of
 22 section 61 of P.L.2020, c.156 (C.34:1B-329) and subsection g. of
 23 section 65 of P.L.2020, c.156 (C.34:1B-333), respectively, as amended
 24 by P.L.2023, c.98 (C.34:1B-335.1 et al.) ¹; and

25 (3) no proration of the tax credit for any year within the eligibility
 26 period¹.

27 (cf: P.L.2023, c.98, s.14)**】**²

28
 29 ²**【10. (New section) The authority shall promulgate a schedule**
 30 **of application and other fees imposed under the program, which**
 31 **fees shall be limited to the coverage of actual direct costs of**
 32 **administering the program, the coverage of reasonable indirect costs**
 33 **of administering the program, and the maintenance of reasonable**
 34 **reserves for administering the program. Any application fee or**
 35 **other fee charged by the authority shall be proportional to the tax**
 36 **credit amount awarded for a redevelopment project under the**
 37 **program.****】**²

38
 39 ²**【11. (New section) a. The authority shall establish, as part of the**
 40 **program, a “Redevelopment Project Bridge Financing Program” to**
 41 **facilitate the ability of a developer to secure financing for a**
 42 **redevelopment project until such time as tax credits are issued**
 43 **pursuant to the “New Jersey Aspire Program Act,” sections 54 through**
 44 **67 of P.L.2020, c.156 (C.34:1B-322 through C.34:1B-335), as**
 45 **amended as supplemented. Through the program, the authority shall**
 46 **provide full or partial loans or loan guarantees, at the authority’s**
 47 **discretion, to the developers of redevelopment projects for the purpose**

1 of ensuring the completion of the redevelopment projects. As
2 determined by the authority, the Redevelopment Project Bridge
3 Financing Program may consist of:

4 (1) the issuance of redevelopment project bridge financing loans,
5 subject to the provisions of subsection b. of this section; and
6 (2) the provision of redevelopment project loan guarantees, subject
7 to the provisions of subsection c. of this section.

8 b. (1) The authority may issue a redevelopment project bridge
9 financing loan to the developer of an approved redevelopment project,
10 upon application by the developer, provided that the authority
11 determines that:

12 (a) a project financing gap continues to exist after the award of tax
13 credits to the developer of the redevelopment project; and
14 (b) the redevelopment project bridge financing loan will enable the
15 completion of the redevelopment project.

16 (2) A developer who seeks a redevelopment project bridge
17 financing loan shall submit an application to the authority, which
18 application shall include:

19 (a) a proposed loan principle and interest amount;
20 (b) a proposed repayment schedule;
21 (c) an accounting of the remaining project financing gap; and
22 (d) any other information as the authority shall require.

23 (3) The authority may issue the redevelopment project bridge
24 financing loan in such amount as it deems appropriate, subject to such
25 terms, including, but not limited to, interest rates, collateral, and
26 repayment or release schedules, as the authority shall deem reasonable
27 and appropriate, except that each worker employed to perform
28 construction work on the redevelopment project shall be paid not less
29 than the prevailing wage rate for the worker's craft or trade, as
30 determined by the Commissioner of Labor and Workforce
31 Development pursuant to P.L.1963, c.150 (C.34:11-56.25 et seq.) and
32 P.L.2005, c.379 (C.34:11-56.58 et seq.).

33 c. (1) The authority may provide a loan guarantee to the
34 developer of an approved redevelopment project, upon application by
35 the developer, provided that the authority determines that:

36 (a) a project financing gap continues to exist after the initial award
37 of tax credits to the developer of the redevelopment project; and
38 (b) the loan guarantee will enable the developer to access the
39 financing needed to complete the redevelopment project.

40 (2) A developer who seeks a loan guarantee shall submit an
41 application to the authority, which application shall include:

42 (a) a proposed loan guarantee amount and terms;
43 (b) an accounting of the remaining project financing gap; and
44 (c) any other information as the authority shall require.

45 (3) The authority may issue the loan guarantees in such amounts as
46 it deems appropriate, subject to such terms as the authority deems
47 reasonable and appropriate, except that each worker employed to
48 perform construction work on the redevelopment project shall be paid

1 not less than the prevailing wage rate for the worker's craft or trade, as
2 determined by the Commissioner of Labor and Workforce
3 Development pursuant to P.L.1963, c.150 (C.34:11-56.25 et seq.) and
4 P.L.2005, c.379 (C.34:11-56.58 et seq.).

5 d. (1) The authority shall establish a Redevelopment Project
6 Bridge Financing Revolving Fund from which the authority shall
7 provide all loans issued pursuant to subsection b. of this section and
8 provide all loan guarantees issued pursuant to subsection c. of this
9 section. All monies received from payments of the principle and
10 interest for loans issued pursuant to this section shall be deposited into
11 the Redevelopment Project Bridge Financing Revolving Fund, which
12 fund shall remain until the authority determines that there no longer
13 remains a need for bridge financing or until December 31, 2028,
14 whichever occurs first. After the fund is no longer needed, or upon its
15 expiration, all monies in the fund shall be deposited into the General
16 Fund.

17 (2) Within 90 days after the effective date of P.L. , c. (C.)
18 (pending before the Legislature as this bill), the authority shall submit
19 a recommendation to the Governor and to the Legislature, pursuant to
20 section 2 of P.L.1991, c.164 (C.52:14-19.1), for the amount of
21 appropriations needed to fund the Redevelopment Project Bridge
22 Financing Program.】²

23

24 ²【12. (New section) a. To facilitate the efficient monetization of
25 tax credits awarded under the program, the Department of the Treasury
26 shall ¹【, at such times as the department deems necessary,】¹ redeem
27 the tax credits ¹【awarded to】 surrendered for redemption by¹ a
28 developer for a redevelopment project at a discount from face value.
29 ¹【The tax credit redemptions shall be made at such discounts as the
30 State Treasurer deems appropriate, except that the discount shall not
31 exceed 10 percent of the face value of the tax credits.】¹

32 b. ¹To effectuate a redemption authorized pursuant to this section,
33 in lieu of applying any tax credit certificate or tax credit transfer
34 certificate against tax liability otherwise due pursuant to section 5 of
35 P.L.1945, c.162 (C.54:10A-5), sections 2 and 3 of P.L.1945, c.132
36 (C.54:18A-2 and C.54:18A-3), section 1 of P.L.1950, c.231 (C.17:32-
37 15), or N.J.S.17B:23-5, a taxpayer may surrender a tax credit
38 certificate or tax credit transfer certificate for redemption to the
39 director for a cash payment equal to 90 percent of the amount of tax
40 credits evidenced by the certificate, provided that the issuance date of
41 the tax credit certificate or tax credit transfer certificate to the taxpayer
42 surrendering such certificate occurred at least one year prior to the date
43 of surrender and that the certificate has not been sold or assigned
44 previously.

45 c.¹ The tax credit redemptions shall be paid in the same manner as
46 refunds of tax payable under section 5 of P.L.1945, c.162 (C.54:10A-
47 5), sections 2 and 3 of P.L.1945, c.132 (C.54:18A-2 and C.54:18A-3),

section 1 of P.L.1950, c.231 (C.17:32-15), or N.J.S.17B:23-5, notwithstanding that such tax is not applicable to the person or entity seeking the redemption. ¹【The State Treasurer shall allow the proceeds of the tax credit redemption to be issued over one or more tax periods, but not to exceed the applicable eligibility period.】¹²

²【13.】 9.² Section 89 of P.L.2020, c.156 (C.52:18A-263) is amended to read as follows:

89. a. The Director of the Division of Taxation in the Department of the Treasury may purchase unused tax credits awarded under a program listed in subsection b. of this section, including tax credit transfer certificates issued by the director in lieu of a tax credit allowed under such programs. The director shall not pay consideration in excess of 75 percent of the credit amount to be purchased, except for a credit awarded under:

(1) the "Emerge Program Act," sections 68 through 81 of P.L.2020, c.156 (C.34:1B-336 et al.), which shall be subject to the provisions of paragraph (4) of subsection d. of section 77 of P.L.2020, c.156 (C.34:1B-345); ²【or】²

(2) the "New Jersey Aspire Program Act," sections 54 through 67 ²of P.L.2020, c.156² (¹【C.34:1B-222】 C.34:1B-322¹ through C.34:1B-335), as amended and supplemented, ²for² which ²【shall be subject to the provisions of section 12 of P.L. , c. (C.) (pending before the Legislature as this bill)】 the director shall pay an amount equal to 85 percent of the credit amount, provided that the issuance date of the tax credit certificate or tax credit transfer certificate to the developer or the holder of such certificate occurred at least one year prior to the date of application to the director, and further provided that, if the application to the director is submitted after the sixth year of the eligibility period, the amount in excess of the reasonable and appropriate rate of return on investment that the developer is required to pay pursuant to subsection c. of section 60 of P.L.2020, c.156 (C.34:1B-328) shall increase to 50 percent; or

(3) the "Cultural Arts Incentives Program Act," P.L.2023, c.197 (C.34:1B-383 et al.), for which the director shall pay an amount equal to 85 percent of the credit amount, provided that the issuance date of the tax credit certificate or tax credit transfer certificate to the developer or the holder of such certificate occurred at least one year prior to the date of application to the director².

b. The Director of the Division of Taxation in the Department of the Treasury may purchase tax credits awarded under the following:

(1) the "Historic Property Reinvestment Act," sections ¹【1】 2¹ through 8 of P.L.2020, c.156 (¹【C.34:1B-269】 C.34:1B-270¹ through C.34:1B-276);

- 1 (2) the "Brownfield Redevelopment Incentive Program Act,"
- 2 sections 9 through 19 of P.L.2020, c.156 (C.34:1B-277 through
- 3 C.34:1B-287);
- 4 (3) the "New Jersey Innovation Evergreen Act," sections 20
- 5 through 34 of P.L.2020, c.156 (C.34:1B-288 through C.34:1B-302);
- 6 (4) the "Food Desert Relief Act," sections 35 through 42 of
- 7 P.L.2020, c.156 (C.34:1B-303 through C.34:1B-310);
- 8 (5) the "New Jersey Community-Anchored Development Act,"
- 9 sections 43 through 53 of P.L.2020, c.156 (C.34:1B-311 through
- 10 C.34:1B-321);
- 11 (6) the "New Jersey Aspire Program Act," sections 54 through
- 12 67 of P.L.2020, c.156 (C.34:1B-322 through C.34:1B-335);
- 13 (7) the " Emerge Program Act," sections 68 through 81 of
- 14 P.L.2020, c.156 (C.34:1B-336 et al.);
- 15 (8) the Grow New Jersey Assistance Program established
- 16 pursuant to section 3 of P.L.2011, c.149 (C.34:1B-244);
- 17 (9) section 6 of P.L.2010, c.57 (C.34:1B-209.4);
- 18 (10) the State Economic Redevelopment and Growth Grant
- 19 program established pursuant to section 5 of P.L.2009, c.90
- 20 (C.52:27D-489e);
- 21 (11) section 1 of P.L.2018, c.56 (C.54:10A-5.39b); ²**[and]**²
- 22 (12) section 2 of P.L.2018, c.56 (C.54A:4-12b) ²; and
- 23 (13) the "Cultural Arts Incentives Program Act," P.L.2023,
- 24 c.197 (C.34:1B-383 et al.)².
- 25 (cf: P.L.2020, c.156, s.89)
- 26

27 ²**[**14. Section 4 of P.L.1945, c.162 (C.54:10A-4) is amended to
 28 read as follows:

29 4. For the purposes of this act, unless the context requires a
 30 different meaning:

31 (a) "Commissioner" or "director" shall mean the Director of the
 32 Division of Taxation of the State Department of the Treasury.

33 (b) "Allocation factor" shall mean the proportionate part of a
 34 taxpayer's net worth or entire net income used to determine a measure
 35 of its tax under this act.

36 (c) "Corporation" shall mean any corporation, joint-stock company
 37 or association and any business conducted by a trustee or trustees
 38 wherein interest or ownership is evidenced by a certificate of interest
 39 or ownership or similar written instrument, any other entity classified
 40 as a corporation for federal income tax purposes, and any state or
 41 federally chartered building and loan association or savings and loan
 42 association.

43 (d) "Net worth" shall mean the aggregate of the values disclosed
 44 by the books of the corporation for (1) issued and outstanding capital
 45 stock, (2) paid-in or capital surplus, (3) earned surplus and undivided
 46 profits, and (4) surplus reserves which can reasonably be expected to
 47 accrue to holders or owners of equitable shares, not including
 48 reasonable valuation reserves, such as reserves for depreciation or

1 obsolescence or depletion. Notwithstanding the foregoing, net worth
2 shall not include any deduction for the amount of the excess
3 depreciation described in paragraph (2) (F) of subsection (k) of this
4 section. The foregoing aggregate of values shall be reduced by 50% of
5 the amount disclosed by the books of the corporation for investment in
6 the capital stock of one or more subsidiaries, which investment is
7 defined as ownership (1) of at least 80% of the total combined voting
8 power of all classes of stock of the subsidiary entitled to vote and (2)
9 of at least 80% of the total number of shares of all other classes of
10 stock except nonvoting stock which is limited and preferred as to
11 dividends. In the case of investment in an entity organized under the
12 laws of a foreign country, the foregoing requisite degree of ownership
13 shall effect a like reduction of such investment from the net worth of
14 the taxpayer, if the foreign entity is considered a corporation for any
15 purpose under the United States federal income tax laws, such as (but
16 not by way of sole examples) for the purpose of supplying deemed
17 paid foreign tax credits or for the purpose of status as a controlled
18 foreign corporation. In calculating the net worth of a taxpayer entitled
19 to reduction for investment in subsidiaries, the amount of liabilities of
20 the taxpayer shall be reduced by such proportion of the liabilities as
21 corresponds to the ratio which the excluded portion of the subsidiary
22 values bears to the total assets of the taxpayer.

23 In the case of banking corporations which have international
24 banking facilities as defined in subsection (n), the foregoing aggregate
25 of values shall also be reduced by retained earnings of the international
26 banking facility. Retained earnings means the earnings accumulated
27 over the life of such facility and shall not include the distributive share
28 of dividends paid and federal income taxes paid or payable during the
29 tax year.

30 If in the opinion of the director, the corporation's books do not
31 disclose fair valuations the director may make a reasonable
32 determination of the net worth which, in his opinion, would reflect the
33 fair value of the assets, exclusive of subsidiary investments as defined
34 aforesaid, carried on the books of the corporation, in accordance with
35 sound accounting principles, and such determination shall be used as
36 net worth for the purpose of this act.

37 (e) (Deleted by amendment, P.L.1998, c.114.)

38 (f) "Investment company" shall mean any corporation whose
39 business during the period covered by its report consisted, to the extent
40 of at least 90 percent thereof of holding, investing and reinvesting in
41 stocks, bonds, notes, mortgages, debentures, patents, patent rights and
42 other securities for its own account, but this shall not include any
43 corporation which: (1) is a merchant or a dealer of stocks, bonds and
44 other securities, regularly engaged in buying the same and selling the
45 same to customers; or (2) had less than 90 percent of its average gross
46 assets in New Jersey, at cost, invested in stocks, bonds, debentures,
47 mortgages, notes, patents, patent rights or other securities or consisting
48 of cash on deposit during the period covered by its report; or (3) is a

1 banking corporation, a savings institution, or a financial business
2 corporation as defined in the Corporation Business Tax Act.

3 (g) "Regulated investment company" shall mean any corporation
4 which for a period covered by its report, is registered and regulated
5 under the Investment Company Act of 1940 (¹54 Stat. 789] 15
6 U.S.C. ss.80a-1 et seq.¹), as amended.

7 (h) "Taxpayer" shall mean any corporation, any combined group
8 filing a mandatory or elective New Jersey combined return, and any
9 partnership required, or consenting, to report or to pay taxes, interest
10 or penalties under this act. "Taxpayer" shall not include a partnership
11 that is listed on a United States national stock exchange.

12 (i) "Fiscal year" shall mean an accounting period ending on any
13 day other than the last day of December on the basis of which the
14 taxpayer is required to report for federal income tax purposes.

15 (j) Except as herein provided, "privilege period" shall mean the
16 calendar or fiscal accounting period for which a tax is payable under
17 this act.

18 (k) "Entire net income" shall mean total net income from all
19 sources, whether within or without the United States, and shall include
20 the gain derived from the employment of capital or labor, or from both
21 combined, as well as profit gained through a sale or conversion of
22 capital assets.

23 For the purpose of this act, the amount of a taxpayer's entire net
24 income shall be deemed prima facie to be equal in amount to the
25 taxable income, before net operating loss deduction and special
26 deductions, which the taxpayer is required to report, or, if the taxpayer
27 is classified as a partnership for federal tax purposes, would otherwise
28 be required to report, to the United States Treasury Department for the
29 purpose of computing its federal income tax, provided however, that in
30 the determination of such entire net income,

31 (1) Entire net income shall exclude for the periods set forth in
32 paragraph (2)(F)(i) of this subsection, any amount, except with respect
33 to qualified mass commuting vehicles as described in section
34 168(f)(8)(D)(v) of the Internal Revenue Code as in effect immediately
35 prior to January 1, 1984, which is included in a taxpayer's federal
36 taxable income solely as a result of an election made pursuant to the
37 provisions of paragraph (8) of that section.

38 (2) Entire net income shall be determined without the exclusion,
39 deduction or credit of:

40 (A) The amount of any exemption or credit allowed in any law of
41 the United States imposing any tax on or measured by the income of
42 corporations.

43 (B) Any part of any income from dividends or interest on any kind
44 of stock, securities or indebtedness, except as provided in paragraph
45 (5) of subsection (k) of this section.

46 (C) Taxes paid or accrued to the United States, a possession or
47 territory of the United States, a state, a political subdivision thereof, or
48 the District of Columbia, or to any foreign country, state, province,

1 territory or subdivision thereof, on or measured by profits or income,
2 or business presence or business activity, or the tax imposed by this
3 act, or any tax paid or accrued with respect to subsidiary dividends
4 excluded from entire net income as provided in paragraph (5) of
5 subsection (k) of this section.

6 (D) (Deleted by amendment, P.L.1985, c.143.)

7 (E) (Deleted by amendment, P.L.1995, c.418.)

8 (F) (i) The amount by which depreciation reported to the United
9 States Treasury Department for property placed in service on and after
10 January 1, 1981, but prior to taxpayer fiscal or calendar accounting
11 years beginning on and after the effective date of P.L.1993, c.172, for
12 purposes of computing federal taxable income in accordance with
13 section 168 of the Internal Revenue Code in effect after December 31,
14 1980, exceeds the amount of depreciation determined in accordance
15 with the Internal Revenue Code provisions in effect prior to January 1,
16 1981, but only with respect to a taxpayer's accounting period ending
17 after December 31, 1981; provided, however, that where a taxpayer's
18 accounting period begins in 1981 and ends in 1982, no modification
19 shall be required with respect to this paragraph (F) for the report filed
20 for such period with respect to property placed in service during that
21 part of the accounting period which occurs in 1981. The provisions of
22 this subparagraph shall not apply to assets placed in service prior to
23 January 1, 1998 of a gas, gas and electric, and electric public utility
24 that was subject to the provisions of P.L.1940, c.5 (C.54:30A-49 et
25 seq.) prior to 1998.

26 (ii) For the periods set forth in subparagraph (F)(i) of paragraph (2)
27 of this subsection, any amount, except with respect to qualified mass
28 commuting vehicles as described in section 168(f)(8)(D)(v) of the
29 Internal Revenue Code as in effect immediately prior to January 1,
30 1984, which the taxpayer claimed as a deduction in computing federal
31 income tax pursuant to a qualified lease agreement under paragraph (8)
32 of that section.

33 The director shall promulgate rules and regulations necessary to
34 carry out the provisions of this section, which rules shall provide,
35 among others, the manner in which the remaining life of property shall
36 be reported.

37 (G)(i) The amount of any civil, civil administrative, or criminal
38 penalty or fine, including a penalty or fine under an administrative
39 consent order, assessed and collected for a violation of a State or
40 federal environmental law, an administrative consent order, or an
41 environmental ordinance or resolution of a local governmental entity,
42 and any interest earned on the penalty or fine, and any economic
43 benefits having accrued to the violator as a result of a violation, which
44 benefits are assessed and recovered in a civil, civil administrative, or
45 criminal action, or pursuant to an administrative consent order. The
46 provisions of this paragraph shall not apply to a penalty or fine
47 assessed or collected for a violation of a State or federal environmental
48 law, or local environmental ordinance or resolution, if the penalty or

1 fine was for a violation that resulted from fire, riot, sabotage, flood,
2 storm event, natural cause, or other act of God beyond the reasonable
3 control of the violator, or caused by an act or omission of a person
4 who was outside the reasonable control of the violator.

5 (ii) The amount of treble damages paid to the Department of
6 Environmental Protection pursuant to subsection a. of section 7 of
7 P.L.1976, c.141 (C.58:10-23.11f), for costs incurred by the department
8 in removing, or arranging for the removal of, an unauthorized
9 discharge upon failure of the discharger to comply with a directive
10 from the department to remove, or arrange for the removal of, the
11 discharge.

12 (H) The amount of any sales and use tax paid by a utility vendor
13 pursuant to section 71 of P.L.1997, c.162.

14 (I) With respect to privilege periods ending before July 31, 2023,
15 interest paid, accrued or incurred for the privilege period to a related
16 member, as defined in section 5 of P.L.2002, c.40 (C.54:10A-4.4),
17 except that a deduction shall be permitted to the extent that the
18 taxpayer establishes by clear and convincing evidence, as determined
19 by the director, that: (i) a principal purpose of the transaction giving
20 rise to the payment of the interest was not to avoid taxes otherwise due
21 under Title 54 of the Revised Statutes or Title 54A of the New Jersey
22 Statutes, (ii) the interest is paid pursuant to arm's length contracts at an
23 arm's length rate of interest, and (iii)(aa) the related member was
24 subject to a tax on its net income or receipts in this State or another
25 state or possession of the United States or in a foreign nation, (bb) a
26 measure of the tax includes the interest received from the related
27 member, and (cc) the rate of tax applied to the interest received by the
28 related member is equal to or greater than a rate three percentage
29 points less than the rate of tax applied to taxable interest by this State
30 pursuant to section 5 of P.L.1945, c.162 (C.54:10A-5).

31 With respect to privilege periods ending before July 31, 2023, a
32 deduction shall also be permitted if the taxpayer establishes by clear
33 and convincing evidence, as determined by the director, that the
34 disallowance of a deduction is unreasonable, or the taxpayer and the
35 director agree in writing to the application or use of an alternative
36 method of apportionment under section 8 of P.L.1945, c.162
37 (C.54:10A-8); nothing in this subsection shall be construed to limit or
38 negate the director's authority to otherwise enter into agreements and
39 compromises otherwise allowed by law.

40 With respect to privilege periods ending before July 31, 2023, a
41 deduction shall also be permitted to the extent that the taxpayer
42 establishes by a preponderance of the evidence, as determined by the
43 director, that the interest is directly or indirectly paid, accrued or
44 incurred to (i) a related member in a foreign nation which has in force
45 a comprehensive income tax treaty with the United States and the
46 related member (aa) was subject to tax in the foreign nation on a tax
47 base that included the payment paid, accrued, or incurred; and (bb)
48 under which the related member's income received from the

1 transaction was taxed at an effective tax rate equal to or greater than a
2 rate of three percentage points less than the rate of tax applied to
3 taxable interest by the State of New Jersey pursuant to section 5 of
4 P.L.1945, c.162 (C.54:10A-5), provided however that the taxpayer
5 shall disclose on its return for the privilege period the name of the
6 related member, the amount of the interest, the relevant foreign nation,
7 and such other information as the director may prescribe or (ii) to an
8 independent lender and the taxpayer guarantees the debt on which the
9 interest is required. The adjustments required by this subparagraph
10 shall not apply to transactions between related members included in a
11 combined group reported on a New Jersey combined return.

12 (J) (i) Amounts deducted for federal tax purposes pursuant to
13 section 199 of the federal Internal Revenue Code of 1986, 26 U.S.C.
14 s.199, except that this exclusion shall not apply to amounts deducted
15 pursuant to that section that are exclusively based upon domestic
16 production gross receipts of the taxpayer which are derived only from
17 any lease, rental, license, sale, exchange, or other disposition of
18 qualifying production property which the taxpayer demonstrates to the
19 satisfaction of the director was manufactured or produced by the
20 taxpayer in whole or in significant part within the United States but not
21 qualified production property that was grown or extracted by the
22 taxpayer. "Manufactured or produced" as used in this paragraph shall
23 be limited to performance of an operation or series of operations the
24 object of which is to place items of tangible personal property in a
25 form, composition, or character different from that in which they were
26 acquired. The change in form, composition, or character shall be a
27 substantial change, and result in a transformation of property into a
28 different or substantially more usable product.

29 (ii) For privilege periods beginning after December 31, 2017,
30 notwithstanding the provisions of P.L.1945, c.162 (C.54:10A-1 et seq.)
31 or any other law to the contrary, for the purposes of determining the
32 amount of income pursuant to P.L.1945, c.162 (C.54:10A-1 et seq.)
33 that is net of expenses, no amounts shall be taken as a deduction
34 pursuant to section 199A of the Internal Revenue Code (26 U.S.C.
35 s.199A).

36 (K)(i) For privilege periods beginning after December 31, 2017
37 and ending before July 31, 2022, the interest deduction limitation in
38 subsection (j) of section 163 of the Internal Revenue Code (26 U.S.C.
39 s.163), shall apply on a pro-rata basis to interest paid to both related
40 and unrelated parties, regardless of whether the related parties are
41 subject to the add-back provision of either subparagraph (I) of
42 paragraph (2) of this subsection or in section 5 of P.L.2002, c.40
43 (C.54:10A-4.4).

44 (ii) For privilege periods beginning after December 31, 2017 and
45 ending on and after July 31, 2022, the interest deduction limitation in
46 subsection (j) of section 163 of the Internal Revenue Code (26 U.S.C.
47 s.163), shall apply to a combined group as though the combined group
48 filed a federal consolidated return; provided, however, for the purposes

1 of applying the limitation in subsection (j) of section 163 of the
2 Internal Revenue Code (26 U.S.C. s.163), with regard to affiliates that
3 were members of the federal consolidated return but were not
4 members of the combined group included on the New Jersey combined
5 return, the combined group and the affiliates will also be treated as
6 having filed one federal consolidated return.

7 (3) The director may, whenever necessary to properly reflect the
8 entire net income of any taxpayer, determine the year or period in
9 which any item of income or deduction shall be included, without
10 being limited to the method of accounting employed by the taxpayer.

11 (4) There shall be allowed as a deduction from entire net income
12 of a banking corporation, to the extent not deductible in determining
13 federal taxable income, the eligible net income of an international
14 banking facility determined as follows:

15 (A) The eligible net income of an international banking facility
16 shall be the amount remaining after subtracting from the eligible gross
17 income the applicable expenses;

18 (B) Eligible gross income shall be the gross income derived by an
19 international banking facility, which shall include, but not be limited
20 to, gross income derived from:

21 (i) Making, arranging for, placing or carrying loans to foreign
22 persons, provided, however, that in the case of a foreign person which
23 is an individual, or which is a foreign branch of a domestic corporation
24 (other than a bank), or which is a foreign corporation or foreign
25 partnership which is controlled by one or more domestic corporations
26 (other than banks), domestic partnerships or resident individuals, all
27 the proceeds of the loan are for use outside of the United States;

28 (ii) Making or placing deposits with foreign persons which are
29 banks or foreign branches of banks (including foreign subsidiaries) or
30 foreign branches of the taxpayers or with other international banking
31 facilities;

32 (iii) Entering into foreign exchange trading or hedging transactions
33 related to any of the transactions described in this paragraph; or

34 (iv) Such other activities as an international banking facility may,
35 from time to time, be authorized to engage in;

36 (C) Applicable expenses shall be any expense or other deductions
37 attributable, directly or indirectly, to the eligible gross income
38 described in subparagraph (B) of this paragraph.

39 (5) (A) (i) Entire net income shall exclude 100% of dividends
40 which were included in computing such taxable income for federal
41 income tax purposes, paid to the taxpayer by one or more subsidiaries
42 owned by the taxpayer to the extent of the 80% or more ownership of
43 investment described in subsection (d) of this section for privilege
44 periods beginning on or before December 31, 2016.

45 (ii) For privilege periods beginning after December 31, 2016 and
46 before January 1, 2019, entire net income shall exclude 95% of
47 dividends which were included in computing such taxable income for
48 federal income tax purposes, paid or deemed paid, to the taxpayer by

1 one or more subsidiaries owned by the taxpayer to the extent of the
2 80% or more ownership of investment described in subsection (d) of
3 this section. For the purposes of calculating the tax liability owed for
4 the paid or deemed paid dividends included in entire net income by
5 this subsubparagraph (ii), the taxpayer shall use either their three-year
6 average allocation factor for the taxpayer's 2014 through 2016 tax
7 years reported on the taxpayer's tax returns or 3.5 percent, whichever
8 is lower.

9 (iii) For privilege periods beginning on and after January 1, 2019
10 and ending before July 31, 2023, entire net income shall exclude 95%
11 of dividends which were included in computing such taxable income
12 for federal income tax purposes, paid or deemed paid to the taxpayer
13 by one or more subsidiaries owned by the taxpayer to the extent of the
14 80% or more ownership of investment described in subsection (d) of
15 this section.

16 (iv) For privilege periods ending on and after July 31, 2023, entire
17 net income shall exclude 100 percent of dividends and deemed
18 dividends that were included in computing such taxable income for
19 federal income tax purposes, paid or deemed paid to the taxpayer by
20 one or more subsidiaries owned by the taxpayer to the extent of the 80
21 percent or more ownership of investment described in subsection (d)
22 of this section.

23 (B) Entire net income shall exclude 50% of dividends which were
24 included in computing such taxable income for federal income tax
25 purposes, paid or deemed paid to the taxpayer by one or more
26 subsidiaries owned by the taxpayer to the extent of 50% or more
27 ownership of investment, such ownership of investment calculated in
28 the same manner as the 80% or more of ownership of investment is
29 calculated as described in subsection (d) of this section.

30 (C) To the extent a subsidiary received dividends from other
31 subsidiaries and included those dividends in its entire net income for
32 the purposes of determining its tax liability pursuant to section 5 of
33 P.L.1945, c.162 (C.54:10A-5) and paid tax on those dividends, the
34 taxpayer receiving those same dividends from the subsidiary shall
35 exclude those dividends from its entire net income based on the
36 subsidiary's allocation factor used by the subsidiary in determining its
37 tax liability pursuant to section 5 of P.L.1945, c.162 (C.54:10A-5).
38 This subparagraph (C) shall not apply to privilege periods ending on
39 and after July 31, 2019.

40 (D) For privilege periods ending on and after July 31, 2019 but
41 before July 31, 2020, to the extent a subsidiary received dividends
42 from other subsidiaries and included those dividends in its entire net
43 income for the purposes of determining its tax liability pursuant to
44 section 5 of P.L.1945, c.162 (C.54:10A-5) and paid tax on those
45 dividends, the taxpayer receiving those same dividends from the
46 subsidiary shall exclude those dividends from its entire net income.

47 (E) For privilege periods ending on and after July 31, 2020, for
48 purposes of this paragraph (5), the members of a combined group

1 filing a New Jersey combined return shall be treated as one taxpayer
2 with regard to dividends and deemed dividends that were received as
3 part of the unitary business of the combined group.

4 (F) For privilege periods ending on and after July 31, 2023:

5 (i) The exclusion provided by this paragraph (5) shall be deducted
6 from entire net income after the State modifications that increase
7 federal entire net income but before the other State modifications that
8 reduce entire net income and before the allocation of entire net income
9 to this State.

10 (ii) In computing the total amount of the dividends and deemed
11 dividends excluded by this paragraph (5) for privilege periods ending
12 on and after July 31, 2023, the amount of dividends and deemed
13 dividends excluded shall be reduced by the amount of the expenses
14 and deductions that are attributable to those dividends and deemed
15 dividends. For purposes of this paragraph (5), expenses and
16 deductions related to dividends shall equal five percent of all dividends
17 and deemed dividends received by a taxpayer during an income year.

18 (G) For privilege periods ending on and after July 31, 2023, for the
19 purposes of this paragraph (5) and for subsection d. of section 18 of
20 P.L.2018, c.48 (C.54:10A-4.6), the income amounts required to be
21 included in federal taxable income pursuant to 26 U.S.C. s.951A, shall
22 be considered a dividend.

23 (6) (A) Net operating loss deduction. For privilege periods ending
24 before July 31, 2019, there shall be allowed as a deduction for the
25 privilege period the net operating loss carryover to that period.

26 (B) Net operating loss carryover. A net operating loss for any
27 privilege period ending after June 30, 1984 shall be a net operating
28 loss carryover to each of the seven privilege periods following the
29 period of the loss and a net operating loss for any privilege period
30 ending after June 30, 2009 shall be a net operating loss carryover to
31 each of the twenty privilege periods following the period of the loss.
32 The entire amount of the net operating loss for any privilege period
33 (the "loss period") shall be carried to the earliest of the privilege
34 periods to which the loss may be carried. The portion of the loss which
35 shall be carried to each of the other privilege periods shall be the
36 excess, if any, of the amount of the loss over the sum of the entire net
37 income, computed without the exclusions permitted in paragraphs (4)
38 and (5) of this subsection or the net operating loss deduction provided
39 by subparagraph (A) of this paragraph, for each of the prior privilege
40 periods to which the loss may be carried.

41 (C) Net operating loss. For purposes of this paragraph the term "net
42 operating loss" means the excess of the deductions over the gross
43 income used in computing entire net income without the net operating
44 loss deduction provided for in subparagraph (A) of this paragraph and
45 the exclusions in paragraphs (4) and (5) of this subsection.

46 (D) Change in ownership. Where there is a change in 50% or more
47 of the ownership of a corporation because of redemption or sale of
48 stock and the corporation changes the trade or business giving rise to

1 the loss, no net operating loss sustained before the changes may be
2 carried over to be deducted from income earned after such changes. In
3 addition where the facts support the premise that the corporation was
4 acquired under any circumstances for the primary purpose of the use
5 of its net operating loss carryover, the director may disallow the
6 carryover.

7 (E) Notwithstanding the provisions of this paragraph (6) of
8 subsection (k) of this section to the contrary, for privilege periods
9 beginning during calendar year 2002 and calendar year 2003, no
10 deduction for any net operating loss carryover shall be allowed and for
11 privilege periods beginning during calendar year 2004 and calendar
12 year 2005, there shall be allowed as a deduction for the privilege
13 period so much of the net operating loss carryover as reduces entire net
14 income otherwise calculated by 50%. If and only to the extent that any
15 net operating loss carryover deduction is disallowed by reason of this
16 subparagraph (E), the date on which the amount of the disallowed net
17 operating loss carryover deduction would otherwise expire shall be
18 extended by a period equal to the period for which application of the
19 net operating loss was disallowed by this subparagraph.

20 Provided, that this subparagraph (E) shall not restrict the surrender
21 or acquisition of corporation business tax benefit certificates pursuant
22 to section 1 of P.L.1997, c.334 (C.34:1B-7.42a) and shall not restrict
23 the application of corporation business tax benefit certificates pursuant
24 to section 2 of P.L.1997, c.334 (C.54:10A-4.2).

25 (F) Reduction for discharge of indebtedness. A net operating loss
26 for any privilege period ending after June 30, 2014, and any net
27 operating loss carryover to such privilege period, shall be reduced by
28 the amount excluded from federal taxable income under subparagraph
29 (A), (B), or (C) of paragraph (1) of subsection (a) of section 108 of the
30 federal Internal Revenue Code (26 U.S.C. s.108), for the privilege
31 period of the discharge of indebtedness.

32 (7) The entire net income of gas, electric and gas and electric
33 public utilities that were subject to, or would have been subject to tax
34 if doing business in this State, the provisions of P.L.1940, c.5
35 (C.54:30A-49 et seq.) prior to 1998, shall be adjusted by substituting
36 the New Jersey depreciation allowance for federal tax depreciation
37 with respect to assets placed in service prior to January 1, 1998. For
38 gas, electric, and gas and electric public utilities that were subject to,
39 or would have been subject to tax if doing business in this State, the
40 provisions of P.L.1940, c.5 (C.54:30A-49 et seq.) prior to 1998, the
41 New Jersey depreciation allowance shall be computed as follows: All
42 depreciable assets placed in service prior to January 1, 1998 shall be
43 considered a single asset account. The New Jersey tax basis of this
44 depreciable asset account shall be an amount equal to the carryover
45 adjusted basis for federal income tax purposes on December 31, 1997
46 of all depreciable assets in service on December 31, 1997, increased
47 by the excess, of the "net carrying value," defined to be adjusted book
48 basis of all assets and liabilities, excluding deferred income taxes,

1 recorded on the public utility's books of account on December 31,
2 1997, over the carryover adjusted basis for federal income tax
3 purposes on December 31, 1997 of all assets and liabilities owned by
4 the gas, electric, or gas and electric public utility as of December 31,
5 1997. "Books of account" for gas, gas and electric, and electric public
6 utilities means the uniform system of accounts as promulgated by the
7 Federal Energy Regulatory Commission and adopted by the Board of
8 Public Utilities. The following adjustments to entire net income shall
9 be made pursuant to this section:

10 (A) Depreciation for property placed in service prior to January 1,
11 1998 shall be adjusted as follows:

12 (i) Depreciation for federal income tax purposes shall be
13 disallowed in full.

14 (ii) A deduction shall be allowed for the New Jersey depreciation
15 allowance. The New Jersey depreciation allowance shall be computed
16 for the single asset account described above based on the New Jersey
17 tax basis as adjusted above as if all assets in the single asset account
18 were first placed in service on January 1, 1998. Depreciation shall be
19 computed using the straight line method over a thirty-year life. A full
20 year's depreciation shall be allowed in the initial tax year. No half-year
21 convention shall apply. The depreciable basis of the single account
22 shall be reduced by the adjusted federal tax basis of assets sold, retired,
23 or otherwise disposed of during any year on which gain or loss is
24 recognized for federal income tax purposes as described in
25 subparagraph (B) of this paragraph.

26 (B) Gains and losses on sales, retirements and other dispositions of
27 assets placed in service prior to January 1, 1998 shall be recognized
28 and reported on the same basis as for federal income tax purposes.

29 (C) The Director of the Division of Taxation shall promulgate
30 regulations describing the methodology for allocating the single asset
31 account in the event that a portion of the utility's operations are
32 separated, spun-off, transferred to a separate company or otherwise
33 desegregated.

34 (8) In the case of taxpayers that are gas, electric, gas and electric,
35 or telecommunications public utilities as defined pursuant to
36 subsection (q) of this section, the director shall have authority to
37 promulgate rules and issue guidance correcting distortions and
38 adjusting timing differences resulting from the adoption of P.L.1997,
39 c.162 (C.54:10A-5.25 et al.).

40 (9) Notwithstanding paragraph (1) of this subsection, entire net
41 income shall not include the income derived by a corporation
42 organized in a foreign country from the international operation of a
43 ship or ships, or from the international operation of aircraft, if such
44 income is exempt from federal taxation pursuant to section 883 of the
45 federal Internal Revenue Code of 1986, 26 U.S.C. s.883.

46 (10) Entire net income shall exclude all income of an alien
47 corporation the activities of which are limited in this State to investing
48 or trading in stocks and securities for its own account, investing or

1 trading in commodities for its own account, or any combination of
2 those activities, within the meaning of section 864 of the federal
3 Internal Revenue Code of 1986, 26 U.S.C. s.864, as in effect on
4 December 31, 1998. Notwithstanding the previous sentence, if an alien
5 corporation undertakes one or more infrequent, extraordinary or non-
6 recurring activities, including but not limited to the sale of tangible
7 property, only the income from such infrequent, extraordinary or non-
8 recurring activity shall be subject to the tax imposed pursuant to
9 P.L.1945, c.162 (C.54:10A-1 et seq.), and that amount of income
10 subject to tax shall be determined without regard to the allocation to
11 that specific transaction of any general business expense of the
12 taxpayer and shall be specifically assigned to this State for taxation by
13 this State without regard to section 6 of P.L.1945, c.162 (C.54:10A-6).
14 For the purposes of this paragraph, "alien corporation" means a
15 corporation organized under the laws of a jurisdiction other than the
16 United States or its political subdivisions.

17 (11) No deduction shall be allowed for research and
18 experimental expenditures, to the extent that those research and
19 experimental expenditures are qualified research expenses or basic
20 research payments for which an amount of credit is claimed pursuant
21 to section 1 of P.L.1993, c.175 (C.54:10A-5.24) unless those research
22 and experimental expenditures are also used to compute a federal
23 credit claimed pursuant to section 41 of the federal Internal Revenue
24 Code of 1986, 26 U.S.C. s.41; provided, however, for privilege periods
25 beginning on and after January 1, 2022, a deduction for research and
26 experimental expenditures shall be allowed during the same privilege
27 period for which a credit is claimed pursuant to section 1 of P.L.1993,
28 c.175 (C.54:10A-5.24), notwithstanding the timing schedule required
29 by the federal Internal Revenue Code of 1986, 26 U.S.C. s.174, for the
30 deduction of specified research and experimental expenditures.

31 (12) (A) Notwithstanding the provisions of subsection (k) of
32 section 168 of the federal Internal Revenue Code of 1986, 26 U.S.C.
33 s.168, subsection (b) of section 1400L of the federal Internal Revenue
34 Code of 1986, 26 U.S.C. s.1400L, or any other federal law, for
35 property acquired after September 10, 2001, the depreciation
36 deduction otherwise allowed pursuant to section 167 of the federal
37 Internal Revenue Code of 1986, 26 U.S.C. s.167, shall be determined
38 pursuant to the provisions of the federal Internal Revenue Code of
39 1986 (26 U.S.C. s.1 et seq.) in effect on December 31, 2001.

40 (B) The director shall prescribe the rules and regulations necessary
41 to carry out the provisions of this paragraph, including, among others,
42 those for determining the adjusted basis of the acquired property for
43 the purposes of the Corporation Business Tax Act (1945), P.L.1945,
44 c.162 ¹(C.54:10A-1 et seq.)¹.

45 (13) (A) Notwithstanding the provisions of section 179 of the
46 federal Internal Revenue Code of 1986, 26 U.S.C. s.179, for property
47 placed in service on or after January 1, 2004, the costs that a taxpayer
48 may otherwise elect to treat as an expense which is not chargeable to a

1 capital account shall be determined pursuant to the provisions of the
2 federal Internal Revenue Code of 1986 (26 U.S.C. s.1 et seq.) in effect
3 on December 31, 2002.

4 (B) The director shall prescribe the rules and regulations necessary
5 to carry out the provisions of this paragraph, including, among others,
6 those for determining the adjusted basis of the acquired property for
7 the purposes of the Corporation Business Tax Act (1945), P.L.1945,
8 c.162 ¹(C.54:10A-1 et seq.)¹.

9 (14) Notwithstanding the provisions of subsection (i) of section
10 108 of the federal Internal Revenue Code of 1986 (26 U.S.C. s.108),
11 for privilege periods beginning after December 31, 2008 and before
12 January 1, 2011, entire net income shall include the amount of
13 discharge of indebtedness income excluded for federal income tax
14 purposes pursuant to subsection (i) of section 108 of the federal
15 Internal Revenue Code of 1986 (26 U.S.C. s.108), and for privilege
16 periods beginning on or after January 1, 2014 and before January 1,
17 2019, entire net income shall exclude the amount of discharge of
18 indebtedness income included for federal income tax purposes,
19 pursuant to subsection (i) of section 108 of the federal Internal
20 Revenue Code of 1986 (26 U.S.C. s.108).

21 (15) Entire net income shall exclude the gain or income derived
22 from the sale or assignment of a tax credit transfer certificate pursuant
23 to section 7 of P.L.2011, c.149 (C.34:1B-248) **【and】**, section 10 of
24 P.L.2014, c.63 (C.34:1B-251), or the "New Jersey Economic Recovery
25 Act of 2020," P.L.2020, c.156 (C.34:1B-269 et al.), as amended and
26 supplemented.

27 (16) (A) There shall be allowed as a deduction an amount
28 computed in accordance with this paragraph.

29 (B) For purposes of this paragraph, "net deferred tax liability"
30 means deferred tax liabilities that exceed the deferred tax assets of the
31 combined group, as computed in accordance with generally accepted
32 accounting principles, and "net deferred tax asset" means that deferred
33 tax assets exceed the deferred tax liabilities of the combined group, as
34 computed in accordance with generally accepted accounting
35 principles.

36 (C) Only publicly traded companies, including affiliated
37 corporations participating in the filing of a publicly traded company's
38 financial statements prepared in accordance with generally accepted
39 accounting principles, as of the effective date of this paragraph, shall
40 be eligible for this deduction.

41 (D) If the provisions of sections 18 through 23 of P.L.2018, c.48
42 (C.54:10A-4.6 to C.54:10A-4.11) result in an aggregate increase to the
43 members' net deferred tax liability or an aggregate decrease to the
44 members' net deferred tax asset, or an aggregate change from a net
45 deferred tax asset to a net deferred tax liability, the combined group
46 shall be entitled to a deduction, as determined in this paragraph.

47 (E) (i) Beginning with the combined group's first privilege period
48 on or after January 1 of the fifth year after the effective date of

1 P.L.2018, c.48 (C.54:10A-5.41 et al.), a combined group shall be
2 entitled to a deduction from combined group entire net income equal
3 to one-tenth of the amount necessary to offset the increase in the net
4 deferred tax liability or decrease in the net deferred tax asset, or
5 aggregate change from a net deferred tax asset to a net deferred tax
6 liability, according to the schedule provided by subsubparagraphs (ii)
7 and (iii) of this subparagraph (E). Such increase in the net deferred tax
8 liability or decrease in the net deferred tax asset or the aggregate
9 change from a net deferred tax asset to a net deferred tax liability shall
10 be computed based on the change that would result from the
11 imposition of the unitary reporting requirements under sections 1 and
12 18 through 23 of P.L.2018, c.48 (C.54:10A-5.41 and C.54:10A-4.6 to
13 C.54:10A-4.11) but for the deduction provided under this paragraph as
14 of the effective date of this paragraph.

15 (ii) For group privilege periods beginning on and after January 1,
16 2023, but before January 1, 2030, the combined group may deduct one
17 percent of the amount necessary to offset the increase in the net
18 deferred tax liability or decrease in the net deferred tax asset, or
19 aggregate change from a net deferred tax asset to a net deferred tax
20 liability, during a group privilege period. Such increase in the net
21 deferred tax liability or decrease in the net deferred tax asset or the
22 aggregate change from a net deferred tax asset to a net deferred tax
23 liability shall be computed based on the change that would result from
24 the imposition of the unitary reporting requirements under sections 1
25 and 18 through 23 of P.L.2018, c.48 (C.54:10A-5.41 and C.54:10A-
26 4.6 to C.54:10A-4.11) but for the deduction provided under this
27 paragraph as of the effective date of this paragraph.

28 (iii) For group privilege periods beginning on and after January 1,
29 2030, the combined group may deduct up to five percent of any
30 remaining unused amount of the deduction during the group privilege
31 period, until the group privilege period in which the total deduction
32 amount has been fully utilized. Such increase in the net deferred tax
33 liability or decrease in the net deferred tax asset or the aggregate
34 change from a net deferred tax asset to a net deferred tax liability shall
35 be computed based on the change that would result from the
36 imposition of the unitary reporting requirements under sections 1 and
37 18 through 23 of P.L.2018, c.48 (C.54:10A-5.41 and C.54:10A-4.6 to
38 C.54:10A-4.11) but for the deduction provided under this paragraph as
39 of the effective date of this paragraph.

40 (F) The deferred tax impact determined in subparagraph (E) of this
41 paragraph must be converted to the annual Deferred Tax Deduction
42 amount, as follows:

43 (i) the deferred tax impact determined in subparagraph (E) of this
44 paragraph shall be divided by the rate determined under section 5 of
45 P.L.1945, c.162 (C.54:10A-5) at the effective date of P.L.2018, c.48
46 (C.54:10A-5.41 et al.);

47 (ii) the resulting amount shall be further divided by the New Jersey
48 unitary business allocation factor that was used by the combined group

1 in the calculation of the deferred tax assets and deferred tax liabilities
2 as described in subparagraph (E) of this paragraph;

3 (iii) the resulting amount represents the total net Deferred Tax
4 Deduction available over the period as described in subparagraph (E)
5 of this paragraph.

6 (G) The deduction calculated under this paragraph shall not be
7 adjusted as a result of any events happening subsequent to such
8 calculation, including, but not limited to, any disposition or
9 abandonment of assets. Such deduction shall be calculated without
10 regard to the federal tax effect and shall not alter the tax basis of any
11 asset. If the deduction under this section is greater than combined
12 group entire net income, any excess deduction shall be carried forward
13 and applied as a deduction to combined group entire net income in
14 future privilege periods until fully utilized.

15 (H) Any combined group intending to claim a deduction under this
16 paragraph shall file a statement with the director on or before July 1 of
17 the year subsequent to the first privilege period for which a combined
18 return is required. Such statement shall specify the total amount of the
19 deduction which the combined group claims on such form and in such
20 manner as prescribed by the director. No deduction shall be allowed
21 under this paragraph for any privilege period except to the extent
22 claimed on such timely filed statement in accordance with this
23 paragraph.

24 (17) (A) In the case of a taxpayer that is a cannabis licensee,
25 there shall be allowed as a deduction an amount equal to any
26 expenditure that is eligible to be claimed as a federal income tax
27 deduction but is disallowed because cannabis is a controlled substance
28 under federal law, and income shall be determined without regard to
29 section 280E of the Internal Revenue Code (26 U.S.C. s.280E) for
30 cannabis licensees.

31 (B) In the case of a taxpayer that is a cannabis licensee, there shall
32 be allowed as a deduction an amount equal to any expenditure that
33 would qualify as a specified research or experimental expenditure
34 pursuant to section 174 of the Internal Revenue Code but is disallowed
35 as a deduction for federal tax purposes because cannabis is a
36 controlled substance under federal law. Any expenditure that is
37 claimed as a deduction pursuant to this subparagraph may also be
38 claimed as a qualified research expense for purposes of the credit
39 allowed pursuant to section 1 of P.L.1993, c.175 (C.54:10A-5.24).

40 (C) For purposes of this paragraph, "licensee" means the same as
41 that term is defined in section 3 of P.L.2021, c.16 (C.24:6I-33).

42 (18) For privilege periods ending on and after July 31, 2022:

43 (A) Notwithstanding subparagraph (A) of paragraph (2) of this
44 subsection or any other law or treaty to the contrary, for a corporation
45 that is incorporated or formed in a foreign nation with a
46 comprehensive tax treaty with the United States, and that is not a
47 member of a world-wide group combined return filed pursuant to
48 subsection b. of section 23 of P.L.2018, c.48 (C.54:10A-4.11), entire

1 net income shall not include an item of income or loss excluded or
2 exempted from federal taxable income under the terms of the treaty,
3 and no other deduction, exclusion, or elimination shall be permitted for
4 an item of income or loss excluded by this paragraph.

5 (B) For a non-U.S. corporation that files a federal tax return and is
6 not a member of a combined group filing a New Jersey combined
7 return on a world-wide basis pursuant to subsection b. of section 23 of
8 P.L.2018, c.48 (C.54:10A-4.11), the non-U.S. corporation shall only
9 include its income or loss included in federal taxable income, which
10 shall be limited to only the non-U.S. corporation's effectively
11 connected income or loss, as modified by the provisions of the
12 Corporation Business Tax Act (1945), P.L.1945, c.162 (C.54:10A-1 et
13 seq.), and the items of expense and the allocation factor receipts
14 attributable to such items of income or loss.

15 (l) "Real estate investment trust" shall mean any corporation, trust
16 or association qualifying and electing to be taxed as a real estate
17 investment trust under federal law.

18 (m) "Financial business corporation" shall mean any corporate
19 enterprise which is (1) in substantial competition with the business of
20 national banks and which (2) employs moneyed capital with the object
21 of making profit by its use as money, through discounting and
22 negotiating promissory notes, drafts, bills of exchange and other
23 evidences of debt; buying and selling exchange; making of or dealing
24 in secured or unsecured loans and discounts; dealing in securities and
25 shares of corporate stock by purchasing and selling such securities and
26 stock without recourse, solely upon the order and for the account of
27 customers; or investing and reinvesting in marketable obligations
28 evidencing indebtedness of any person, copartnership, association or
29 corporation in the form of bonds, notes or debentures commonly
30 known as investment securities; or dealing in or underwriting
31 obligations of the United States, any state or any political subdivision
32 thereof, or of a corporate instrumentality of any of them. This shall
33 include, without limitation of the foregoing, business commonly
34 known as industrial banks, dealers in commercial paper and
35 acceptances, sales finance, personal finance, small loan and mortgage
36 financing businesses, as well as any other enterprise employing
37 moneyed capital coming into competition with the business of national
38 banks; provided that the holding of bonds, notes, or other evidences of
39 indebtedness by individual persons not employed or engaged in the
40 banking or investment business and representing merely personal
41 investments not made in competition with the business of national
42 banks, shall not be deemed financial business. Nor shall "financial
43 business" include national banks, production credit associations
44 organized under the Farm Credit Act of 1933 or the Farm Credit Act
45 of 1971, Pub.L.92-181 (12 U.S.C. s.2091 et seq.), stock and mutual
46 insurance companies duly authorized to transact business in this State,
47 security brokers or dealers or investment companies or bankers not
48 employing moneyed capital coming into competition with the business

1 of national banks, real estate investment trusts, or any of the following
2 entities organized under the laws of this State: credit unions, savings
3 banks, savings and loan and building and loan associations,
4 pawnbrokers, and State banks and trust companies.

5 (n) "International banking facility" shall mean a set of asset and
6 liability accounts segregated on the books and records of a depository
7 institution, United States branch or agency of a foreign bank, or an
8 Edge or Agreement Corporation that includes only international
9 banking facility time deposits and international banking facility
10 extensions of credit as such terms are defined in section 204.8(a)(2)
11 and section 204.8(a)(3) of Regulation D of the board of governors of
12 the Federal Reserve System, 12 CFR Part 204, effective December 3,
13 1981. In the event that the United States enacts a law, or the board of
14 governors of the Federal Reserve System adopts a regulation which
15 amends the present definition of international banking facility or of
16 such facilities' time deposits or extensions of credit, the Commissioner
17 of Banking and Insurance shall forthwith adopt regulations defining
18 such terms in the same manner as such terms are set forth in the laws
19 of the United States or the regulations of the board of governors of the
20 Federal Reserve System. The regulations of the Commissioner of
21 Banking and Insurance shall thereafter provide the applicable
22 definitions.

23 (o) "S corporation" means a corporation that has elected to be an
24 "S corporation" pursuant to section 1361 of the federal Internal
25 Revenue Code of 1986, 26 U.S.C. s.1361, for the taxable year.

26 (p) "New Jersey S corporation" means a taxpayer that has made a
27 valid election to be an S corporation for federal tax purposes, and that
28 has not made a valid election pursuant to subsection d. of section
29 ¹ **[20] 3¹** of ¹ **[P.L.2022, c.133] P.L.1993, c.173¹** (C.54:10A-5.22).

30 (q) "Public Utility" means "public utility" as defined in R.S.48:2-
31 13.

32 (r) "Qualified investment partnership" means a partnership under
33 this act that has more than 10 members or partners with no member or
34 partner owning more than a 50% interest in the entity and that derives
35 at least 90% of its gross income from dividends, interest, payments
36 with respect to securities loans, and gains from the sale or other
37 disposition of stocks or securities or foreign currencies or commodities
38 or other similar income (including but not limited to gains from swaps,
39 options, futures or forward contracts) derived with respect to its
40 business of investing or trading in those stocks, securities, currencies
41 or commodities, but "investment partnership" shall not include a
42 "dealer in securities" within the meaning of section 1236 of the federal
43 Internal Revenue Code of 1986, 26 U.S.C. s.1236.

44 (s) "Savings institution" means a state or federally chartered
45 building and loan association, savings and loan association, or savings
46 bank.

47 (t) "Partnership" means an entity classified as a partnership for
48 federal income tax purposes.

1 (u) "Prior net operating loss conversion carryover" means a net
2 operating loss incurred in a privilege period ending prior to July 31,
3 2019 and converted from a pre-allocation net operating loss to a post-
4 allocation net operating loss as follows:

5 (1) As used in this subsection:

6 "Base year" means the last privilege period ending prior to July 31,
7 2019.

8 "Base year BAF" means the taxpayer's business allocation factor as
9 provided in sections 6 through 10 of P.L.1945, c.162 (C.54:10A-6
10 through C.54:10A-10) for purposes of calculating entire net income for
11 the base year, as such section was in effect for the last privilege period
12 ending prior to July 31, 2019.

13 "UNOL" means the unabsorbed portion of net operating loss as
14 calculated under paragraph (6) of subsection (k) of this section as such
15 paragraph was in effect for the last privilege period ending prior to
16 July 31, 2019, that was not deductible in previous privilege periods
17 and was eligible for carryover on the last day of the base year subject
18 to the limitations for deduction under such subsection, including any
19 net operating loss sustained by the taxpayer during the base year.

20 (2) The prior net operating loss conversion carryover shall be
21 calculated as follows:

22 (A) The taxpayer shall first calculate the tax value of its UNOL for
23 the base year and for each preceding privilege period for which there is
24 a UNOL. The value of the UNOL for each privilege period is equal to
25 the product of (I) the amount of the taxpayer's UNOL for a privilege
26 period, and (II) the taxpayer's base year BAF. This result shall equal
27 the taxpayer's prior net operating loss conversion carryover.

28 (B) The taxpayer shall continue to carry over its prior net operating
29 loss conversion carryover to offset its allocated entire net income as
30 provided in sections 6 through 10 of P.L.1945, c.162 (C.54:10A-6
31 through C.54:10A-10) for privilege periods ending on and after July
32 31, 2019. Such carryover periods shall not exceed the twenty privilege
33 periods following the privilege period of the initial loss. The entire
34 amount of the prior net operating loss conversion carryover for any
35 privilege period shall be carried to the earliest of the privilege periods
36 to which the loss may be carried. The portion of the prior net operating
37 loss conversion carryover which shall be carried to each of the other
38 privilege periods shall be the excess, if any, of the amount of the prior
39 net operating loss conversion carryover over the sum of the entire net
40 income, computed without the exclusions permitted in paragraphs (4)
41 and (5) of subsection (k) of this section allocated to this State. For
42 privilege periods ending on and after July 31, 2023, for the purpose of
43 computing taxable net income for a current privilege period, the
44 amount of the prior net operating loss conversion carryover shall be
45 subtracted from entire net income allocated to this State, after the
46 application of paragraphs (4) and (5) of subsection (k) of this section
47 against current privilege period income when the entire net income
48 allocated to this State for the privilege period is greater than zero.

1 (C) The prior net operating loss conversion carryover computed
2 under this subsection shall be applied against the entire net income
3 allocated to this State before the net operating loss carryover computed
4 under subsection (v) of this section.

5 (v) "Net operating loss deduction" means the amount allowed as a
6 deduction for the net operating loss carryover to the privilege period,
7 calculated as follows:

8 (1) Net operating loss carryover. A net operating loss for any
9 privilege period ending on or after July 31, 2019, shall be a net
10 operating loss carryover to each of the twenty privilege periods
11 following the period of the loss. The entire amount of the net
12 operating loss for any privilege period shall be carried to the earliest of
13 the privilege periods to which the loss may be carried. For privilege
14 periods ending before July 31, 2023, the portion of the loss which shall
15 be carried to each of the other privilege periods shall be the excess, if
16 any, of the amount of the loss over the sum of the entire net income,
17 computed without the exclusions permitted in paragraphs (4) and (5)
18 of subsection (k) of this section allocated to this State. For privilege
19 periods ending on and after July 31, 2023, the portion of the loss that
20 shall be carried to each of the other privilege periods shall be the
21 excess, if any, of the amount of the loss over the sum of the entire net
22 income, after the application of paragraphs (4) and (5) of subsection
23 (k) of this section allocated to this State; provided, however, for the
24 purpose of computing taxable net income for the privilege period, the
25 net operating loss carryover shall only be subtracted from entire net
26 income allocated to this State when the entire net income allocated to
27 this State is greater than zero.

28 (2) Net operating loss. For purposes of this paragraph the term "net
29 operating loss" means the excess of the deductions over the gross
30 income used in computing entire net income, without regard to any net
31 operating loss carryover, and for privilege periods ending before July
32 31, 2023, computed without the exclusions in paragraphs (4) and (5) of
33 subsection (k) of this section, and for privilege periods ending on and
34 after July 31, 2023, computed after the application of paragraphs (4)
35 and (5) of subsection (k) of this section, allocated to this State pursuant
36 to sections 6 through 10 of P.L.1945, c.162 (C.54:10A-6 through
37 C.54:10A-10).

38 (3) Reduction for discharge of indebtedness. A net operating loss
39 for any privilege period ending on or after July 31, 2019, and any net
40 operating loss carryover to such privilege period, shall be reduced by
41 the amount excluded from federal taxable income under subparagraph
42 (A), (B), or (C) of paragraph (1) of subsection (a) of section 108 of the
43 federal Internal Revenue Code, 26 U.S.C. s.108, for the privilege
44 period of the discharge of indebtedness.

45 (4) A net operating loss carryover shall not include any net
46 operating loss incurred during any privilege period ending prior to July
47 31, 2019.

1 (5) Change in ownership. Where there is a change in 50% or more
2 of the ownership of a corporation because of redemption or sale of
3 stock and the corporation changes the trade or business giving rise to
4 the loss, no net operating loss sustained before the changes may be
5 carried over to be deducted from income earned after such changes. In
6 addition, where the facts support the premise that the corporation was
7 acquired under any circumstances for the primary purpose of the use
8 of its net operating loss carryover, the director may disallow the
9 carryover; provided, however, this paragraph shall not apply between
10 members of a combined group reported on a New Jersey combined
11 return.

12 (w) "Taxable net income" means entire net income allocated to this
13 State as calculated pursuant to sections 6 through 8 of P.L.1945, c.162
14 (C.54:10A-6 through 54:10A-8) as modified by subtracting any prior
15 net operating loss conversion carryforward calculated pursuant to
16 subsection (u) of this section, and any net operating loss calculated
17 pursuant to subsection (v) of this section; provided, however, for
18 privilege periods ending on and after July 31, 2023, when subtracting
19 any net operating losses calculated pursuant to subsection (v) of this
20 section or the combined group net operating losses calculated pursuant
21 to subsection h. of section 18 of P.L.2018, c.48 (C.54:10A-4.6), the
22 limitation set forth in paragraph (2) of subsection (a) of Internal
23 Revenue Code Section 172 (26 U.S.C. s.172(a)(2)) shall apply, except
24 that August 1, 2023 is substituted for the reference to January 1, 2018
25 in subparagraph (A) of paragraph (2) of subsection a. of Internal
26 Revenue Code Section 172 (26 U.S.C. s.172), and July 31, 2023 is
27 substituted for the reference to December 31, 2017 in subparagraph
28 (B) of paragraph (2) of subsection (a) of Internal Revenue Code
29 Section 172 (26 U.S.C. s.172). For privilege periods ending on and
30 after July 31, 2023, for a combined group, before subtracting the prior
31 net operating loss conversion carryforwards and subtracting the net
32 operating losses of the combined group when computing the total
33 taxable net income, the combined group shall first add together the
34 allocated entire net income from the unitary business of the combined
35 group and the portion of allocated entire net income of members with
36 activities independent of the group, and then subtract the prior net
37 operating loss conversion carryforwards and then the net operating
38 losses.

39 (x) "Affiliated group" means, for purposes of section 23 of
40 P.L.2018, c.48 (C.54:10A-4.11), an affiliated group as defined in
41 section 1504 of the federal Internal Revenue Code, 26 U.S.C. s.1504,
42 except such affiliated group shall include all U.S. domestic
43 corporations that are commonly owned, directly or indirectly, by any
44 member of such affiliated group, without regard to whether the
45 affiliated group includes (1) corporations included in more than one
46 federal consolidated return, (2) corporations engaged in one or more
47 unitary businesses, or (3) corporations that are not engaged in a unitary
48 business with any other member of the affiliated group.

1 For purposes of this subsection:

2 "U.S. domestic corporations" means: (1) business entities wherever
3 incorporated or formed that are U.S. domestic corporations, are
4 deemed to be, or are treated as U.S. domestic corporations under the
5 provisions of the federal Internal Revenue Code; or (2) any entities
6 incorporated or formed under the laws of a foreign nation that are
7 required to file federal tax returns if such entities have effectively
8 connected income within the meaning of the federal Internal Revenue
9 Code; and

10 "Commonly owned" means that more than 50 percent of the voting
11 control of each member of an affiliated group is directly or indirectly
12 owned by a common owner or owners, either corporate or non-
13 corporate, whether or not the owner or owners are members of the
14 affiliated group. Whether voting control is indirectly owned shall be
15 determined in accordance with section 318 of the federal Internal
16 Revenue Code (26 U.S.C. s.318).

17 (y) "Combinable captive insurance company" means an entity that
18 is treated as an association taxable as a corporation under the federal
19 Internal Revenue Code:

20 (1) more than 50% of the voting stock of which is owned or
21 controlled, directly or indirectly, by a single entity that is treated as an
22 association taxable as a corporation under the federal Internal Revenue
23 Code, and not exempt from federal income tax;

24 (2) that is licensed as a captive insurance company under the laws
25 of this State or another jurisdiction;

26 (3) whose business includes providing, directly and indirectly,
27 insurance or reinsurance covering the risks of its parent, members of
28 its affiliated group, or both; and

29 (4) 50% or less of whose gross receipts for the privilege period
30 consist of premiums from arrangements that constitute insurance for
31 federal income tax purposes.

32 A combinable captive insurance company shall not be exempt
33 under section 3 of P.L.1945, c.162 (C.54:10A-3). A captive insurance
34 company that does not meet the definition of combinable captive
35 insurance company shall be excluded as provided in subsection k. of
36 section 18 of P.L.2018, c.48 (C.54:10A-4.6) and shall be exempt under
37 section 3 of P.L.1945, c.162 (C.54:10A-3).

38 For purposes of this definition:

39 "Affiliated group" shall have the same meaning as that term is
40 given by section 1504 of the federal Internal Revenue Code, 26 U.S.C.
41 s.1504, except that the term "common parent corporation" as used in
42 section 1504 of the federal Internal Revenue Code, 26 U.S.C. s.1504,
43 shall mean any person, as defined in section 7701 of the federal
44 Internal Revenue Code, 26 U.S.C. s.7701, and references to "at least
45 80%" in section 1504 of the federal Internal Revenue Code, 26 U.S.C.
46 s.1504, shall be read as "50% or more." Section 1504 of the federal
47 Internal Revenue Code, 26 U.S.C. s.1504, shall be read without regard
48 to the exclusions provided for in subsection (b) of that section.

1 "Gross receipts" includes the amounts included in gross receipts
2 for purposes of paragraph (15) of subsection (c) of section 501 of the
3 federal Internal Revenue Code, 26 U.S.C. s.501, except that those
4 amounts also include all premiums.

5 "Premiums" includes consideration for annuity contracts and
6 excludes any part of the consideration for insurance, reinsurance, or
7 annuity contracts that do not provide bona fide insurance, reinsurance,
8 or annuity benefits.

9 (z) "Combined group" means the group of all companies that have
10 common ownership and are engaged in a unitary business, where at
11 least one company is subject to tax under this chapter, and shall
12 include all business entities, except as provided for under any section
13 of the Corporation Business Tax Act (1945), P.L.1945, c.162
14 (C.54:10A-1 et seq.).

15 A combined group shall be treated, for privilege periods ending on
16 and after July 31, 2020, as one taxpayer for purposes of paragraph (1)
17 of subsection (c) of section 5 of P.L.1945, c.162 (C.54:10A-5) and
18 section 1 of P.L.2018, c.48 (C.54:10A-5.41) for the income derived
19 from the unitary business; provided however, with regard to the surtax
20 imposed pursuant to section 1 of P.L.2018, c.48 (C.54:10A-5.41) and
21 for that purpose only, the portion of income that is attributable to a
22 member which is a public utility exempt from the surtax shall not be
23 included when computing the surtax due.

24 (aa) "Common ownership" means that more than 50% of the
25 voting control of each member of a combined group is directly or
26 indirectly owned by a common owner or owners, either corporate or
27 non-corporate, whether or not the owner or owners are members of the
28 combined group. Whether voting control is indirectly owned shall be
29 determined in accordance with section 318 of the federal Internal
30 Revenue Code, 26 U.S.C. s.318.

31 (bb) "Group privilege period" means, if two or more
32 members in the combined group file in the same federal consolidated
33 tax return, the same income year as that used on the federal
34 consolidated tax return and, in all other cases, the privilege period of
35 the managerial member.

36 (cc) "Managerial member" means if the combined group has
37 a common parent corporation and that common parent corporation is a
38 taxable member, the managerial member shall be the common parent
39 corporation. In other cases, the combined group shall select a taxable
40 member as its managerial member or, in the discretion of the director
41 or upon failure of the combined group to select its managerial member,
42 the director shall designate a taxable member of the combined group
43 as managerial member.

44 (dd) "Member" means a business entity that is a part of a
45 combined group.

46 A corporation exempt pursuant to section 3 of P.L.1945, c.162
47 (C.54:10A-3) from the tax imposed by P.L.1945, c.162 (C.54:10A-1 et
48 seq.) shall not be a member of a combined group.

1 (ee) "Nontaxable member" means a member that is: (i) not
2 subject to tax pursuant to the Corporation Business Tax Act (1945),
3 P.L.1945, c.162 (C.54:10A-1 et seq.); or (ii) (deleted by amendment,
4 P.L.2020, c.118 (C.54:10A-5.46 et al.).

5 (ff) "Taxable member" means a member that is subject to tax
6 pursuant to the Corporation Business Tax Act (1945), P.L.1945, c.162
7 (C.54:10A-1 et seq.).

8 A New Jersey S corporation shall only be included as a taxable
9 member of a combined group filing a New Jersey combined return if
10 the New Jersey S Corporation elects to be included as a member and
11 taxed at the same rate as the other members of the combined group. A
12 New Jersey S corporation that does not elect to be included shall be
13 excluded as a member of the combined return and shall file a separate
14 return.

15 (gg) "Unitary business" means, for privilege periods ending
16 before July 31, 2023, a single economic enterprise that is made up
17 either of separate parts of a single business entity or of a group of
18 business entities under common ownership that are sufficiently
19 interdependent, integrated, and interrelated through their activities so
20 as to provide a synergy and mutual benefit that produces a sharing or
21 exchange of value among them and a significant flow of value among
22 the separate parts. For privilege periods ending on and after July 31,
23 2023, "unitary business" means a single economic enterprise that is
24 made up either of separate parts of a single business entity or of a
25 group of business entities under common ownership that are
26 sufficiently interdependent, integrated, or interrelated through their
27 activities so as to provide a synergy and mutual benefit that produces a
28 sharing or exchange of value among them and a significant flow of
29 value among the separate parts. "Unitary business" shall be construed
30 to the broadest extent permitted under the Constitution of the United
31 States. A business conducted by a partnership which is in a unitary
32 business with the combined group shall be treated as the business of
33 the partners that are members of the combined group, whether the
34 partnership interest is held directly or indirectly through a series of
35 partnerships, to the extent of a partner's distributive share of
36 partnership income. The amount of partnership income to be included
37 in the partner's entire net income shall be determined in accordance
38 with subsection a. of section 3 of P.L.2001, c.136 (C.54:10A-15.6) or
39 subsection a. of section 4 of P.L.2001, c.136 (C.54:10A-15.7), as
40 applicable. A business conducted directly or indirectly by one
41 corporation is unitary with that portion of a business conducted by
42 another corporation through its direct or indirect interest in a
43 partnership.

44 (hh) "Captive investment company" shall mean, for
45 privilege periods ending on and after July 31, 2023, an investment
46 company that is not regularly traded on an established securities
47 market and of which more than 50 percent of the voting stock is
48 owned or controlled, directly or indirectly, by a single corporation,

1 other than an investment company, that is not exempt from federal
2 income tax. For purposes of this subsection, a captive investment
3 company shall not include any captive investment company of which
4 at least 50 percent of the shares, by vote or value, is owned or
5 controlled, directly or indirectly, by a state or federally chartered bank,
6 savings bank, or savings and loan association with assets that do not
7 exceed \$15 billion.

8 For privilege periods ending on and after July 31, 2023, any voting
9 stock in an investment company that is held in a segregated asset
10 account of a life insurance corporation, as described in section 817 of
11 the Internal Revenue Code, shall not be taken into account for
12 purposes of determining whether an investment company is a captive
13 regulated investment company.

14 For privilege periods ending on and after July 31, 2023, a captive
15 investment company shall be taxed in the same manner as a C
16 corporation, and subsection d. of section 5 of P.L. 1945, c. 162 (C.
17 54:10A-5) shall not apply. A captive investment company shall not be
18 permitted to claim any deductions or expenses that were permitted for
19 federal purposes, solely as a result of the entity being an investment
20 company, when computing federal taxable net income. A captive
21 investment company shall be a member of a combined group and shall
22 be included as a member on the combined return.

23 (ii) "Captive real estate investment trust" shall mean, for privilege
24 periods ending on and after July 31, 2023, a real estate investment trust
25 that is not regularly traded on an established securities market and of
26 which more than 50 percent of the voting stock is owned or controlled,
27 directly or indirectly, by a single entity that is treated as an association
28 taxable as a corporation under the Internal Revenue Code, is not
29 exempt from federal income tax, and is not a real estate investment
30 trust. For purposes of this subsection, a captive real estate investment
31 trust shall not include any captive real estate investment trust of which
32 at least 50 percent of the shares, by vote or value, is owned or
33 controlled, directly or indirectly, by a state or federally chartered bank,
34 savings bank, or savings and loan association with assets that do not
35 exceed \$15 billion.

36 For privilege periods ending on and after July 23, 2023, any voting
37 stock in a real estate investment trust that is held in a segregated asset
38 account of a life insurance corporation, as described in section 817 of
39 the Internal Revenue Code (26 U.S.C. s.817), shall not be taken into
40 account for purposes of determining whether a real estate investment
41 trust is a captive real estate investment trust. For purposes of this
42 subsection, an association taxable as a corporation shall not include
43 any listed Australian property trust or any qualified foreign entity.

44 For privilege periods ending on and after July 31, 2023, a captive
45 real estate investment trust shall be taxed in the same manner as a C
46 corporation, and subsection d. of section 5 of P.L.1945, c.162
47 (C.54:10A-5) shall not apply. A captive real estate investment trust
48 shall not be permitted to claim any deductions or expenses that were

1 permitted for federal purposes, solely as a result of the entity being a
2 real estate investment trust, when computing federal taxable net
3 income. A captive real estate investment trust shall be a member of a
4 combined group and shall be included as a member on the combined
5 return.

6 As used in this subsection:

7 "Australian property trust" means an Australian unit trust that is
8 registered as a managed investment scheme under the Australian
9 Corporations Act, and in which the principal class of units is listed on
10 a recognized stock exchange in Australia and is regularly traded on an
11 established securities market; or an entity organized as a trust,
12 provided that a listed Australian property trust owns or controls,
13 directly or indirectly, 75 percent or more of the voting power or value
14 of the beneficial interests of shares of the trust.

15 "Qualified foreign entity" means a corporation, trust, association,
16 or partnership that is organized outside the laws of the United States
17 and that satisfies the following criteria:

18 (1) At least 75 percent of the entity's total asset value at the close
19 of its taxable year is represented by real estate assets, as defined at
20 subparagraph (B) of paragraph (5) of subsection (c) of section 856 of
21 the Internal Revenue Code (26 U.S.C. s.856), including shares or
22 certificates of beneficial interest in any real estate investment trust,
23 cash and cash equivalents, and United States Government securities;

24 (2) The entity is not subject to tax on amounts distributed to its
25 beneficial owners, or is exempt from entity-level taxation;

26 (3) The entity distributes, on an annual basis, at least 85 percent of
27 its taxable income, as computed in the jurisdiction in which it is
28 organized, to the holders of its shares or certificates of beneficial
29 interest;

30 (4) No more than 10 percent of the voting power or value in the
31 entity is held directly, indirectly, or constructively by a single entity or
32 individual, or the shares or certificates of beneficial interests of the
33 entity are regularly traded on an established securities market; and

34 (5) The entity is organized in a country that has a tax treaty with
35 the United States.

36 (jj) "Captive regulated investment company" shall mean, for
37 privilege periods ending on and after July 31, 2023, a regulated
38 investment company that is not regularly traded on an established
39 securities market, and of which more than 50 percent of the voting
40 stock is owned or controlled, directly or indirectly, by a single
41 corporation, other than a regulated investment company, that is not
42 exempt from federal income tax. For purposes of this subsection, a
43 captive regulated investment company shall not include any captive
44 regulated investment company of which at least 50 percent of the
45 shares, by vote or value, is owned or controlled, directly or indirectly,
46 by a state or federally chartered bank, savings bank, or savings and
47 loan association with assets that do not exceed \$15 billion.

1 For privilege periods ending on and after July 31, 2023, any voting
2 stock in a regulated investment company that is held in a segregated
3 asset account of a life insurance corporation, as described in section
4 817 of the Internal Revenue Code (26 U.S.C. s.817), shall not be taken
5 into account for purposes of determining whether a regulated
6 investment company is a captive regulated investment company.

7 For privilege periods ending on and after July 31, 2023, a captive
8 regulated investment company shall be taxed in the same manner as a
9 C corporation and subsection d. of section 5 of P.L.1945, c.162
10 (C.54:10A-5) shall not apply. A captive real estate investment
11 company shall not be permitted to claim any deductions or expenses
12 that were permitted for federal purposes, solely as a result of the entity
13 being a regulated investment company, when computing federal
14 taxable net income. A captive regulated investment company shall be
15 a member of a combined group and shall be included as a member on
16 the combined return.

17 (kk) "World-wide basis" and "world-wide group" shall
18 mean, for privilege periods ending on and after July 31, 2022, for the
19 purposes of sections 18 through 23 of P.L.2018, c.48 (C.54:10A-4.6
20 through C.54:10A-4.11) and for the purposes of combined reporting in
21 general under the Corporation Business Tax Act (1945), P.L.1945,
22 c.162 (C.54:10A-1 et seq.), that the combined group shall include all
23 of the members of the combined group, wherever located or formed.
24 For privilege periods ending on and after July 31, 2022, the combined
25 group shall include all of the income and attributes of those members
26 regardless of how or whether those members file federal returns or
27 report or include their income in federal taxable income for federal
28 purposes, and without regard to any exemption or exclusion from
29 federal taxable income under the terms of a tax treaty; provided,
30 however, any deductions that are allowed under the federal Internal
31 Revenue Code that are also allowable under the Corporation Business
32 Tax Act (1945), P.L.1945, c.162 (C.54:10A-1 et seq.), that would
33 apply to a U.S. corporation, but that a non-U.S. corporation is
34 prohibited from claiming for federal corporation income tax purposes
35 because the corporation's income was not included in federal taxable
36 income for any reason or because the corporation is a non-U.S.
37 corporation, shall be allowed for the non-U.S. corporation members of
38 the combined group for New Jersey corporation business tax purposes
39 as though those non-U.S. corporation members were U.S.
40 corporations.

41 (cf: P.L.2023, c.96, s.1)]²

42
43 ²[15. N.J.S.54A:5-1 is amended to read as follows:

44 54A:5-1. New Jersey Gross Income Defined. New Jersey gross
45 income shall consist of the following categories of income:

46 a. Salaries, wages, tips, fees, commissions, bonuses, and other
47 remuneration received for services rendered whether in cash or in
48 property, and amounts paid or distributed, or deemed paid or

1 distributed, out of a medical savings account that are not excluded
2 from gross income pursuant to section 5 of P.L.1997, c.414
3 (C.54A:6-27).

4 b. Net profits from business. The net income from the
5 operation of a business, profession or other activity after provision
6 for all costs and expenses incurred in the conduct thereof,
7 determined either on a cash or accrual basis in accordance with the
8 method of accounting allowed for federal income tax purposes but
9 without deduction of the amount of:

10 (1) taxes based on income;

11 (2) a civil, civil administrative, or criminal penalty or fine,
12 including a penalty or fine under an administrative consent order,
13 assessed and collected for a violation of a State or federal
14 environmental law, an administrative consent order, or an
15 environmental ordinance or resolution of a local governmental
16 entity, and any interest earned on the penalty or fine, and any
17 economic benefits having accrued to the violator as a result of a
18 violation, which benefits are assessed and recovered in a civil, civil
19 administrative, or criminal action, or pursuant to an administrative
20 consent order. The provisions of this paragraph shall not apply to a
21 penalty or fine assessed or collected for a violation of a State or
22 federal environmental law, or local environmental ordinance or
23 resolution, if the penalty or fine was for a violation that resulted
24 from fire, riot, sabotage, flood, storm event, natural cause, or other
25 act of God beyond the reasonable control of the violator, or caused
26 by an act or omission of a person who was outside the reasonable
27 control of the violator; and

28 (3) treble damages paid to the Department of Environmental
29 Protection pursuant to subsection a. of section 7 of P.L.1976, c.141
30 (C.58:10-23.11f) for costs incurred by the department in removing,
31 or arranging for the removal of, an unauthorized discharge upon the
32 failure of the discharger to comply with a directive from the
33 department to remove, or arrange for the removal of, a discharge.

34 c. Net gains or income from disposition of property. Net gains
35 or net income, less net losses, derived from the sale, exchange or
36 other disposition of property, including real or personal, whether
37 tangible or intangible as determined in accordance with the method
38 of accounting allowed for federal income tax purposes. For the
39 purpose of determining gain or loss, the basis of property shall be
40 the adjusted basis used for federal income tax purposes, except as
41 expressly provided for under this act, but without a deduction for
42 penalties, fines, or economic benefits excepted pursuant to
43 paragraph (2), or for treble damages excepted pursuant to paragraph
44 (3) of subsection b. of this section.

45 A taxpayer's net gain or loss on the sale, exchange or other
46 disposition of a share of an S corporation shall be calculated by
47 increasing the adjusted basis of the share by an amount equal to the
48 shareholder's net losses and deductions in respect of the share

1 allowed and deducted from income for federal income tax purposes,
2 not including any personal net operating loss deductions, to the
3 extent that such net losses were not offset by the taxpayer's pro rata
4 share of S corporation income otherwise subject to taxation
5 pursuant to subsection p. of this section in respect of another S
6 corporation, subject to rules of priority and assignment determined
7 by the director.

8 For the tax year 1976, any taxpayer with a tax liability under this
9 subsection, or under the "Tax on Capital Gains and Other Unearned
10 Income Act," P.L.1975, c.172 (C.54:8B-1 et seq.), shall not be
11 subject to payment of an amount greater than the amount he would
12 have paid if either return had covered all capital transactions during
13 the full tax year 1976; provided, however, that the rate which shall
14 apply to any capital gain shall be that in effect on the date of the
15 transaction. To the extent that any loss is used to offset any gain
16 under P.L.1975, c.172, it shall not be used to offset any gain under
17 the "New Jersey Gross Income Tax Act," N.J.S.54A:1-1 et seq.

18 The term "net gains or income" shall not include gains or income
19 derived from obligations which are referred to in clause (1) or (2) of
20 N.J.S.54A:6-14 of this act or from securities which evidence
21 ownership in a qualified investment fund as defined in section 2 of
22 P.L.1987, c.310 (C.54A:6-14.1). The term "net gains or income"
23 shall not include gains or income derived from the sale or
24 assignment of a tax credit transfer certificate pursuant to section 7
25 of P.L.2011, c.149 (C.34:1B-248) **[and]**, section 10 of P.L.2014,
26 c.63 (C.34:1B-251), or the "New Jersey Economic Recovery Act of
27 2020," P.L.2020, c.156 (C.34:1B-269 et al.), as amended and
28 supplemented, from any sale or assignment of a tax credit issued
29 pursuant to an award of tax credits approved by the New Jersey
30 Economic Development Authority **[prior to July 1, 2018]**,
31 regardless of when such sale or assignment occurs. The term "net
32 gains or net income" shall not include gains or income from
33 transactions to the extent to which nonrecognition is allowed for
34 federal income tax purposes. The term "sale, exchange or other
35 disposition" shall not include the exchange of stock or securities in
36 a corporation a party to a reorganization in pursuance of a plan of
37 reorganization, solely for stock or securities in such corporation or
38 in another corporation a party to the reorganization and the transfer
39 of property to a corporation by one or more persons solely in
40 exchange for stock or securities in such corporation if immediately
41 after the exchange such person or persons are in control of the
42 corporation. For purposes of this clause, stock or securities issued
43 for services shall not be considered as issued in return for property.

44 For purposes of this clause, the term "reorganization" means**[--]**:

45 (i) A statutory merger or consolidation;

46 (ii) The acquisition by one corporation, in exchange solely for
47 all or part of its voting stock (or in exchange solely for all or a part
48 of the voting stock of a corporation which is in control of the

1 acquiring corporation) of stock of another corporation if,
2 immediately after the acquisition, the acquiring corporation has
3 control of such other corporation (whether or not such acquiring
4 corporation had control immediately before the acquisition);

5 (iii) The acquisition by one corporation, in exchange solely for
6 all or part of its voting stock (or in exchange solely for all or a part
7 of the voting stock of a corporation which is in control of the
8 acquiring corporation), of substantially all of the properties of
9 another corporation, but in determining whether the exchange is
10 solely for stock the assumption by the acquiring corporation of a
11 liability of the other, or the fact that property acquired is subject to
12 a liability, shall be disregarded;

13 (iv) A transfer by a corporation of all or a part of its assets to
14 another corporation if immediately after the transfer the transferor,
15 or one or more of its shareholders (including persons who were
16 shareholders immediately before the transfer), or any combination
17 thereof, is in control of the corporation to which the assets are
18 transferred;

19 (v) A recapitalization;

20 (vi) A mere change in identity, form, or place of organization
21 however effected; or

22 (vii) The acquisition by one corporation, in exchange for stock of
23 a corporation (referred to in this subclause as "controlling
24 corporation") which is in control of the acquiring corporation, of
25 substantially all of the properties of another corporation which in
26 the transaction is merged into the acquiring corporation shall not
27 disqualify a transaction under subclause (i) if such transaction
28 would have qualified under subclause (i) if the merger had been into
29 the controlling corporation, and no stock of the acquiring
30 corporation is used in the transaction;

31 (viii) A transaction otherwise qualifying under subclause (i) shall
32 not be disqualified by reason of the fact that stock of a corporation
33 (referred to in this subclause as the "controlling corporation") which
34 before the merger was in control of the merged corporation is used
35 in the transaction, if after the transaction, the corporation surviving
36 the merger holds substantially all of its properties and of the
37 properties of the merged corporation (other than stock of the
38 controlling corporation distributed in the transaction); and in the
39 transaction, former shareholders of the surviving corporation
40 exchanged, for an amount of voting stock of the controlling
41 corporation, an amount of stock in the surviving corporation which
42 constitutes control of such corporation.

43 For purposes of this clause, the term "control" means the
44 ownership of stock possessing at least 80% of the total combined
45 voting power of all classes of stock entitled to vote and at least 80%
46 of the total number of shares of all other classes of stock of the
47 corporation.

1 For purposes of this clause, the term "a party to a reorganization"
2 includes a corporation resulting from a reorganization, and both
3 corporations, in the case of a reorganization resulting from the
4 acquisition by one corporation of stock or properties of another. In
5 the case of a reorganization qualifying under subclause (i) by reason
6 of subclause (vii) the term "a party to a reorganization" includes the
7 controlling corporation referred to in such subclause (vii).

8 Notwithstanding any provisions hereof, upon every such
9 exchange or conversion, the taxpayer's basis for the stock or
10 securities received shall be the same as the taxpayer's actual or
11 attributed basis for the stock, securities or property surrendered in
12 exchange therefor.

13 d. Net gains or net income derived from or in the form of rents,
14 royalties, patents, and copyrights.

15 e. Interest, except interest referred to in clause (1) or (2) of
16 N.J.S.54A:6-14, or distributions paid by a qualified investment fund
17 as defined in section 2 of P.L.1987, c.310 (C.54A:6-14.1), to the
18 extent provided in that section.

19 f. Dividends. "Dividends" means any distribution in cash or
20 property made by a corporation, association or business trust that is
21 not an S corporation, (1) out of accumulated earnings and profits, or
22 (2) out of earnings and profits of the year in which such dividend is
23 paid and any distribution in cash or property made by an S
24 corporation, as specifically determined pursuant to section 16 of
25 P.L.1993, c.173 (C.54A:5-14).

26 The term "dividends" shall not include distributions paid by a
27 qualified investment fund as defined in section 2 of P.L.1987, c.310
28 (C.54A:6-14.1), to the extent provided in that section.

29 g. Gambling winnings.

30 h. Net gains or income derived through estates or trusts.

31 i. Income in respect of a decedent.

32 j. Amounts distributed or withdrawn from an employee trust
33 attributable to contributions to the trust which were excluded from
34 gross income under the provisions of chapter 6 of Title 54A of the
35 New Jersey Statutes, amounts rolled over from an IRA, as defined
36 pursuant to subsection (a) of section 408 of the federal Internal
37 Revenue Code of 1986, 26 U.S.C. s.408, that is not a Roth IRA, as
38 defined pursuant to subsection b. of section 2 of P.L.1998,c.57
39 (C.54A:6-28) to an IRA that is a Roth IRA, and pensions and
40 annuities except to the extent of exclusions in N.J.S.54A:6-10
41 hereunder, notwithstanding the provisions of N.J.S.18A:66-51,
42 P.L.1973, c.140, s.41 (C.43:6A-41), P.L.1954, c.84, s.53
43 (C.43:15A-53), P.L.1944, c.255, s.17 (C.43:16A-17), P.L.1965,
44 c.89, s.45 (C.53:5A-45), R.S.43:10-14, P.L.1943, c.160, s.22
45 (C.43:10-18.22), P.L.1948, c.310, s.22 (C.43:10-18.71), P.L.1954,
46 c.218, s.32 (C.43:13-22.34), P.L.1964, c.275, s.11 (C.43:13-22.60),
47 R.S.43:10-57, P.L.1938, c.330, s.13 (C.43:10-105), R.S.43:13-44,
48 and P.L.1943, c.189, s.5 (C.43:13-37.5).

k. Distributive share of partnership income, excluding the gain or income derived from the sale or assignment of a tax credit transfer certificate pursuant to section 7 of P.L.2011, c.149 (C.34:1B-248) **and**, section 10 of P.L.2014, c.63 (C.34:1B-251), or the "New Jersey Economic Recovery Act of 2020," P.L.2020, c.156 (C.34:1B-269 et al.), as amended and supplemented, from any sale or assignment of a tax credit issued pursuant to an award of tax credits approved by the New Jersey Economic Development Authority **prior to July 1, 2018**, regardless of when such sale or assignment occurs.

l. Amounts received as prizes and awards, except as provided in N.J.S.54A:6-8 and N.J.S.54A:6-11 hereunder.

m. Rental value of a residence furnished by an employer or a rental allowance paid by an employer to provide a home.

n. Alimony and separate maintenance payments to the extent that such payments are required to be made under a decree of divorce or separate maintenance but not including payments for support of minor children.

o. Income, gain or profit derived from acts or omissions defined as crimes or offenses under the laws of this State or any other jurisdiction.

p. Net pro rata share of S corporation income, excluding the gain or income derived from the sale or assignment of a tax credit transfer certificate pursuant to section 7 of P.L.2011, c.149 (C.34:1B-248) **and**, section 10 P.L.2014, c.63 (C.34:1B-251), or the "New Jersey Economic Recovery Act of 2020," P.L.2020, c.156 (C.34:1B-269 et al.), as amended and supplemented, from any sale or assignment of a tax credit issued pursuant to an award of tax credits approved by the New Jersey Economic Development Authority **prior to July 1, 2018**, regardless of when such sale or assignment occurs.

(cf: P.L.2018, c.131, s.8)²

²**[16.** Section 1 of P.L.1979, c.303 (C.34:1B-5.1) is amended to read as follows:

1. a. The New Jersey Economic Development Authority shall adopt rules and regulations requiring that not less than the prevailing wage rate be paid to workers employed in the performance of any construction contract, including contracts for millwork fabrication, undertaken in connection with authority financial assistance or any of its projects, those projects which it undertakes pursuant to P.L.2002, c.43 (C.52:27BBB-1 et al.), or undertaken to fulfill any condition of receiving authority financial assistance, including the performance of any contract to construct, renovate or otherwise prepare a facility for operations which are necessary for the receipt of authority financial assistance, unless the work performed under the contract is performed on a facility owned by a landlord of the entity receiving the assistance

1 and less than 35 percent of the facility is leased by the entity at the
2 time of the contract and under any agreement to subsequently lease the
3 facility. The prevailing wage rate shall be the rate determined by the
4 Commissioner of Labor and Workforce Development pursuant to the
5 provisions of P.L.1963, c.150 (C.34:11-56.25 et seq.). For the
6 purposes of this section, "authority financial assistance" means any
7 loan, loan guarantee, grant, incentive, tax exemption or other financial
8 assistance that is approved, funded, authorized, administered or
9 provided by the authority to any entity and is provided before, during
10 or after completion of a project, including but not limited to, all
11 authority financial assistance received by the entity pursuant to the
12 "Business Employment Incentive Program Act," P.L.1996, c.26
13 (C.34:1B-124 et al.) that enables the entity to engage in a construction
14 contract, but this section shall not be construed as requiring the
15 payment of the prevailing wage for construction commencing more
16 than two years after an entity has executed with the authority a
17 commitment letter regarding authority financial assistance and the first
18 payment or other provision of the assistance is received.

19 b. The New Jersey Economic Development Authority shall adopt
20 rules and regulations requiring that not less than the prevailing wage
21 rate be paid to workers employed in the performance of any contract,
22 for construction, demolition, remediation, removal of hazardous
23 substances, alteration, custom fabrication, repair work, or maintenance
24 work, including painting and decorating, or excavation, grading, pile
25 driving, concrete form, or other types of foundation work in
26 connection with the "New Jersey Community-Anchored Development
27 Act," sections 43 through 53 of P.L.2020, c.156 (C.34:1B-311 through
28 34:1B-321), the "New Jersey Aspire Program Act," sections 54
29 through 67 of P.L.2020, c.156 (C.34:1B-322 through C.34:1B-335),
30 and the "**1**[New Jersey]**1** Emerge Program Act," sections 68 through
31 81 of P.L.2020, c.156 (C.34:1B-336 et al.). The requirements of this
32 subsection shall apply to any site preparation work performed 24
33 months prior to and during the incentive eligibility period of any
34 project receiving tax credits under the "New Jersey Community-
35 Anchored Development Act," sections 43 through 53 of P.L.2020,
36 c.156 (C.34:1B-311 through C.34:1B-321), the "New Jersey Aspire
37 Program Act," sections 54 through 67 of P.L.2020, c.156 (C.34:1B-
38 322 through C.34:1B-335), and the "**1**[New Jersey]**1** Emerge Program
39 Act," sections 68 through 81 of P.L.2020, c.156 (C.34:1B-336 et al.),
40 and to projects receiving financial assistance under the
41 "Redevelopment Project Bridge Financing Program," established
42 pursuant to section 11 of P.L. , c. (C.) (pending before the
43 Legislature as this bill), in which there is a continuity of ownership in
44 the site of the redevelopment project, including work undertaken to
45 fulfill any condition of receiving tax credits under the programs. Work
46 that is subject to the requirements of this subsection shall include the
47 performance of any contract for construction, demolition, remediation,
48 removal of hazardous substances, alteration, custom fabrication, repair

work, or maintenance work, including painting and decorating, or excavation, grading, pile driving, concrete form, or other types of foundation work undertaken on a facility for operations which are necessary for the receipt of tax credits under the "New Jersey Community-Anchored Development Act," sections 43 through 53 of P.L.2020, c.156 (C.34:1B-311 through C.34:1B-321), the "New Jersey Aspire Program Act," sections 54 through 67 of P.L.2020, c.156 (C.34:1B-322 through C.34:1B-335), and the "¹**[New Jersey]**¹ Emerge Program Act," sections 68 through 81 of P.L.2020, c.156 (C.34:1B-336 et al.), or the receipt of financial assistance under the "Redevelopment Project Bridge Financing Program," established pursuant to section 11 of P.L. , c. (C.) (pending before the Legislature as this bill), unless the work performed under the contract is performed on a facility owned by a landlord of the entity receiving the tax credit and less than 35 percent of the facility is leased by the entity at the time of the contract and under any agreement to subsequently lease the facility. The prevailing wage rate shall be the rate determined by the Commissioner of Labor and Workforce Development pursuant to the provisions of P.L.1963, c.150 (C.34:11-56.25 et seq.), and all contractors and subcontractors subject to the prevailing wage requirement set forth in this section shall be registered with the Department of Labor and Workforce Development pursuant to the provisions of section 5 of P.L.1999, c.238 (C.34:11-56.52). An applicant for tax credits under the "New Jersey Community-Anchored Development Act," sections 43 through 53 of P.L.2020, c.156 (C.34:1B-311 through C.34:1B-321), the "New Jersey Aspire Program Act," sections 54 through 67 of P.L.2020, c.156 (C.34:1B-322 through C.34:1B-335), and the "¹**[New Jersey]**¹ Emerge Program Act," sections 68 through 81 of P.L.2020, c.156 (C.34:1B-336 et al.), shall certify under penalty of perjury as part of its application that all construction contracts undertaken on any project in connection with an award under the programs comply with the prevailing wage requirements of this subsection. If at any time the authority determines that the developer made a material misrepresentation regarding compliance with the provisions of this subsection on the developer's application, the developer shall forfeit 35 percent of the tax credits allowed under the programs, and pay to the affected workers back wages in an amount that compensates the workers at the prevailing wage rate for the work performed.

(cf: P.L.2020, c.156, s.112)]²

²10. (New section) a. Notwithstanding any provision of P.L.2020, c.156 (C.34:1B-269 et al.), section 14 of P.L.2023, c.98 (C.34:1B-335.1), or any provision of law to the contrary, any project approved by the authority after the effective date of P.L.2020, c.156 (C.34:1B-269 et al.) shall be subject to:

(1) the requirements of subsection f. of section 57 of P.L.2020, c.156 (C.34:1B-325), as amended by P.L. , c. (C.) (pending

1 before the Legislature as this bill), concerning the average
2 occupancy rate of commercial projects;

3 (2) any lower fees promulgated by the authority on or after the
4 effective date of P.L. , c. (C.) (pending before the
5 Legislature as this bill), except that such lower fees shall not apply
6 to any fees already paid to the authority;

7 (3) the requirements of paragraphs (1) and (4) of subsection f. of
8 section 60 of P.L. 2020, c.156 (C.34:1B-328), as amended by
9 P.L. , c. (C.) (pending before the Legislature as this bill),
10 concerning the execution of community benefits agreements;

11 (4) the requirements of subsection b. of section 62 of P.L.2020,
12 c.156 (C.34:1B-330), as amended by P.L. , c. (C.) (pending
13 before the Legislature as this bill);

14 (5) the requirements of subsection a. of section 63 of P.L.2020,
15 c.156 (C.34:1B-331), as amended by P.L. , c. (C.) (pending
16 before the Legislature as this bill);

17 (6) the provisions of subsection b. and subsection c. of section
18 60 of P.L.2020, c.156 (C.34:1B-328), as amended by P.L. ,
19 c. (C.) (pending before the Legislature as this bill); and

20 (7) any other provision concerning the terms and conditions of
21 an incentive award issued under the New Jersey Aspire Program
22 that the authority determines will make the administration of the
23 program consistent with the provisions of the “New Jersey Aspire
24 Program Act,” sections 54 through 67 of P.L.2020, c.156 (C.34:1B-
25 322 through C.34:1B-335), as amended and supplemented by
26 P.L. , c. (C.) (pending before the Legislature as this bill),
27 provided that such provision shall not have a materially adverse
28 impact on any projects approved by the authority before the
29 effective date of P.L. , c. (C.) (pending before the
30 Legislature as this bill).

31 b. Notwithstanding any provision of P.L.2020, c.156 (C.34:1B-
32 269 et al.), section 14 of P.L.2023, c.98 (C.34:1B-335.1), or any
33 other provision of law to the contrary, any project approved by the
34 authority after the effective date of P.L.2020, c.156 (C.34:1B-269 et
35 al.) shall not be subject to any proration of tax credits for any year
36 of the eligibility period.²

37
38 ²**[17.] 11.**² This act shall take effect immediately.
39
40
41
42

43 Revises various provisions concerning New Jersey Aspire
44 Program and surrender of tax credits issued under New Jersey
45 Economic Recovery Act of 2020.

CHAPTER 2

AN ACT concerning the New Jersey Aspire Program, amending P.L.2020, c.156 and P.L.2023, c.98, and supplementing P.L.2020, c.156.

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

1. Section 55 of P.L.2020, c.156 (C.34:1B-323) is amended to read as follows:

C.34:1B-323 Definitions.

55. As used in sections 54 through 67 of P.L.2020, c.156 (C.34:1B-322 through 34:1B-335):

"Agency" means the New Jersey Housing and Mortgage Finance Agency established pursuant to P.L.1983, c.530 (C.55:14K-1 et seq.).

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

"Aviation district" means all areas within the boundaries of the Atlantic City International Airport, established pursuant to section 24 of P.L.1991, c.252 (C.27:25A-24), and the Federal Aviation Administration William J. Hughes Technical Center and the area within a one-mile radius of the outermost boundary of the Atlantic City International Airport and the Federal Aviation Administration William J. Hughes Technical Center, and the Trenton-Mercer Airport, established pursuant to R.S.40:8-2 and the area within a one-mile radius of the outermost boundary of the Trenton-Mercer Airport.

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

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

"Cash flow" means the profit or loss that an investment property earns from rent, deposits, and other fees after financial obligations, such as debt, maintenance, government payments, and other expenses, have been paid.

"Collaborative workspace" means coworking, accelerator, incubator, or other shared working environments that promote collaboration, interaction, socialization, and coordination among tenants through the clustering of multiple businesses or individuals. For this purpose, the collaborative workspace shall be the greater of: 2,500 of dedicated square feet or 10 percent of the total property on which the redevelopment project is situated. The collaborative workspace shall include a community manager, be focused on collaboration among the community members, and include regularly scheduled education events for the community members. The collaborative workspace shall also include a physical open space that supports the engagement of its community members.

"Commercial project" means a redevelopment project, which is predominantly commercial and, if located in a government-restricted municipality, contains 25,000 or more square feet, or if located in any other municipality, contains 50,000 or more square feet of office and retail space, industrial space, or film studios, professional stages, television studios, recording studios, screening rooms, or other infrastructure for film production, and may include a parking component. The term "commercial project" includes a redevelopment project comprised solely

of a health care or health services center, which contains not less than 10,000 square feet devoted to health care or health services, and which may include a parking component. The term "commercial project" also includes an industrial space that is predominantly used for warehouse distribution or fulfillment centers if the eligible project cost includes at least \$10,000,000 in environmental remediation costs.

"Developer" means a person who enters or proposes to enter into an incentive award agreement pursuant to the provisions of section 60 of P.L.2020, c.156 (C.34:1B-328), including, but not limited, to a lender that completes a redevelopment project, operates a redevelopment project, or completes and operates a redevelopment project.

"Director" means the Director of the Division of Taxation in the Department of the Treasury.

"Distressed municipality" means a municipality that is qualified to receive assistance under P.L.1978, c.14 (C.52:27D-178 et seq.), a municipality under the supervision of the Local Finance Board pursuant to the provisions of the "Local Government Supervision Act (1947)," P.L.1947, c.151 (C.52:27BB-1 et seq.), a municipality identified by the Director of the Division of Local Government Services in the Department of Community Affairs to be facing serious fiscal distress, a SDA municipality, or a municipality in which a major rail station is located.

"Economic development incentive" means a financial incentive, awarded by the authority, or agreed to between the authority and a business or person, for the purpose of stimulating economic development or redevelopment in New Jersey, including, but not limited to, a bond, grant, loan, loan guarantee, matching fund, tax credit, or other tax expenditure.

"Eligibility period" means the period not to exceed 10 years, as specified in an incentive award agreement during which a developer may claim a tax credit under the program, as such period shall be determined by the authority pursuant to subsection b. of section 60 of P.L.2020, c.156 (C.34:1B-328), provided that a developer may elect a period not to exceed five years for a project located in a government-restricted municipality or for a special mission non-profit project.

"Enhanced area" means (1) a municipality that contains an urban transit hub, as defined in section 2 of P.L.2007, c.346 (C.34:1B-208); (2) the five municipalities with the highest poverty rates according to the 2017 Municipal Revitalization Index; and (3) the three municipalities with the highest percentage of SNAP recipients according to the 2017 Municipal Revitalization Index.

"Environmental remediation costs" means any costs incurred by a developer in the completion of any actions necessary to investigate, clean up, or respond to a known, suspected, or threatened discharge of contaminants, including, as necessary, the preliminary assessment, site investigation, remedial investigation, and remedial action, pursuant to sections 23 through 43 and section 45 of P.L.1993, c.139 (C.58:10B-1 et seq.).

"Food delivery source" means access to nutritious foods, such as fresh fruits and vegetables, through grocery operators, including, but not limited to a full-service supermarket or grocery store, and other healthy food retailers of at least 16,000 square feet, including, but not limited to, a prepared food establishment selling primarily nutritious ready-to-serve meals.

"Food desert community" means a physically contiguous area in the State in which residents have limited access to nutritious foods, such as fresh fruits and vegetables, and that has been designated as a food desert community pursuant to subsection b. of section 38 of P.L.2020, c.156 (C.34:1B-306).

"Government-restricted municipality" means a municipality in this State with a municipal revitalization index distress score of at least 75, that met the criteria for designation as an urban aid municipality in the 2019 State fiscal year, and that, on the effective date of P.L.2020, c.156 (C.34:1B-269 et al.), is subject to financial restrictions imposed pursuant to the "Municipal Stabilization and Recovery Act," P.L.2016, c.4 (C.52:27BBBB-1 et seq.), or is restricted in its ability to levy property taxes on property in that municipality as a result of the State of New

Jersey owning or controlling property representing at least 25 percent of the total land area of the municipality or as a result of the federal government of the United States owning or controlling at least 50 acres of the total land area of the municipality, which is dedicated as a national natural landmark. The term “government-restricted municipality” also includes any municipality that: has a population greater than 50,000 and less than 60,000 according to the latest federal decennial census, is designated as the county seat of a county of the second class with a population greater than 800,000 according to the latest federal decennial census, and has an MRI distress score of 62.1; has a population greater than 70,000 and less than 100,000 according to the latest federal decennial census, is designated as the county seat of a county of the second class with a population greater than 515,000 and less than 525,000 according to the latest federal decennial census, and has an MRI distress score of 100; or contains the intersection of Interstate 280 and the Garden State Parkway, and corresponding land areas occupied by such highways under the ownership or control of the federal government of the United States or of this State within its municipal boundary, and has an MRI distress score of 55.5.

"Health care or health services center" means an establishment that consists of not less than 10,000 square feet devoted to health care or health services, where patients are admitted for or seek examination and treatment by one or more physicians, dentists, psychologists, or other medical practitioners, and which is located in a municipality with an MRI distress score of at least 50, a distressed municipality, or a qualified incentive tract.

"Hospitality establishment" means a hotel, motel, or any business, however organized, that sells food, beverages, or both for consumption by patrons on the premises.

"Incentive area" means an aviation district; a port district; an area designated pursuant to the "State Planning Act," P.L.1985, c.398 (C.52:18A-196 et seq.), as Planning Area 1 (Metropolitan), Planning Area 2 (Suburban), or a Designated Center under the State Development and Redevelopment Plan; an area designated as a brownfield site pursuant to the "Brownfield and Contaminated Site Remediation Act," sections 23 through 43 and section 45 of P.L.1993, c.139 (C.58:10B-1 et seq.); and an area of not less than 100 acres for which a licensed site remediation professional has certified environmental remediation costs, as defined in this section and in accordance with the "Site Remediation Reform Act," sections 1 through 29 of P.L.2009, c.60 (C.58:10C-1 et seq.), in an amount not less than \$10,000,000, provided that any portion of such area is located in an area that otherwise qualifies as an incentive area.

"Incentive award" means an award of tax credits to reimburse a developer for all or a portion of the project financing gap of a redevelopment project pursuant to the provisions of sections 54 through 67 of P.L.2020, c.156 (C.34:1B-322 through 34:1B-335).

"Incentive award agreement" means the contract executed between a developer and the authority pursuant to section 60 of P.L.2020, c.156 (C.34:1B-328), which sets forth the terms and conditions under which the developer may receive the incentive awards authorized pursuant to the provisions of sections 54 through 67 of P.L.2020, c.156 (C.34:1B-322 through 34:1B-335).

"Incubator facility" means a commercial property, which contains 5,000 or more square feet of office, laboratory, or industrial space, which is located near, and presents opportunities for collaboration with, a research institution, teaching hospital, college, or university, and within which at least 75 percent of the gross leasable area is restricted for use by one or more technology startup companies.

"Individuals with special needs" means individuals with mental illness, individuals with physical or developmental disabilities, and individuals in other emerging special needs groups identified by the authority, based on guidelines established for the administration of the Special

Needs Housing Trust Fund established pursuant to section 1 of P.L.2005, c.163 (C.34:1B-21.25a) or developed in consultation with other State agencies.

"Labor harmony agreement" means an agreement between a business that serves as the owner or operator of a retail establishment, hospitality establishment, or distribution center and one or more labor organizations, which requires, for the duration of the agreement: that any participating labor organization and its members agree to refrain from picketing, work stoppages, boycotts, or other economic interference against the business; and that the business agrees to maintain a neutral posture with respect to efforts of any participating labor organization to represent employees at an establishment or other unit in the retail establishment, hospitality establishment, or distribution center, agrees to permit the labor organization to have access to the employees, and agrees to guarantee to the labor organization the right to obtain recognition as the exclusive collective bargaining representatives of the employees in an establishment or unit at the retail establishment, hospitality establishment, or distribution center by demonstrating to the New Jersey State Board of Mediation, Division of Private Employment Dispute Settlement, or a mutually agreed-upon, neutral, third party that a majority of workers in the unit have shown their preference for the labor organization to be their representative by signing authorization cards indicating that preference. The labor organization or organizations shall be from a list of labor organizations which have requested to be on the list and which the Commissioner of Labor and Workforce Development has determined represent substantial numbers of retail establishment, hospitality establishment, or distribution center employees in the State.

"Low-income housing" means housing affordable according to federal Department of Housing and Urban Development or other recognized standards for home ownership and rental costs and occupied or reserved for occupancy by households with a gross household income equal to 50 percent or less of the median gross household income for households of the same size within the housing region in which the housing is located.

"Major cultural institution" means a public or nonprofit institution, not including an institution of higher education, within this State that engages in the cultural, intellectual, scientific, environmental, educational, or artistic enrichment of the people of this State, and which institution is designated by the board as a major cultural institution.

"Major rail station" means a railroad station that is located within a qualified incentive area and that provides to the public access to a minimum of six rail passenger service lines operated by the New Jersey Transit Corporation.

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

"Moderate-income housing" means housing affordable according to federal Department of Housing and Urban Development or other recognized standards for home ownership and rental costs and occupied or reserved for occupancy by households with a gross household income equal to more than 50 percent, but less than 80 percent, of the median gross household income for households of the same size within the housing region in which the housing is located.

"MRI distress score" means a municipal revitalization index distress score, as documented in the 2023 Municipal Revitalization Index developed by the Department of Community Affairs.

"Municipal Revitalization Index" means the index by the Department of Community Affairs ranking New Jersey's municipalities according to eight separate indicators that measure diverse aspects of social, economic, physical, and fiscal conditions in each locality.

"Port district" means the portions of a qualified incentive area that are located within:
the "Port of New York District" of the Port Authority of New York and New Jersey, as defined in Article II of the Compact Between the States of New York and New Jersey of 1921; or
a 15-mile radius of the outermost boundary of each marine terminal facility established, acquired, constructed, rehabilitated, or improved by the South Jersey Port District established pursuant to "The South Jersey Port Corporation Act," P.L.1968, c.60 (C.12:11A-1 et seq.).

"Program" means the New Jersey Aspire Program established by section 56 of P.L.2020, c.156 (C.34:1B-324).

"Project cost" or "eligible project cost" means the costs incurred in connection with a redevelopment project by a developer until the issuance of a permanent certificate of occupancy, or until such other time specified by the authority, for a specific investment or improvement, including the costs relating to lands, except the cost of acquiring such lands, buildings, improvements, real or personal property, or any interest therein, including leases discounted to present value, including lands under water, riparian rights, space rights, and air rights acquired, owned, developed or redeveloped, constructed, reconstructed, rehabilitated, or improved, any environmental remediation costs, plus costs not directly related to construction, including capitalized interest paid to third parties, of an amount not to exceed 20 percent of the total costs and the cost of infrastructure improvements, including ancillary infrastructure projects. When 100 percent of the residential units constructed in a residential project are reserved for occupancy by low- and moderate-income households, the term "project cost" shall also include the developer fees paid before acquiring permanent financing, as well as the deferred developer fees approved pursuant to the rules established by the agency. In addition to the foregoing, the term "project cost" shall include, for a redevelopment project located in a government-restricted municipality, land costs in an amount not to exceed 20 percent of the eligible project cost. The fees associated with the application or administration of a grant under sections 54 through 67 of P.L.2020, c.156 (C.34:1B-322 through 34:1B-335) shall not constitute a project cost.

"Project financing gap" means the part of the total project cost, including reasonable and appropriate return on investment, that remains to be financed after all other sources of capital have been accounted for, including, but not limited to developer contributed capital, which shall not be less than 20 percent of the total project cost, and investor or financial entity capital or loans for which the developer, after making all good faith efforts to raise additional capital, certifies that additional capital cannot be raised from other sources on a non-recourse basis, provided, however, that for a redevelopment project located in a government-restricted municipality, the developer contributed capital shall not be less than 10 percent of the total project cost. Developer contributed capital may consist of cash, deferred development fees, costs for project feasibility incurred within the 12 months prior to application, property value less any mortgages when the developer owns the project site, and any other investment by the developer in the project deemed acceptable by the authority, as provided by regulations promulgated by the authority. Property value shall be valued at the lesser of: (i) the purchase price, provided the property was purchased pursuant to an arm's length transaction within 12 months of application; or (ii) the value as determined by a current appraisal.

"Project labor agreement" means a form of pre-hire collective bargaining agreement covering terms and conditions of a specific project that satisfies the requirements set forth in section 5 of P.L.2002, c.44 (C.52:38-5).

"Qualified incentive tract" means a population census tract having a poverty rate of 20 percent or more or a census tract in which the median family income for the census tract does

not exceed 80 percent of the greater of the Statewide median family income or the median family income of the metropolitan statistical area in which the census tract is situated.

"Quality childcare facility" is a child care center licensed by the Department of Children and Families or a registered family child care home with the Department of Human Services, operating continuously, which has not been subject to an enforcement action, and which has and maintains a licensed capacity for children age 13 years or younger who attend for less than 24 hours a day.

"Reasonable and appropriate return on investment" means the discount rate at which the present value of the future cash flows of an investment equals the cost of the investment. In determining the "reasonable and appropriate return on investment," an investment shall not include any federal, State, or local tax credits. For a residential project that utilizes federal low-income housing tax credits awarded by the agency, the "reasonable and appropriate return on investment" shall be based on the approval of deferred developer fees pursuant to the rules established by the agency. In the event that a residential project, which utilizes federal low-income housing tax credits awarded by the agency, generates returns on equity other than federal or local grants or proceeds from the sale of federal or local tax credits, the "reasonable and appropriate return on investment" shall be based on both the discount rate at which the present value of the future cash flows of an investment equal the cost of the investment for the entire project, and when evaluating only the units financed with federal low-income housing tax credits awarded by the agency, the approval of deferred developer fees pursuant to the rules established by the agency.

"Redevelopment project" means a specific construction project or improvement or phase of a project or improvement undertaken by a developer, owner or tenant, or both, and any ancillary infrastructure project. A redevelopment project may involve construction or improvement upon lands, buildings, improvements, or real and personal property, or any interest therein, including lands under water, riparian rights, space rights, and air rights, acquired, owned, developed or redeveloped, constructed, reconstructed, rehabilitated, or improved.

"Residential project" means a redevelopment project that is predominantly residential, intended for multi-family residency, and may include a parking component.

"SDA district" means an SDA district as defined in section 3 of P.L.2000, c.72 (C.18A:7G-3).

"SDA municipality" means a municipality in which an SDA district is situated.

"Special mission non-profit project" means a project located in a government-restricted municipality or in an enhanced area that: serves a special mission, as determined by the authority, to accomplish the public purpose of a non-profit that is a developer of or is affiliated with the project and includes no more than 100 units of 100 percent supportive housing units for tenants requiring special needs or social services, which social services may include licensed social workers, and no more than 25,000 square feet of commercial space for the provision of on-site social service programs that require a license from the Department of Children and Families as a licensed child care center. Special mission non-profit projects shall be exempt from the net benefit test requirement, affordable housing requirements, and the requirement to provide a market study as part of its application to the authority.

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

"Total project cost" means the costs incurred in connection with the redevelopment project by the developer until the issuance of a permanent certificate of occupancy, or upon such other event evidencing project completion as set forth in the incentive grant agreement, for a specific investment or improvement.

"Tourism destination project" means a non-gaming business facility that will be among the most visited privately owned or operated tourism or recreation sites in the State, and which has been determined by the authority to be in an area appropriate for development and in need of economic development incentive assistance, including a non-gaming business within an established Tourism District with a significant impact on the economic viability of that district.

"Transit hub" means an urban transit hub, as defined in section 2 of P.L.2007, c.346 (C.34:1B-208), that is located within an eligible municipality, as defined in section 2 of P.L.2007, c.346 (C.34:1B-208) and is located within a qualified incentive area.

"Transit hub municipality" means a Transit Village or a municipality: which qualifies for State aid pursuant to P.L.1978, c.14 (C.52:27D-178 et seq.), or which has continued to be a qualified municipality thereunder pursuant to P.L.2007, c.111, and in which 30 percent or more of the value of real property was exempt from local property taxation during tax year 2006. The percentage of exempt property shall be calculated by dividing the total exempt value by the sum of the net valuation which is taxable and that which is tax exempt.

"Transit Village" means a municipality that has been designated as a transit village by the Commissioner of Transportation and the Transit Village Task Force.

2. Section 56 of P.L.2020, c.156 (C.34:1B-324) is amended to read as follows:

C.34:1B-324 New Jersey Aspire Program; rules, regulations.

56. a. (1) The New Jersey Aspire Program is hereby established as a program under the jurisdiction of the New Jersey Economic Development Authority. The authority shall administer the program to encourage redevelopment projects through the provision of incentive awards to reimburse developers for certain project financing gap costs. The board may approve the award of an incentive award to a developer upon application to the authority pursuant to sections 58 and 59 of P.L.2020, c.156 (C.34:1B-326 and C.34:1B-327). The value of all tax credits approved by the authority pursuant to sections 54 through 67 of P.L.2020, c.156 (C.34:1B-322 through 34:1B-335) shall be subject to the limitations set forth in section 98 of P.L.2020, c.156 (C.34:1B-362).

(2) The authority, in consultation with the agency, shall adopt rules and regulations, pursuant to subsection b. of section 67 of P.L.2020, c.156 (C.34:1B-335), concerning the establishment and administration of the affordability controls that shall apply to the residential units constructed for occupancy by low- and moderate-income households under the program, including, but not limited to, residential units within residential projects that utilize federal low-income housing tax credits awarded by the agency. Notwithstanding any provision of law or regulation to the contrary, the affordability controls shall, at a minimum, be consistent with the affordability controls established in the rules and regulations adopted pursuant to the "Fair Housing Act," P.L.1985, c.222 (C.52:27D-301 et al.), as in effect immediately prior to the effective date of P.L.2023, c.98 (C.34:1B-335.1 et al.), including, but not limited to, any requirements concerning the bedroom distributions, affordability averages, affirmative marketing, and long-term deed restrictions of residential units constructed for occupancy by low- and moderate-income households.

b. The chief executive officer of the authority shall designate one staff member per government-restricted municipality in order to keep the municipality informed on activities within the municipality and to coordinate economic development initiatives.

3. Section 57 of P.L.2020, c.156 (C.34:1B-325) is amended to read as follows:

C.34:1B-325 Eligibility, incentive award, redevelopment project.

57. a. Prior to March 1, 2029, a developer shall be eligible to receive an incentive award for a redevelopment project only if the developer demonstrates to the authority at the time of application that:

- (1) without the incentive award, the redevelopment project is not economically feasible;
- (2) a project financing gap exists, or the authority determines that the redevelopment project will generate a below market rate of return;
- (3) the redevelopment project, except a film studio, professional stage, television studio, recording studio, screening room, or other infrastructure used for film production or a special mission non-profit project, is located in the incentive area;
- (4) except for demolition and site remediation activities, the developer has not commenced any construction at the site of the redevelopment project prior to submitting an application, unless the authority determines that the redevelopment project would not be completed otherwise or, in the event the redevelopment project is to be undertaken in phases, the requested incentive award is limited to only phases for which construction has not yet commenced;
- (5) the redevelopment project shall comply with minimum environmental and sustainability standards;
- (6) the redevelopment project shall comply with the authority's affirmative action requirements, adopted pursuant to section 4 of P.L.1979, c.303 (C.34:1B-5.4);
- (7) (a) during the eligibility period, each worker employed to perform construction work at the redevelopment project shall be paid not less than the prevailing wage rate for the worker's craft or trade, as determined by the Commissioner of Labor and Workforce Development pursuant to P.L.1963, c.150 (C.34:11-56.25 et seq.) and P.L.2005, c.379 (C.34:11-56.58 et seq.);
(b) during the eligibility period, each worker employed to perform building services work at the redevelopment project, whether pursuant to contract by the developer or a commercial tenant, commercial subtenant, or other commercial occupant, shall be paid not less than the prevailing wage rate for the worker's craft or trade, as determined by the Commissioner of Labor and Workforce Development pursuant to P.L.1963, c.150 (C.34:11-56.25 et seq.) and P.L.2005, c.379 (C.34:11-56.58 et seq.), except that this requirement shall not apply to workers employed to perform building services work by a commercial tenant, commercial subtenant, or other commercial occupant that has a leasehold interest or other occupancy right in a redevelopment project, which leasehold interest or other occupancy right encompasses less than 5,000 square feet of space within the project. The developer shall include in all commercial leases or other commercial occupancy agreements, and shall require that all subleases or other commercial occupancy agreements applicable to the redevelopment project include, a provision setting forth the requirements of this subparagraph, which provision shall be in a form acceptable to the authority. Notwithstanding any provisions of law to the contrary, if a commercial tenant, commercial subtenant, or other commercial occupant violates this provision due to the underpayment of the required prevailing wage rate, then the issuance of tax credits to the developer and any co-applicant shall be delayed until such time as documentation demonstrating compliance has been provided to the Commissioner of Labor and Workforce Development, subsequently reviewed and approved by the Commissioner of

Labor and Workforce Development, and verified by the authority, which reviews and verification shall be completed. If a violation is not cured, or is not capable of being cured, within one year of receipt of notice of the violation, then the developer and any co-applicant shall forfeit 50 percent of the tax credits otherwise authorized for the tax period in which the notice of violation was issued. If the violation is not cured on or before the conclusion of that tax period, the developer and any co-applicant shall forfeit up to 100 percent of the tax credits otherwise authorized, as determined by the authority, in each subsequent tax period until the first tax period for which documentation demonstrating compliance has been provided to the Commissioner of Labor and Workforce Development, subsequently reviewed and approved by the Commissioner of Labor and Workforce Development, and verified by the authority, which reviews and verifications shall be completed. In this event, the developer and any co-applicant shall be allowed the full tax credit amount beginning in the tax period in which documentation of compliance was reviewed and approved by the Commissioner of Labor and Workforce Development and verified by the authority, including each subsequent tax period in which the tax credits are otherwise authorized. The requirement of this subparagraph shall not apply to the residential tenants or residential subtenants of a redevelopment project;

(c) in the event a redevelopment project, or any portion thereof, is undertaken by a tenant pursuant to a contract and the tenant has a leasehold of more than 55 percent of space in the building owned or controlled by the developer, the requirement that each worker employed to perform building service work at the building be paid not less than the prevailing wage shall apply to the entire building, except as otherwise provided in subparagraph (b) of this paragraph for commercial tenants, commercial subtenants, or other commercial occupants with a leasehold interest or other occupancy right encompassing less than 5,000 square feet. The requirement of this subparagraph shall not apply to the residential tenants or residential subtenants of a redevelopment project;

(8) (a) the redevelopment project shall be completed, and the developer shall be issued a certificate of occupancy for the redevelopment project facilities by the applicable enforcing agency, within four years of executing the incentive award agreement, or in the case of a redevelopment project with a project cost in excess of \$50,000,000, the incentive phase agreement corresponding to the redevelopment project; or

(b) in the discretion of the authority, a redevelopment project with a project cost in excess of \$50,000,000, and that is authorized to be completed in phases, may be allowed no more than six years from the date on which the incentive award agreement is executed to be issued a certificate of occupancy by the applicable enforcement agency;

(9) the developer has complied with all requirements for filing tax and information returns and for paying or remitting required State taxes and fees by submitting, as a part of the application, a tax clearance certificate, as described in section 1 of P.L.2007, c.101 (C.54:50-39); and

(10) the developer is not more than 24 months in arrears at the time of application.

b. In addition to the requirements set forth in subsection a. of this section, for a commercial project to qualify for an incentive award the developer shall demonstrate that the developer shall contribute capital of at least 20 percent of the total project cost, except that if a redevelopment project is located in a government-restricted municipality, the developer shall contribute capital of at least 10 percent of the total project cost.

c. In addition to the requirements set forth in subsection a. of this section, for a residential project or a commercial project comprised solely of a health care or health service center to qualify for an incentive award, the residential project or health care or health service center shall:

(1) have a total project cost of at least \$17,500,000, if the project is located in a municipality with a population greater than 200,000 according to the latest federal decennial census;

(2) have a total project cost of at least \$10,000,000 if the project is located in a municipality with a population less than 200,000 according to the latest federal decennial census; or

(3) have a total project cost of at least \$5,000,000 if the project is in a qualified incentive tract or government-restricted municipality.

d. In addition to the requirements set forth in subsections a. and c. of this section, for a residential project consisting of newly-constructed residential units to qualify for an incentive award, the developer shall reserve at least 20 percent of the residential units constructed for occupancy by low- and moderate-income households with affordability controls as adopted by the authority, in consultation with the agency, in accordance with paragraph (2) of subsection a. of section 56 of P.L.2020, c.156 (C.34:1B-324), except that a residential project receiving a federal historic rehabilitation tax credit pursuant to section 47 of the federal Internal Revenue Code of 1986, 26 U.S.C. s.47, or a tax credit pursuant to the "Historic Property Reinvestment Act," sections 2 through 8 of P.L.2020, c.156 (C.34:1B-270 through 34:1B-276), shall be exempt from the affordability controls related to bedroom distribution.

e. Prior to the board considering an application submitted by a developer, the authority shall confirm with the Department of Labor and Workforce Development, the Department of Environmental Protection, and the Department of the Treasury whether the developer is in substantial good standing with the respective department, or has entered into an agreement with the respective department that includes a practical corrective action plan for the developer. The developer shall certify that any contractors or subcontractors that will perform work at the redevelopment project: (1) are registered as required by "The Public Works Contractor Registration Act," P.L.1999, c.238 (C.34:11-56.48 et seq.); (2) have not been debarred by the Department of Labor and Workforce Development from engaging in or bidding on Public Works Contracts in the State; and (3) possess a tax clearance certificate issued by the Division of Taxation in the Department of the Treasury. The authority may also contract with an independent third party to perform a background check on the developer.

f. Beginning on the fourth year of the eligibility period for a commercial project, and through the conclusion of the eligibility period, if the average occupancy rate of the commercial project is less than 60 percent during any applicable tax period, the developer and co-applicant shall forfeit all credits otherwise allowed for the tax period and for each subsequent tax period until the authority verifies documentation, submitted by the developer or co-applicant, demonstrating that the average occupancy rate has reached or surpassed 60 percent for the tax period. The full amount of credit shall be allowed to a developer and any co-applicant for the tax period in which the average occupancy rate reaches or surpasses 60 percent. Occupancy for the tax period shall be determined by the average of the monthly occupancy for the applicable tax period. The occupancy requirement in this subsection shall not apply to residential projects.

4. Section 60 of P.L.2020, c.156 (C.34:1B-328) is amended to read as follows:

C.34:1B-328 Incentive award agreement.

60. a. (1) Following approval and selection of an application pursuant to sections 58 and 59 of P.L.2020, c.156 (C.34:1B-326 and C.34:1B-327), the authority shall enter into an incentive award agreement with the developer. The chief executive officer of the authority shall negotiate the terms and conditions of the incentive award agreement on behalf of the State.

(2) For a phased project, the incentive phase agreement shall set forth, for each phase of the project and for the total project, the capital investment requirements and the time periods in which each phase of the project shall be commenced and completed. The awarding of tax credits

shall be conditioned on the developer's compliance with the requirements of the agreement. A redevelopment project may be completed in phases in accordance with rules adopted by the authority if the redevelopment project has an eligible project cost in excess of \$50,000,000.

b. An incentive award agreement shall specify the amount of the incentive award the authority shall award to the developer and the duration of the eligibility period. The duration of the eligibility period shall not exceed 10 years for a commercial project, mixed-use project, or residential project, except that to reduce the total value of tax credits needed to reimburse a developer for all or part of the project financing gap of a redevelopment project, the authority may, in its discretion, approve a duration for the eligibility period that is shorter than the applicable maximum periods. The incentive award agreement shall provide an estimated date of completion and include a requirement for periodic progress reports, including the submittal of executed financing commitments and documents that evidence site control, provided, however, that the developer may sell one or more buildings during the eligibility period, subject to such rules and regulations as may be adopted by the authority. If the authority does not receive periodic progress reports, or if the progress reports demonstrate unsatisfactory progress, then the authority may rescind the incentive award. If the authority rescinds an incentive award in the same calendar year in which the authority approved the incentive award, then the authority may assign the incentive award to another applicant. The incentive award agreement may also provide for a verification of the financing gap at the time the developer provides executed financing commitments to the authority and a verification of the developer's projected cash flow at the time of certification that the project is completed, provided that the authority shall not resize or reduce the tax credit based on the executed financing commitments or the updated projected cash flow, but that the authority shall use the commitments and cash flow to calculate the return on investment required pursuant to subsection c. of this section.

c. To ensure the protection of taxpayer money, at project certification and at the end of the seventh year of the eligibility period, the authority shall evaluate the developer's rate of return on investment and compare that rate of return on investment to the reasonable and appropriate rate of return at the time of board approval. If the actual rate of return on investment exceeds the reasonable and appropriate rate of return on investment at the time of board approval by more than 15 percent, the authority shall require the developer to pay up to 20 percent of the amount in excess of the reasonable and appropriate rate of return on investment. For any year during the eligibility period in which the director purchases a tax credit certificate or tax credit transfer certificate issued for a redevelopment project pursuant to section 89 of P.L.2020, c.156 (C.52:18A-263), if the actual rate of return on investment exceeds the reasonable and appropriate rate of return on investment at the time of board approval by more than 10 percent, the authority shall require the developer to pay up to 20 percent of the amount in excess of the reasonable and appropriate rate of return on investment, except as otherwise provided in paragraph (2) of subsection a. of section 89 of P.L.2020, c.156 (C.52:18A-263). The authority shall require an escrow account to be held by the authority for any payment received pursuant to this subsection until the end of the eligibility period. For any payment amount calculated at project certification, the developer shall make equal annual payments, which in aggregate shall equal the calculated payment amount, with each annual report for the first seven years of the eligibility period. At the end of the seventh year of the eligibility period, the developer shall pay the authority any additional amount required. For projects that have an eligibility period of fewer than 10 years, the authority may adjust the year of the eligibility period in which the evaluation of the rate of return and contribution to the escrow account, as may be appropriate, are required. The authority shall not reduce or recapture any tax credits at project certification or at the end of the seventh year of the eligibility period solely due to an increase to the return

on investment. Following the final year of the eligibility period, the authority shall determine if the developer's rate of return exceeded the reasonable and appropriate rate of return determined at board approval. If the final rate of return does not exceed the reasonable and appropriate rate of return determined at board approval, the authority shall release to the developer the escrowed funds. If the project final rate of return exceeds the reasonable and appropriate rate of return determined at board approval, the authority shall require the developer to pay up to 20 percent of the amount of the excess, which shall include the funds held in escrow, and such funds shall be deposited in the State General Fund.

d. The incentive award agreement shall include a requirement that the authority confirm with the Department of Environmental Protection, the Department of Labor and Workforce Development, and the Department of the Treasury that the developer is in substantial good standing with the respective department, or the developer has entered into an agreement with the respective department that includes a practical corrective action for the developer, and the developer shall confirm that each contractor or subcontractor performing work at the redevelopment project: (1) is registered as required by "The Public Works Contractor Registration Act," P.L.1999, c.238 (C.34:11-56.48 et seq.); (2) has not been debarred, suspended, or disqualified by the Department of Labor and Workforce Development from engaging in or bidding on Public Works Contracts in the State, or been debarred, suspended, or disqualified by a federal agency from engaging in federally funded construction projects or bidding on federal contracting opportunities; and (3) possesses a tax clearance certificate issued by the Division of Taxation in the Department of the Treasury. The incentive award agreement shall also include a provision that the developer shall forfeit the incentive award in any year in which the developer is neither in substantial good standing with each department nor has entered into a practical corrective action. The incentive award agreement shall also require a developer to engage in on-site consultations with the Division of Workplace Safety and Health in the Department of Health.

e. (1) Except as provided in paragraph (2) of this subsection, the authority shall not enter into an incentive award agreement for a redevelopment project that includes at least one retail establishment which will have more than 10 employees, at least one distribution center which will have more than 20 employees, or at least one hospitality establishment which will have more than 10 employees, unless the incentive award agreement includes a precondition that any business that serves as the owner or operator of the retail establishment, distribution center, or hospitality establishment enters into a labor harmony agreement with a labor organization or cooperating labor organizations which represent retail establishment, hospitality establishment, or distribution center employees in the State.

(2) A labor harmony agreement shall be required only if the State has a proprietary interest in the redevelopment project and shall remain in effect for as long as the State acts as a market participant in the redevelopment project. The authority may enter into an incentive award agreement with a developer without the labor harmony agreement required under paragraph (1) of this subsection if the authority determines that the redevelopment project would not be able to go forward if a labor harmony agreement is required. The authority shall support the determination by a written finding, which provides the specific basis for the determination.

(3) (Deleted by amendment, P.L.2023, c.98)

f. (1) Except for a special mission non-profit project in any location, or a residential project that is located in a government-restricted municipality and in which 100 percent of the residential units constructed in the residential project are reserved for occupancy by low- and moderate-income households, for a redevelopment project whose total project cost equals or exceeds \$10 million, in addition to the incentive award agreement, a developer shall enter into

a community benefits agreement with the authority and the county or municipality in which the redevelopment project is located. The agreement may include, but shall not be limited to, requirements for training, employment, and youth development and free services to underserved communities in and around the community in which the redevelopment project is located. Prior to entering a community benefits agreement, the county or municipality in which the redevelopment project is located shall hold at least one previously advertised public hearing at which testimony from residents, community groups, and other stakeholders shall have an opportunity to be heard on the needs of the community that the agreement should address, and the minutes of the meeting shall be included in the resolution of the governing body of the municipality or county adopting the community benefits agreement.

(2) The community benefits agreement shall provide for the creation of a community advisory committee to oversee the implementation of the agreement, monitor successes, ensure compliance with the terms of the agreement, and produce an annual public report. The community advisory committee created pursuant to this paragraph shall be comprised of representatives of diverse community groups and residents of the county or municipality in which the redevelopment project is located.

(3) At the time the developer submits the annual report required pursuant to section 62 of P.L.2020, c.156 (C.34:1B-330) to the authority, the developer shall certify, under the penalty of perjury, that it is in compliance with the terms of the community benefits agreement. If the developer fails to provide the certification required pursuant to this paragraph or the authority determines that the developer is not in compliance with the terms of the community benefits agreement based on the reports submitted by the community advisory committee pursuant to paragraph (2) of this subsection, then the authority may rescind an award or recapture all or part of any tax credits awarded.

(4) Notwithstanding any requirement of this subsection to the contrary, a developer shall be considered to have met the requirements of a community benefits agreement pursuant to this subsection if the developer submits to the authority:

(a) a copy of either the developer's approval letter from the authority or a redevelopment agreement applicable to the qualified business facility, provided that the approval letter or redevelopment agreement is certified by the municipality in which the redevelopment project is located, and includes provisions that meet or exceed the standards required for a community benefits agreement in this subsection, as determined by the chief executive officer pursuant to rules adopted by the authority; or

(b) a resolution adopted by the governing body of the municipality in which the redevelopment project is located, which resolution shall be adopted after at least one public hearing at which the governing body provides an opportunity for residents, community groups, and other stakeholders to testify, and which resolution shall state that the governing body has determined that the redevelopment project will provide economic and social benefits to the community that fulfill the purposes of this subsection, which benefits render a separate community benefit agreement unnecessary, and explain the reasons supporting the governing body's determination.

(c) The developer and the municipality or county shall submit the executed community benefits agreement, redevelopment agreement, or approved resolution to the authority within the same time as all other conditions subsequent required in the approval letter.

g. A developer shall submit, prior to the first disbursement of tax credits under the incentive award agreement, but no later than six months following project completion, satisfactory evidence of actual project costs, as certified by a certified public accountant, evidence of a temporary certificate of occupancy, or other event evidencing project completion

that begins the eligibility period indicated in the incentive award agreement. The developer, or an authorized agent of the developer, shall certify that the information provided pursuant to this subsection is true under the penalty of perjury. Claims, records, or statements submitted by a developer to the authority in order to receive tax credits shall not be considered claims, records, or statements made in connection with State tax laws.

h. The incentive award agreement shall include a provision allowing the authority to extend, in individual cases, the deadline for any annual reporting or certification requirement.

i. The incentive award agreement shall include one or more provisions, as determined by the authority, concerning the terms and conditions for default and the remedies for the developer of a redevelopment project in the event of default. The incentive award agreement shall not allow the authority to declare a cross-default when the developer of a redevelopment project, including any business affiliate of the developer or any other entity with common principals as the developer, is in default with any other assistance program administered by the authority.

5. Section 61 of P.L.2020, c.156 (C.34:1B-329) is amended to read as follows:

C.34:1B-329 Total tax credit.

61. a. Up to the limits established in subsection b. of this section and in accordance with an incentive award agreement, beginning upon the receipt of occupancy permits for any portion of the redevelopment project, or upon any other event evidencing project completion as set forth in the incentive award agreement, a developer shall be allowed a total tax credit that shall not exceed:

(1) (a) 85 percent of the eligible project cost for a redevelopment project that: is located in a government-restricted municipality, which municipality qualified as a government-restricted municipality prior to the effective date of P.L.2025, c.2 (C.34:1B-335.3 et al.), or is a special mission non-profit project; or

(b) 80 percent of the eligible project cost for a redevelopment project that is located in a government-restricted municipality, which municipality did not qualify as a government-restricted municipality prior to the effective date of P.L.2025, c.2 (C.34:1B-335.3 et al.);

(2) 60 percent of the eligible project cost for a residential project that receives a four-percent allocation from the federal Low Income Housing Tax Credit Program administered by the agency or a redevelopment project that is located in a qualified incentive tract, enhanced area, or a municipality with a Municipal Revitalization Index score of at least 50; or

(3) 50 percent of the eligible project cost for any other redevelopment project.

b. The value of all tax credits approved by the authority under the program for a redevelopment project phase shall not exceed:

(1) \$120,000,000 per redevelopment project or phase for a redevelopment project that is located in a government-restricted municipality or is a special mission non-profit project;

(2) \$90,000,000 per redevelopment project or phase for a redevelopment project that is allowed a tax credit under paragraph (2) of subsection a. of this section; and

(3) \$60,000,000 for any other redevelopment project or phase.

6. Section 62 of P.L.2020, c.156 (C.34:1B-330) is amended to read as follows:

C.34:1B-330 Report by developer.

62. a. A developer approved for an incentive award pursuant to sections 58 and 59 of P.L.2020, c.156 (C.34:1B-326 and C.34:1B-327) and that enters an incentive award agreement

pursuant to section 60 of P.L.2020, c.156 (C.34:1B-328) shall submit annually, commencing in the year in which the incentive award is issued and for the remainder of the eligibility period, a report indicating whether the developer is aware of any condition, event, or act that would cause the developer not to be in compliance with the incentive award agreement or the provisions of sections 54 through 67 of P.L.2020, c.156 (C.34:1B-322 through C.34:1B-335) and any additional reporting requirements contained in the incentive award agreement or tax credit certificate. The developer, or an authorized agent of the developer, shall certify that the information provided pursuant to this subsection is true under the penalty of perjury.

b. (1) Upon receipt and review of each report submitted during the eligibility period, the authority shall provide to the developer and the director a certificate of compliance indicating the amount of tax credits that the developer may apply against the developer's tax liability. Notwithstanding any provision of law or regulation to the contrary, the authority shall not require the developer to include a permanent certificate of occupancy in the first annual report, but the developer shall include the permanent certificate of occupancy in the next annual report after the developer receives the permanent certificate of occupancy. Subject to forfeiture, reduction, or other action for failure to comply with a program requirement, within 120 days after the authority preliminarily determines that an annual report is complete, the authority shall either: (a) approve the annual report and notify the director that the authority has approved the report and that the director is to issue the tax credit certificate; or (b) request more information from the developer to finalize the approval. If the authority fails to act within 120 days from its preliminary determination that the annual report is complete, the annual report shall be deemed approved by the authority, and the developer shall be entitled to receive its tax credit certificate.

(2) Upon receipt by the director of the certificate of compliance, the director shall allow the developer a credit against the tax imposed pursuant to section 5 of P.L.1945, c.162 (C.54:10A-5). A developer shall apply the credit awarded against the developer's liability under section 5 of P.L.1945, c.162 (C.54:10A-5), sections 2 and 3 of P.L.1945, c.132 (C.54:18A-2 and C.54:18A-3), section 1 of P.L.1950, c.231 (C.17:32-15), or N.J.S.17B:23-5 in the tax period for which it was issued, in the tax period in which it was issued, or in any tax period during the eligibility period without the need to amend the tax return for the tax period for which the credit was issued, subject to the carry-forward provision in this section. Notwithstanding the foregoing, no more than the amount of tax credits equal to the total credit amount divided by the duration of the tax credit term, in years, may be taken in any tax period. A developer may carry forward an unused credit resulting from the limitations of paragraph (3) of this subsection, if necessary, for use in the seven privilege periods next following the privilege period for which the credits are applied. Credits granted to a partnership shall be passed through to the partners, members, or owners, respectively, pro-rata, or pursuant to an executed agreement among the partners, members, or owners documenting an alternate distribution method provided to the director accompanied by any additional information as the director may prescribe.

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

7. Section 63 of P.L.2020, c.156 (C.34:1B-331) is amended to read as follows:

C.34:1B-331 Tax credit transfer certificate.

63. a. (1) A developer may apply to the director and the chief executive officer of the authority for a tax credit transfer certificate, covering one or more years, in lieu of the developer being allowed any amount of the credit against the tax liability of the developer. Subject to the forfeiture, reduction, or other action for failure to comply with a program requirement, within 120 days after the authority preliminarily determines that an application is complete, the authority shall either: (a) approve the application and notify the director that the authority has approved the application and that the director is to issue the tax credit transfer certificate; or (b) request more information from the developer to finalize the approval. If the authority fails to act within 120 days from its preliminary determination that the application is complete, the application shall be deemed approved by the authority, and the developer shall be entitled to receive its tax credit transfer certificate.

(2) The tax credit transfer certificate, upon receipt thereof by the developer from the director and the chief executive officer of the authority, may be sold or assigned, in full or in part in an amount not less than \$25,000, in the privilege period during which the developer receives the tax credit transfer certificate from the director, to another person, who may apply the credit against a tax liability pursuant to section 5 of P.L.1945, c.162 (C.54:10A-5), sections 2 and 3 of P.L.1945, c.132 (C.54:18A-2 and C.54:18A-3), section 1 of P.L.1950, c.231 (C.17:32-15), or N.J.S.17B:23-5. The certificate provided to the developer shall include a statement waiving the developer's right to claim the amount of the credit that the developer has elected to sell or assign against the developer's tax liability.

b. The developer shall not sell or assign, including a collateral assignment, a tax credit transfer certificate allowed under this section for consideration received by the developer of less than 85 percent of the transferred credit amount before considering any further discounting to present value which shall be permitted, except a developer of a residential project consisting of newly-constructed residential units may assign a tax credit transfer certificate for consideration of less than 85 percent subject to the submission of a plan to the authority and the agency to use the proceeds derived from the assignment of tax credits to complete the residential project, except a developer of a residential project consisting of newly-constructed residential units that has received federal low income housing tax credits under 26 U.S.C. s.42(b)(1)(B)(i) may assign a tax credit transfer certificate for consideration of no less than 65 percent subject to the submission of a plan to the authority and the New Jersey Housing and Mortgage Finance Agency to use the proceeds derived from the assignment of tax credits to complete the residential project. The tax credit transfer certificate issued to a developer by the director shall be subject to any limitations and conditions imposed on the application of State tax credits pursuant to sections 54 through 67 of P.L.2020, c.156 (C.34:1B-322 through 34:1B-335) and any other terms and conditions that the director may prescribe, provided, however, that the holder of a tax credit certificate may transfer all or part of the tax credit amount, on or after the date of issuance of the tax credit transfer certificate, for use by the transferee in the tax period for which it was issued, in the tax period in which it was issued, or in any of the next three successive tax periods. The tax certificate holder or transferee may first use the credit against tax liabilities in the tax period in which it was issued or in a succeeding tax period, as authorized in this subsection, without the need to amend the tax return for the tax period for which the credit was issued, subject to the provisions of this section. A transferee may carry forward an unused credit for use in any of the next five successive tax periods, and the unused credit shall expire thereafter. Notwithstanding any provision of this section to the

contrary, the amount of tax credits that may be claimed by the transferee in any tax period shall not exceed the total tax credit amount divided by the duration of the eligibility period in years.

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

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

- (1) the name of the transferor;
- (2) the name of the transferee;
- (3) the value of the tax credit transfer certificate; and
- (4) the consideration received by the transferor.

8. Section 65 of P.L.2020, c.156 (C.34:1B-333) is amended to read as follows:

C.34:1B-333 "Transformative project."

65. a. As used in this section, "transformative project" means a redevelopment project: that has a project financing gap; that has a total project cost of at least \$150,000,000; that includes 200,000 or more square feet of new or substantially renovated industrial, commercial, or residential space for a project located in a government-restricted municipality, that includes 250,000 or more square feet of film studios, professional stages, television studios, recording studios, screening rooms, or other infrastructure for film production, that includes 300,000 or more square feet of new or substantially renovated industrial, commercial, or residential space for a project located in an enhanced area, or that includes 500,000 or more square feet of new or substantially renovated industrial, commercial, or residential space for any other project; and, for a commercial project, that is of special economic importance as measured by the level of new jobs, new capital investment, opportunities to leverage leadership in a high-priority targeted industry, or other state priorities as determined by the authority pursuant to rules and regulations promulgated to implement this section. Notwithstanding the provisions of subsection b. of section 14 of P.L.2023, c.98 (C.34:1B-335.1) to the contrary, for applications submitted on and after the effective date of P.L.2023, c.98 (C.34:1B-335.1 et al.), if the redevelopment project is located entirely on land designated by the Department of Environmental Protection as a brownfield development area pursuant to section 7 of P.L.2005, c.223 (C.58:10B-25.1), and the eligible project cost of the redevelopment project includes at least \$15,000,000 in environmental remediation costs, the redevelopment project shall constitute a project of special economic importance. A transformative project may be completed in phases, which phases may be determined by the authority based on factors such as written architectural plans and specifications completed before or during the physical work, certificates of occupancy, or financial and operational plans. The criteria developed by the authority shall include, but shall not be limited to:

- (1) the extent to which the proposed transformative project would create modern facilities that enhance the State's competitiveness in attracting targeted industries;
- (2) (a) for a residential project, the construction of 700 or more new residential units;
- (b) for a mixed-use residential project containing fewer than 700 new residential units:
 - (i) the construction of 200 or more new residential units if the project is located in a government-restricted municipality, 300 or more new residential units if the project is located in an enhanced area, or 400 or more new residential units for all other mixed-use projects; and
 - (ii) the construction of 30,000 square feet or more of commercial space, which commercial space may include retail space; and

(c) (Deleted by amendment, P.L.2025, c.2)

(d) for a residential project, 20 percent of the new residential units shall be constructed for occupancy by low- and moderate-income households with affordability controls as adopted by the authority, in consultation with the agency, in accordance with paragraph (2) of subsection a. of section 56 of P.L.2020, c.156 (C.34:1B-324), except that a residential project receiving a federal historic rehabilitation tax credit pursuant to section 47 of the federal Internal Revenue Code of 1986, 26 U.S.C. s.47, or a tax credit pursuant to the "Historic Property Reinvestment Act," sections 2 through 8 of P.L.2020, c.156 (C.34:1B-270 through 34:1B-276), shall be exempt from the affordability controls related to bedroom distribution; and

(3) the extent to which the proposed project would leverage the competitive economic development advantages of the State's mass transit assets, higher education assets, and other economic development assets in attracting or retaining both employers and skilled workers generally or in targeted industries.

A "transformative project" shall not include a redevelopment project at which more than 50 percent of the premises is occupied by one or more businesses engaged in final point of sale retail.

b. (1) The authority may award incentive awards to transformative projects in accordance with the provisions of sections 55 through 67 of P.L.2020, c.156 (C.34:1B-323 through 34:1B-335).

(2) (a) For transformative projects completed in phases, the developer shall enter into a transformative phase agreement with the authority.

(b) As used in this subsection, "transformative phase agreement" shall mean a sub-agreement of the incentive award agreement that governs the timing, capital investment, and other applicable details of the respective phase of a phased project.

(3) Notwithstanding the provisions of section 57 of P.L.2020, c.156 (C.34:1B-325), or any other section of P.L.2020, c.156 (C.34:1B-269 et al.) to the contrary, a transformative project shall be completed, and the developer shall be issued a certificate of occupancy for the transformative project facilities by the applicable enforcing agency, within five years of executing the incentive award agreement, except that the authority may, in its discretion, extend this deadline by up to one additional year. For transformative projects completed in phases, the transformative project shall be completed, and the developer shall be issued certificates of occupancy for all phases of the transformative project facilities by the applicable enforcing agency, within 10 years of executing either the incentive award agreement or the first transformative phase agreement corresponding to the transformative project.

(4) Notwithstanding the provisions of sections 55 and 60 of P.L.2020, c.156 (C.34:1B-323 and C.34:1B-328), or any other section of P.L.2020, c.156 (C.34:1B-269 et al.) to the contrary, each phase of a transformative project completed in phases shall have a separate eligibility period. After completing each phase, the developer shall submit a certification that the phase is completed. If the authority approves the certification, the tax credit allowed to the developer shall be increased by the tax credit amount corresponding to that phase. Notwithstanding the different eligibility periods for each phase, all conditions and requirements applicable during an eligibility period pursuant to sections 55 through 67 of P.L.2020, c.156 (C.34:1B-323 through 34:1B-335) shall apply to the entire transformative project until the end of the eligibility period for the last phase.

(5) Notwithstanding the provisions of section 60 of P.L.2020, c.156 (C.34:1B-328), or any other section of P.L.2020, c.156 (C.34:1B-269 et al.) to the contrary, for a transformative project completed in phases, a review of the project financing gap shall be performed at the certification of completion of each phase, and the authority shall re-evaluate the developer's rate of return in the seventh year and at the end of the eligibility period for the last phase,

provided that the authority may also re-evaluate the developer's rate of return during the fifth year of any earlier phase.

(6) A transformative project receiving an incentive award pursuant to this section, other than a project that includes 250,000 or more square feet of film studios, professional stages, television studios, recording studios, screening rooms or other infrastructure for film production, shall be located in an incentive area, a distressed municipality, a government-restricted municipality, or an enhanced area. A transformative project receiving an incentive award pursuant to this section that includes 250,000 or more square feet of film studios, professional stages, television studios, recording studios, screening rooms, or other infrastructure for film production may be located anywhere in the State. The authority shall not consider an application for a transformative project unless the applicant submits with its application a letter evidencing support for the transformative project from the governing body of the municipality in which the transformative project is located.

c. The authority shall review the transformative project cost, evaluate and validate the project financing gap estimated by the developer, and conduct a State fiscal impact analysis to ensure that the overall public assistance provided to the transformative project will result in a net positive benefit to the State. In determining whether a transformative project will result in a net positive benefit to the State, the authority shall not consider the value of any taxes exempted, abated, rebated, or retained under the "Five-Year Exemption and Abatement Law," P.L.1991, c.441 (C.40A:21-1 et seq.), the "Long Term Tax Exemption Law," P.L.1991, c.431 (C.40A:20-1 et al.), the "New Jersey Urban Enterprise Zones Act," P.L.1983, c.303 (C.52:27H-60 et seq.), or any other law that has the effect of lowering or eliminating the developer's State or local tax liability. The determination made pursuant to this subsection shall be based on the potential tax liability of the developer without regard for potential tax losses if the developer were to locate in another state. The authority shall assess the cost of these reviews to the applicant. A developer shall pay to the authority the full amount of the direct costs of an analysis concerning the developer's application for an incentive award that a third party retained by the authority performs, if the authority deems such retention to be necessary. The authority shall evaluate the net economic benefits on a present value basis under which the requested tax credit allocation amount is discounted to present value at the same discount rate as the projected benefits from the implementation of the proposed transformative project for which an award of tax credits is being sought. Projects that are predominantly residential or that qualify as special mission non-profit projects shall be excluded from the calculation of the net benefit test required pursuant to this subsection.

d. In determining net benefits for any business or person considering locating in a transformative project and applying to receive from the authority any other economic development incentive subsequent to the award of transformative project tax credits pursuant to section 65 of P.L.2020, c.156 (C.34:1B-333), the authority shall not credit the business or person with any benefit that was previously credited to the transformative project pursuant to section 65 of P.L.2020, c.156 (C.34:1B-333).

e. The authority shall administer the credits awarded pursuant to this section in accordance with the provisions of sections 62 and 63 of P.L.2020, c.156 (C.34:1B-330 and C.34:1B-331).

f. Prior to allocating an incentive award to a developer, the authority shall confirm with the Department of Labor and Workforce Development, the Department of Environmental Protection, and the Department of the Treasury that the developer is in substantial good standing with the respective department, or the developer has entered into an agreement with the respective department that includes a practical corrective action plan, and the developer

shall certify that each contractor or subcontractor performing work at the transformative project: (1) is registered as required by "The Public Works Contractor Registration Act," P.L.1999, c.238 (C.34:11-56.48 et seq.); (2) has not been debarred by the Department of Labor and Workforce Development from engaging in or bidding on Public Works Contracts in the State; and (3) possesses a tax clearance certificate issued by the Division of Taxation in the Department of the Treasury. The authority may also contract with an independent third party to perform a background check on the developer.

g. Notwithstanding the limitation on incentive awards set forth in subsection b. of section 61 and section 98 of P.L.2020, c.156 (C.34:1B-329 and C.34:1B-362) to the contrary, the authority may allow a developer of a transformative project a tax credit in an amount not to exceed the lesser of:

(1) (a) (i) 85 percent of the eligible project cost for a transformative project that is located in a government-restricted municipality, which municipality qualified as a government-restricted municipality prior to the effective date of P.L.2025, c.2 (C.34:1B-335.3 et al.); or

(ii) 80 percent of the eligible project cost for a transformative project that is located in a government-restricted municipality, which municipality did not qualify as a government-restricted municipality prior to the effective date of P.L.2025, c.2 (C.34:1B-335.3 et al.);

(b) 60 percent of the eligible project cost for a residential transformative project that receives a four-percent allocation from the federal Low Income Housing Tax Credit Program administered by the agency or a transformative project that is located in a qualified incentive tract, enhanced area, or a municipality with a Municipal Revitalization Index score of at least 50; or

(c) 50 percent of the eligible project cost for any other transformative project;

(2) the total value of the project financing gap; or

(3) \$400,000,000 except that for a transformative project that is developed in phases, the \$400,000,000 limitation on incentive awards set forth in this paragraph shall apply to the total aggregate award for all phases of the transformative project.

9. Section 89 of P.L.2020, c.156 (C.52:18A-263) is amended to read as follows:

C.52:18A-263 Purchase of unused tax credits.

89. a. The Director of the Division of Taxation in the Department of the Treasury may purchase unused tax credits awarded under a program listed in subsection b. of this section, including tax credit transfer certificates issued by the director in lieu of a tax credit allowed under such programs. The director shall not pay consideration in excess of 75 percent of the credit amount to be purchased, except for a credit awarded under:

(1) the "Emerge Program Act," sections 68 through 81 of P.L.2020, c.156 (C.34:1B-336 et al.), which shall be subject to the provisions of paragraph (4) of subsection d. of section 77 of P.L.2020, c.156 (C.34:1B-345);

(2) the "New Jersey Aspire Program Act," sections 54 through 67 of P.L.2020, c.156 (C.34:1B-322 through C.34:1B-335), as amended and supplemented, for which the director shall pay an amount equal to 85 percent of the credit amount, provided that the issuance date of the tax credit certificate or tax credit transfer certificate to the developer or the holder of such certificate occurred at least one year prior to the date of application to the director, and further provided that, if the application to the director is submitted after the sixth year of the eligibility period, the amount in excess of the reasonable and appropriate rate of return on investment that the developer is required to pay pursuant to subsection c. of section 60 of P.L.2020, c.156 (C.34:1B-328) shall increase to 50 percent; or

(3) the “Cultural Arts Incentives Program Act,” P.L.2023, c.197 (C.34:1B-383 et al.), for which the director shall pay an amount equal to 85 percent of the credit amount, provided that the issuance date of the tax credit certificate or tax credit transfer certificate to the developer or the holder of such certificate occurred at least one year prior to the date of application to the director.

b. The Director of the Division of Taxation in the Department of the Treasury may purchase tax credits awarded under the following:

(1) the "Historic Property Reinvestment Act," sections 2 through 8 of P.L.2020, c.156 (C.34:1B-270 through 34:1B-276);

(2) the "Brownfield Redevelopment Incentive Program Act," sections 9 through 19 of P.L.2020, c.156 (C.34:1B-277 through 34:1B-287);

(3) the "New Jersey Innovation Evergreen Act," sections 20 through 34 of P.L.2020, c.156 (C.34:1B-288 through 34:1B-302);

(4) the "Food Desert Relief Act," sections 35 through 42 of P.L.2020, c.156 (C.34:1B-303 through 34:1B-310);

(5) the "New Jersey Community-Anchored Development Act," sections 43 through 53 of P.L.2020, c.156 (C.34:1B-311 through 34:1B-321);

(6) the "New Jersey Aspire Program Act," sections 54 through 67 of P.L.2020, c.156 (C.34:1B-322 through 34:1B-335);

(7) the "Emerge Program Act," sections 68 through 81 of P.L.2020, c.156 (C.34:1B-336 et al.);

(8) the Grow New Jersey Assistance Program established pursuant to section 3 of P.L.2011, c.149 (C.34:1B-244);

(9) section 6 of P.L.2010, c.57 (C.34:1B-209.4);

(10) the State Economic Redevelopment and Growth Grant program established pursuant to section 5 of P.L.2009, c.90 (C.52:27D-489e);

(11) section 1 of P.L.2018, c.56 (C.54:10A-5.39b);

(12) section 2 of P.L.2018, c.56 (C.54A:4-12b); and

(13) the “Cultural Arts Incentives Program Act,” P.L.2023, c.197 (C.34:1B-383 et al.).

C.34:1B-335.3 Approved projects, certain requirements.

10. a. Notwithstanding any provision of P.L.2020, c.156 (C.34:1B-269 et al.), section 14 of P.L.2023, c.98 (C.34:1B-335.1), or any provision of law to the contrary, any project approved by the authority after the effective date of P.L.2020, c.156 (C.34:1B-269 et al.) shall be subject to:

(1) the requirements of subsection f. of section 57 of P.L.2020, c.156 (C.34:1B-325), as amended by P.L.2025, c.2 (C.34:1B-335.3 et al.), concerning the average occupancy rate of commercial projects;

(2) any lower fees promulgated by the authority on or after the effective date of P.L.2025, c.2 (C.34:1B-335.3 et al.), except that such lower fees shall not apply to any fees already paid to the authority;

(3) the requirements of paragraphs (1) and (4) of subsection f. of section 60 of P.L. 2020, c.156 (C.34:1B-328), as amended by P.L.2025, c.2 (C.34:1B-335.3 et al.), concerning the execution of community benefits agreements;

(4) the requirements of subsection b. of section 62 of P.L.2020, c.156 (C.34:1B-330), as amended by P.L.2025, c.2 (C.34:1B-335.3 et al.);

(5) the requirements of subsection a. of section 63 of P.L.2020, c.156 (C.34:1B-331), as amended by P.L.2025, c.2 (C.34:1B-335.3 et al.);

(6) the provisions of subsection b. and subsection c. of section 60 of P.L.2020, c.156 (C.34:1B-328), as amended by P.L.2025, c.2 (C.34:1B-335.3 et al.); and

(7) any other provision concerning the terms and conditions of an incentive award issued under the New Jersey Aspire Program that the authority determines will make the administration of the program consistent with the provisions of the “New Jersey Aspire Program Act,” sections 54 through 67 of P.L.2020, c.156 (C.34:1B-322 through C.34:1B-335), as amended and supplemented by P.L.2025, c.2 (C.34:1B-335.3 et al.), provided that such provision shall not have a materially adverse impact on any projects approved by the authority before the effective date of P.L.2025, c.2 (C.34:1B-335.3 et al.).

b. Notwithstanding any provision of P.L.2020, c.156 (C.34:1B-269 et al.), section 14 of P.L.2023, c.98 (C.34:1B-335.1), or any other provision of law to the contrary, any project approved by the authority after the effective date of P.L.2020, c.156 (C.34:1B-269 et al.) shall not be subject to any proration of tax credits for any year of the eligibility period.

11. This act shall take effect immediately.

Approved January 23, 2025.

SENATE, No. 1323

STATE OF NEW JERSEY

221st LEGISLATURE

PRE-FILED FOR INTRODUCTION IN THE 2024 SESSION

Sponsored by:

Senator NELLIE POU

District 35 (Bergen and Passaic)

SYNOPSIS

Revises various requirements of New Jersey Aspire Program and establishes Redevelopment Project Bridge Financing Program.

CURRENT VERSION OF TEXT

Introduced Pending Technical Review by Legislative Counsel.



1 **AN ACT** concerning the New Jersey Aspire Program, amending
2 various parts of the statutory law, and supplementing P.L.2020,
3 c.156.

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

7
8 1. Section 55 of P.L.2020, c.156 (C.34:1B-323) is amended to read
9 as follows:

10 55. As used in sections 54 through 67 of P.L.2020, c.156 (C.34:1B-
11 322 through 34:1B-335):

12 "Agency" means the New Jersey Housing and Mortgage Finance
13 Agency established pursuant to P.L.1983, c.530 (C.55:14K-1 et seq.).

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

16 "Aviation district" means all areas within the boundaries of the
17 Atlantic City International Airport, established pursuant to section 24 of
18 P.L.1991, c.252 (C.27:25A-24), and the Federal Aviation
19 Administration William J. Hughes Technical Center and the area within
20 a one-mile radius of the outermost boundary of the Atlantic City
21 International Airport and the Federal Aviation Administration William
22 J. Hughes Technical Center.

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

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

35 "Cash flow" means the profit or loss that an investment property
36 earns from rent, deposits, and other fees after financial obligations, such
37 as debt, maintenance, government payments, and other expenses, have
38 been paid.

39 "Collaborative workspace" means coworking, accelerator,
40 incubator, or other shared working environments that promote
41 collaboration, interaction, socialization, and coordination among
42 tenants through the clustering of multiple businesses or individuals. For
43 this purpose, the collaborative workspace shall be the greater of: 2,500
44 of dedicated square feet or 10 percent of the total property on which the
45 redevelopment project is situated. The collaborative workspace shall

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 include a community manager, be focused on collaboration among the
2 community members, and include regularly scheduled education events
3 for the community members. The collaborative workspace shall also
4 include a physical open space that supports the engagement of its
5 community members.

6 "Commercial project" means a redevelopment project, which is
7 predominantly commercial and, if located in a government-restricted
8 municipality, contains 25,000 or more square feet, or if located in any
9 other municipality, contains 50,000 or more square feet of office and
10 retail space, industrial space including, but not limited to, any industrial
11 space that is predominantly used for warehouse distribution or
12 fulfillment centers and has at least \$10 million in environmental
13 remediation costs, or film studios, professional stages, television
14 studios, recording studios, screening rooms, or other infrastructure for
15 film production, and may include a parking component. The term
16 "commercial project" includes a redevelopment project comprised
17 solely of a health care or health services center, which contains not less
18 than 10,000 square feet devoted to health care or health services, and
19 which may include a parking component.

20 "Developer" means a person who enters or proposes to enter into an
21 incentive award agreement pursuant to the provisions of section 60 of
22 P.L.2020, c.156 (C.34:1B-328), including, but not limited, to a lender
23 that completes a redevelopment project, operates a redevelopment
24 project, or completes and operates a redevelopment project.

25 "Director" means the Director of the Division of Taxation in the
26 Department of the Treasury.

27 "Distressed municipality" means a municipality that is qualified to
28 receive assistance under P.L.1978, c.14 (C.52:27D-178 et seq.), a
29 municipality under the supervision of the Local Finance Board pursuant
30 to the provisions of the "Local Government Supervision Act (1947),"
31 P.L.1947, c.151 (C.52:27BB-1 et seq.), a municipality identified by the
32 Director of the Division of Local Government Services in the
33 Department of Community Affairs to be facing serious fiscal distress, a
34 SDA municipality, or a municipality in which a major rail station is
35 located.

36 "Economic development incentive" means a financial incentive,
37 awarded by the authority, or agreed to between the authority and a
38 business or person, for the purpose of stimulating economic
39 development or redevelopment in New Jersey, including, but not limited
40 to, a bond, grant, loan, loan guarantee, matching fund, tax credit, or
41 other tax expenditure.

42 "Eligibility period" means the period not to exceed 15 years for a
43 commercial or mixed-use project or the period not to exceed 10 years
44 for a residential project specified in an incentive award agreement
45 during which a developer may claim a tax credit under the program, as
46 such period shall be determined by the authority pursuant to subsection
47 b. of section 60 of P.L.2020, c.156 (C.34:1B-328).

1 "Enhanced area" means (1) a municipality that contains an urban
2 transit hub, as defined in section 2 of P.L.2007, c.346 (C.34:1B-208);
3 (2) the five municipalities with the highest poverty rates according to
4 the 2017 Municipal Revitalization Index; and (3) the three
5 municipalities with the highest percentage of SNAP recipients
6 according to the 2017 Municipal Revitalization Index.

7 "Environmental remediation costs" means any costs incurred by a
8 developer in the completion of any actions necessary to investigate,
9 clean up, or respond to a known, suspected, or threatened discharge of
10 contaminants, including, as necessary, the preliminary assessment, site
11 investigation, remedial investigation, and remedial action, pursuant to
12 sections 23 through 43 and section 45 of P.L.1993, c.139 (C.58:10B-1
13 et seq.).

14 "Food delivery source" means access to nutritious foods, such as
15 fresh fruits and vegetables, through grocery operators, including, but not
16 limited to a full-service supermarket or grocery store, and other healthy
17 food retailers of at least 16,000 square feet, including, but not limited
18 to, a prepared food establishment selling primarily nutritious ready-to-
19 serve meals.

20 "Food desert community" means a physically contiguous area in the
21 State in which residents have limited access to nutritious foods, such as
22 fresh fruits and vegetables, and that has been designated as a food desert
23 community pursuant to subsection b. of section 38 of P.L.2020, c.156
24 (C.34:1B-306).

25 "Government-restricted municipality" means a municipality in this
26 State with a municipal revitalization index distress score of at least 75,
27 that met the criteria for designation as an urban aid municipality in the
28 2019 State fiscal year, and that, on the effective date of P.L.2020, c.156
29 (C.34:1B-269 et al.), is subject to financial restrictions imposed
30 pursuant to the "Municipal Stabilization and Recovery Act," P.L.2016,
31 c.4 (C.52:27BBBB-1 et seq.), or is restricted in its ability to levy
32 property taxes on property in that municipality as a result of the State of
33 New Jersey owning or controlling property representing at least 25
34 percent of the total land area of the municipality or as a result of the
35 federal government of the United States owning or controlling at least
36 50 acres of the total land area of the municipality, which is dedicated as
37 a national natural landmark.

38 "Health care or health services center" means an establishment that
39 consists of not less than 10,000 square feet devoted to health care or
40 health services, where patients are admitted for or seek examination and
41 treatment by one or more physicians, dentists, psychologists, or other
42 medical practitioners, and which is located in a municipality with a
43 Municipal Revitalization Index distress score of at least 50, a distressed
44 municipality, or a qualified incentive tract.

45 "Hospitality establishment" means a hotel, motel, or any business,
46 however organized, that sells food, beverages, or both for consumption
47 by patrons on the premises.

1 "Incentive area" means an aviation district; a port district; an area
2 designated pursuant to the "State Planning Act," P.L.1985, c.398
3 (C.52:18A-196 et seq.), as Planning Area 1 (Metropolitan), Planning
4 Area 2 (Suburban), **【or】** a Designated Center, **【provided an area**
5 **designated as Planning Area 2 (Suburban) or a Designated Center shall**
6 **be located within a one-half mile radius of the mid-point, with bicycle**
7 **and pedestrian connectivity, of a New Jersey Transit Corporation, Port**
8 **Authority Transit Corporation, or Port Authority Trans-Hudson**
9 **Corporation rail, bus, or ferry station, including all light rail stations, or**
10 **a high-frequency bus stop as certified by the New Jersey Transit**
11 **Corporation】 or an Endorsed Plan;** an area designated as a brownfield
12 site pursuant to the "Brownfield and Contaminated Site Remediation
13 Act," sections 23 through 43 and section 45 of P.L.1993, c.139
14 (C.58:10B-1 et seq.); and an area of not less than 100 acres for which a
15 licensed site remediation professional has certified environmental
16 remediation costs, as defined in this section and in accordance with the
17 "Site Remediation Reform Act," sections 1 through 29 of P.L.2009, c.60
18 (C.58:10C-1 et seq.), in an amount not less than \$10,000,000, provided
19 that any portion of such area is located in an area that otherwise qualifies
20 as an incentive area.

21 "Incentive award" means an award of tax credits to reimburse a
22 developer for all or a portion of the project financing gap of a
23 redevelopment project pursuant to the provisions of sections 54 through
24 67 of P.L.2020, c.156 (C.34:1B-322 through 34:1B-335).

25 "Incentive award agreement" means the contract executed between
26 a developer and the authority pursuant to section 60 of P.L.2020, c.156
27 (C.34:1B-328), which sets forth the terms and conditions under which
28 the developer may receive the incentive awards authorized pursuant to
29 the provisions of sections 54 through 67 of P.L.2020, c.156 (C.34:1B-
30 322 through 34:1B-335).

31 "Incubator facility" means a commercial property, which contains
32 5,000 or more square feet of office, laboratory, or industrial space,
33 which is located near, and presents opportunities for collaboration with,
34 a research institution, teaching hospital, college, or university, and
35 within which at least 75 percent of the gross leasable area is restricted
36 for use by one or more technology startup companies.

37 "Individuals with special needs" means individuals with mental
38 illness, individuals with physical or developmental disabilities, and
39 individuals in other emerging special needs groups identified by the
40 authority, based on guidelines established for the administration of the
41 Special Needs Housing Trust Fund established pursuant to section 1 of
42 P.L.2005, c.163 (C.34:1B-21.25a) or developed in consultation with
43 other State agencies.

44 "Labor harmony agreement" means an agreement between a
45 business that serves as the owner or operator of a retail establishment,
46 hospitality establishment, or distribution center and one or more labor
47 organizations, which requires, for the duration of the agreement: that
48 any participating labor organization and its members agree to refrain

1 from picketing, work stoppages, boycotts, or other economic
2 interference against the business; and that the business agrees to
3 maintain a neutral posture with respect to efforts of any participating
4 labor organization to represent employees at an establishment or other
5 unit in the retail establishment, hospitality establishment, or distribution
6 center, agrees to permit the labor organization to have access to the
7 employees, and agrees to guarantee to the labor organization the right
8 to obtain recognition as the exclusive collective bargaining
9 representatives of the employees in an establishment or unit at the retail
10 establishment, hospitality establishment, or distribution center by
11 demonstrating to the New Jersey State Board of Mediation, Division of
12 Private Employment Dispute Settlement, or a mutually agreed-upon,
13 neutral, third party that a majority of workers in the unit have shown
14 their preference for the labor organization to be their representative by
15 signing authorization cards indicating that preference. The labor
16 organization or organizations shall be from a list of labor organizations
17 which have requested to be on the list and which the Commissioner of
18 Labor and Workforce Development has determined represent
19 substantial numbers of retail establishment, hospitality establishment,
20 or distribution center employees in the State.

21 "Low-income housing" means housing affordable according to
22 federal Department of Housing and Urban Development or other
23 recognized standards for home ownership and rental costs and occupied
24 or reserved for occupancy by households with a gross household income
25 equal to 50 percent or less of the median gross household income for
26 households of the same size within the housing region in which the
27 housing is located.

28 "Major cultural institution" means a public or nonprofit institution,
29 not including an institution of higher education, within this State that
30 engages in the cultural, intellectual, scientific, environmental,
31 educational, or artistic enrichment of the people of this State, and which
32 institution is designated by the board as a major cultural institution.

33 "Major rail station" means a railroad station that is located within a
34 qualified incentive area and that provides to the public access to a
35 minimum of six rail passenger service lines operated by the New Jersey
36 Transit Corporation.

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

44 "Mixed-use project" means a redevelopment project that includes
45 both a residential component and a nonresidential component.

46 "Moderate-income housing" means housing affordable according to
47 federal Department of Housing and Urban Development or other
48 recognized standards for home ownership and rental costs and occupied

1 or reserved for occupancy by households with a gross household income
2 equal to more than 50 percent, but less than 80 percent, of the median
3 gross household income for households of the same size within the
4 housing region in which the housing is located.

5 "Municipal Revitalization Index" means the index by the
6 Department of Community Affairs ranking New Jersey's municipalities
7 according to eight separate indicators that measure diverse aspects of
8 social, economic, physical, and fiscal conditions in each locality.

9 "Port district" means the portions of a qualified incentive area that
10 are located within:

11 a. the "Port of New York District" of the Port Authority of New
12 York and New Jersey, as defined in Article II of the Compact Between
13 the States of New York and New Jersey of 1921; or

14 b. a 15-mile radius of the outermost boundary of each marine
15 terminal facility established, acquired, constructed, rehabilitated, or
16 improved by the South Jersey Port District established pursuant to "The
17 South Jersey Port Corporation Act," P.L.1968, c.60 (C.12:11A-1 et
18 seq.).

19 "Program" means the New Jersey Aspire Program established by
20 section 56 of P.L.2020, c.156 (C.34:1B-324).

21 "Project cost" or "total project cost" means the costs incurred in
22 connection with a redevelopment project by a developer until the
23 issuance of a permanent certificate of occupancy, or until such other
24 time specified by the authority, for a specific investment or
25 improvement, including the costs relating to lands, except the cost of
26 acquiring such lands, buildings, improvements, real or personal
27 property, or any interest therein, including leases discounted to present
28 value, including lands under water, riparian rights, space rights, and air
29 rights acquired, owned, developed or redeveloped, constructed,
30 reconstructed, rehabilitated, or improved, any environmental
31 remediation costs, plus costs not directly related to construction,
32 including capitalized interest paid to third parties, of an amount not to
33 exceed 20 percent of the total costs and the cost of infrastructure
34 improvements, including ancillary infrastructure projects. When 100
35 percent of the residential units constructed in a residential project are
36 reserved for occupancy by low- and moderate-income households, the
37 term "project cost" shall also include the developer fees paid before
38 acquiring permanent financing, as well as the deferred developer fees
39 approved pursuant to the rules established by the agency. In addition to
40 the foregoing, the term "project cost" shall include the following costs
41 when incurred by a developer for a redevelopment project located in a
42 government restricted municipality: any development, redevelopment,
43 and relocation costs, including, but not limited to, land and building
44 acquisition costs; any soft costs, including engineering, legal,
45 accounting, and other professional services required for the completion
46 of the project; any environmental remediation costs; and any
47 infrastructure improvement for the project area, including, but not
48 limited to, costs of on- and off-site utility, road, pier, wharf, bulkhead,

1 or sidewalk construction or repair. The fees associated with the
2 application or administration of a grant under sections 54 through 67 of
3 P.L.2020, c.156 (C.34:1B-322 through 34:1B-335) shall not constitute
4 a project cost, regardless of the location of the redevelopment project.

5 "Project financing gap" means the part of the total project cost,
6 including reasonable and appropriate return on investment, that remains
7 to be financed after all other sources of capital have been accounted for,
8 including, but not limited to developer contributed capital, which shall
9 not be less than 20 percent of the total project cost, and investor or
10 financial entity capital or loans for which the developer, after making
11 all good faith efforts to raise additional capital, certifies that additional
12 capital cannot be raised from other sources on a non-recourse basis;
13 provided, however, that for a redevelopment project located in a
14 government-restricted municipality, the developer contributed capital
15 shall not be less than 10 percent of the total project cost. Developer
16 contributed capital may consist of cash, deferred development fees,
17 costs for project feasibility incurred within the 12 months prior to
18 application, property value less any mortgages when the developer owns
19 the project site, and any other investment by the developer in the project
20 deemed acceptable by the authority, as provided by regulations
21 promulgated by the authority. Property value shall be valued at the
22 lesser of: (i) the purchase price, provided the property was purchased
23 pursuant to an arm's length transaction within 12 months of application;
24 or (ii) the value as determined by a current appraisal.

25 "Project labor agreement" means a form of pre-hire collective
26 bargaining agreement covering terms and conditions of a specific
27 project that satisfies the requirements set forth in section 5 of P.L.2002,
28 c.44 (C.52:38-5).

29 "Qualified incentive tract" means (i) a population census tract
30 having a poverty rate of 20 percent or more; or (ii) a census tract in
31 which the median family income for the census tract does not exceed 80
32 percent of the greater of the Statewide median family income or the
33 median family income of the metropolitan statistical area in which the
34 census tract is situated.

35 "Quality childcare facility" is a child care center licensed by the
36 Department of Children and Families or a registered family child care
37 home with the Department of Human Services, operating continuously,
38 which has not been subject to an enforcement action, and which has and
39 maintains a licensed capacity for children age 13 years or younger who
40 attend for less than 24 hours a day.

41 "Reasonable and appropriate return on investment" means the
42 discount rate at which the present value of the future cash flows of an
43 investment equals the cost of the investment. In determining the
44 "reasonable and appropriate return on investment," an investment shall
45 not include any federal, State, or local tax credits. For a residential
46 project that utilizes federal low-income housing tax credits awarded by
47 the agency, the "reasonable and appropriate return on investment" shall
48 be based on the approval of deferred developer fees pursuant to the rules

1 established by the agency. In the event that a residential project, which
2 utilizes federal low-income housing tax credits awarded by the agency,
3 generates returns on equity other than federal or local grants or proceeds
4 from the sale of federal or local tax credits, the "reasonable and
5 appropriate return on investment" shall be based on both the discount
6 rate at which the present value of the future cash flows of an investment
7 equal the cost of the investment for the entire project, and when
8 evaluating only the units financed with federal low-income housing tax
9 credits awarded by the agency, the approval of deferred developer fees
10 pursuant to the rules established by the agency.

11 "Redevelopment project" means a specific construction project or
12 improvement or phase of a project or improvement undertaken by a
13 developer, owner or tenant, or both, and any ancillary infrastructure
14 project. A redevelopment project may involve construction or
15 improvement upon lands, buildings, improvements, or real and personal
16 property, or any interest therein, including lands under water, riparian
17 rights, space rights, and air rights, acquired, owned, developed or
18 redeveloped, constructed, reconstructed, rehabilitated, or improved.

19 "Residential project" means a redevelopment project that is
20 predominantly residential, intended for multi-family residency, and may
21 include a parking component.

22 "SDA district" means an SDA district as defined in section 3 of
23 P.L.2000, c.72 (C.18A:7G-3).

24 "SDA municipality" means a municipality in which an SDA district
25 is situated.

26 "Stranded asset" means any building previously used for
27 commercial, retail, office space, manufacturing, or industrial purposes,
28 which building is no longer used for such purposes, and which has been
29 abandoned, experienced significant vacancies for at least two
30 consecutive years, or has fallen into such disrepair as to be untenable.

31 "Technology startup company" means a for-profit business that has
32 been in operation fewer than seven years at the time that it initially
33 occupies or expands in a qualified business facility and is developing or
34 possesses a proprietary technology or business method of a high
35 technology or life science-related product, process, or service, which
36 proprietary technology or business method the business intends to move
37 to commercialization. The business shall be deemed to have begun
38 operation on the date that the business first hired at least one employee
39 in a full-time position.

40 "Total **[project]** development cost" or "total redevelopment cost"
41 means the costs incurred in connection with the redevelopment project
42 by the developer until the issuance of a permanent certificate of
43 occupancy, or upon such other event evidencing project completion as
44 set forth in the incentive grant agreement, for a specific investment or
45 improvement.

46 "Tourism destination project" means a non-gaming business facility
47 that will be among the most visited privately owned or operated tourism
48 or recreation sites in the State, and which has been determined by the

1 authority to be in an area appropriate for development and in need of
2 economic development incentive assistance, including a non-gaming
3 business within an established Tourism District with a significant
4 impact on the economic viability of that district.

5 "Transit hub" means an urban transit hub, as defined in section 2 of
6 P.L.2007, c.346 (C.34:1B-208), that is located within an eligible
7 municipality, as defined in section 2 of P.L.2007, c.346 (C.34:1B-208)
8 and is located within a qualified incentive area.

9 "Transit hub municipality" means a Transit Village or a
10 municipality: a. which qualifies for State aid pursuant to P.L.1978, c.14
11 (C.52:27D-178 et seq.), or which has continued to be a qualified
12 municipality thereunder pursuant to P.L.2007, c.111; and b. in which 30
13 percent or more of the value of real property was exempt from local
14 property taxation during tax year 2006. The percentage of exempt
15 property shall be calculated by dividing the total exempt value by the
16 sum of the net valuation which is taxable and that which is tax exempt.

17 "Transit Village" means a municipality that has been designated as
18 a transit village by the Commissioner of Transportation and the Transit
19 Village Task Force established pursuant to P.L.1985, c.398 (C.27:1A-
20 5).

21 (cf: P.L.2023, c.98, s.1)

22

23 2. Section 56 of P.L.2020, c.156 (C.34:1B-324) is amended to
24 read as follows:

25 56. a. (1) The New Jersey Aspire Program is hereby established
26 as a program under the jurisdiction of the New Jersey Economic
27 Development Authority. The authority shall administer the program
28 to encourage redevelopment projects through the provision of
29 incentive awards to reimburse developers for certain project
30 financing gap costs. The board may approve the award of an
31 incentive award to a developer upon application to the authority
32 pursuant to sections 58 and 59 of P.L.2020, c.156 (C.34:1B-326 and
33 C.34:1B-327). The value of all tax credits approved by the authority
34 pursuant to sections 54 through 67 of P.L.2020, c.156 (C.34:1B-322
35 through 34:1B-335) shall be subject to the limitations set forth in
36 section 98 of P.L.2020, c.156 (C.34:1B-362).

37 (2) The authority, in consultation with the agency, shall adopt
38 rules and regulations, pursuant to subsection b. of section 67 of
39 P.L.2020, c.156 (C.34:1B-335), concerning the establishment and
40 administration of the affordability controls that shall apply to the
41 residential units constructed for occupancy by low- and moderate-
42 income households under the program, including, but not limited to,
43 residential units within residential projects that utilize federal low-
44 income housing tax credits awarded by the agency. Notwithstanding
45 any provision of law or regulation to the contrary, the affordability
46 controls shall, at a minimum, be consistent with the affordability
47 controls established in the rules and regulations adopted pursuant to
48 the "Fair Housing Act," P.L.1985, c.222 (C.52:27D-301 et al.), as in

1 effect immediately prior to the effective date of P.L.2023, c.98
2 (C.34:1B-335.1 et al.), including, but not limited to, any requirements
3 concerning the **【bedroom distributions,】** affordability averages,
4 affirmative marketing, and long-term deed restrictions of residential
5 units constructed for occupancy by low- and moderate-income
6 households, except not including the bedroom distribution
7 requirements for three-bedroom housing units.

8 b. The chief executive officer of the authority shall designate
9 one staff member per government-restricted municipality in order to
10 keep the municipality informed on activities within the municipality
11 and to coordinate economic development initiatives.

12 (cf: P.L.2023, c.98, s.2)

13
14 3. Section 57 of P.L.2020, c.156 (C.34:1B-325) is amended to read
15 as follows:

16 57. a. Prior to March 1, 2029, a developer shall be eligible to receive
17 an incentive award for a redevelopment project only if the developer
18 demonstrates to the authority at the time of application that:

19 (1) without the incentive award, the redevelopment project is not
20 economically feasible;

21 (2) a project financing gap exists, or the authority determines that
22 the redevelopment project will generate a below market rate of return;

23 (3) the redevelopment project, except a film studio, professional
24 stage, television studio, recording studio, screening room, or other
25 infrastructure used for film production, is located in the incentive area;

26 (4) (a) except for demolition and site remediation activities, the
27 developer has not commenced any construction at the site of the
28 redevelopment project prior to submitting an application, unless the
29 authority determines that the redevelopment project would not be
30 completed otherwise or, in the event the redevelopment project is to be
31 undertaken in phases, the requested incentive award is limited to only
32 phases for which construction has not yet commenced;

33 (b) if the developer has commenced demolition and site remediation
34 activities at the site of the redevelopment project prior to submitting an
35 application, all construction workers employed to undertake demolition
36 and site remediation activities at the site were paid not less than the
37 prevailing wage rate for the worker's craft or trade, as determined by
38 the Commissioner of Labor and Workforce Development pursuant to
39 P.L.1963, c.150 (C.34:11-56.25 et seq.) and P.L.2005, c.379 (C.34:11-
40 56.58 et seq.);

41 (5) the redevelopment project shall comply with minimum
42 environmental and sustainability standards;

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

46 (7) (a) during the eligibility period, each worker employed to
47 perform construction work at the redevelopment project shall be paid
48 not less than the prevailing wage rate for the worker's craft or trade, as

1 determined by the Commissioner of Labor and Workforce Development
2 pursuant to P.L.1963, c.150 (C.34:11-56.25 et seq.) and P.L.2005, c.379
3 (C.34:11-56.58 et seq.);

4 (b) during the eligibility period, each worker employed to perform
5 building services work at the redevelopment project, whether pursuant
6 to contract by the developer or a commercial tenant, commercial
7 subtenant, or other commercial occupant, shall be paid not less than the
8 prevailing wage rate for the worker's craft or trade, as determined by the
9 Commissioner of Labor and Workforce Development pursuant to
10 P.L.1963, c.150 (C.34:11-56.25 et seq.) and P.L.2005, c.379 (C.34:11-
11 56.58 et seq.), except that this requirement shall not apply to workers
12 employed to perform building services work by **[a]** any residential
13 tenant or any commercial tenant, commercial subtenant, or other
14 commercial occupant that has a leasehold interest or other occupancy
15 right in a redevelopment project, which leasehold interest or other
16 occupancy right encompasses less than 5,000 square feet of space within
17 the project. The developer shall include in all commercial leases or
18 other commercial occupancy agreements, and shall require that all
19 subleases or other commercial occupancy agreements applicable to the
20 redevelopment project include, a provision setting forth the
21 requirements of this subparagraph, which provision shall be in a form
22 acceptable to the authority. Notwithstanding any provisions of law to
23 the contrary, if a commercial tenant, commercial subtenant, or other
24 commercial occupant violates this provision due to the underpayment
25 of the required prevailing wage rate, then the issuance of tax credits to
26 the developer and any co-applicant shall be delayed until such time as
27 documentation demonstrating compliance has been provided to the
28 Commissioner of Labor and Workforce Development, subsequently
29 reviewed and approved by the Commissioner of Labor and Workforce
30 Development, and verified by the authority, which reviews and
31 verification shall be completed. If a violation is not cured, or is not
32 capable of being cured, within one year of receipt of notice of the
33 violation, then the developer and any co-applicant shall forfeit 50
34 percent of the tax credits otherwise authorized for the tax period in
35 which the notice of violation was issued. If the violation is not cured on
36 or before the conclusion of that tax period, the developer and any co-
37 applicant shall forfeit up to 100 percent of the tax credits otherwise
38 authorized, as determined by the authority, in each subsequent tax
39 period until the first tax period for which documentation demonstrating
40 compliance has been provided to the Commissioner of Labor and
41 Workforce Development, subsequently reviewed and approved by the
42 Commissioner of Labor and Workforce Development, and verified by
43 the authority, which reviews and verifications shall be completed. In
44 this event, the developer and any co-applicant shall be allowed the full
45 tax credit amount beginning in the tax period in which documentation
46 of compliance was reviewed and approved by the Commissioner of
47 Labor and Workforce Development and verified by the authority,

1 including each subsequent tax period in which the tax credits are
2 otherwise authorized;

3 (c) in the event a redevelopment project, or any portion thereof, is
4 undertaken by a tenant pursuant to a contract and the tenant has a
5 leasehold of more than 55 percent of space in the building owned or
6 controlled by the developer, the requirement that each worker employed
7 to perform building service work at the building be paid not less than
8 the prevailing wage shall apply to the entire building, except as
9 otherwise provided in subparagraph (b) of this paragraph for all
10 residential tenants and all commercial tenants, commercial subtenants,
11 or other commercial occupants with a leasehold interest or other
12 occupancy right encompassing less than 5,000 square feet;

13 (8) (a) the redevelopment project shall be completed, and the
14 developer shall be issued a certificate of occupancy for the
15 redevelopment project facilities by the applicable enforcing agency,
16 within four years of executing the incentive award agreement, or in the
17 case of a redevelopment project with a project cost in excess of
18 \$50,000,000, the incentive phase agreement corresponding to the
19 redevelopment project; or

20 (b) in the discretion of the authority, a redevelopment project with a
21 project cost in excess of \$50,000,000, and that is authorized to be
22 completed in phases, may be allowed no more than six years from the
23 date on which the incentive award agreement is executed to be issued a
24 certificate of occupancy by the applicable enforcement agency;

25 (9) the developer has complied with all requirements for filing tax
26 and information returns and for paying or remitting required State taxes
27 and fees by submitting, as a part of the application, a tax clearance
28 certificate, as described in section 1 of P.L.2007, c.101 (C.54:50-39);
29 and

30 (10) the developer is not more than 24 months in arrears at the time
31 of application.

32 b. In addition to the requirements set forth in subsection a. of this
33 section, for a commercial project to qualify for an incentive award the
34 developer shall demonstrate that the developer shall contribute capital
35 of at least 20 percent of the total project cost, except that if a
36 redevelopment project is located in a government-restricted
37 municipality, the developer shall contribute capital of at least 10 percent
38 of the total project cost.

39 c. In addition to the requirements set forth in subsection a. of this
40 section, for a residential project or a commercial project comprised
41 solely of a health care or health service center to qualify for an incentive
42 award, the residential project or health care or health service center
43 shall:

44 (1) have a total project cost of at least \$17,500,000, if the project is
45 located in a municipality with a population greater than 200,000
46 according to the latest federal decennial census;

1 (2) have a total project cost of at least \$10,000,000 if the project is
2 located in a municipality with a population less than 200,000 according
3 to the latest federal decennial census; or

4 (3) have a total project cost of at least \$5,000,000 if the project is in
5 a qualified incentive tract or government-restricted municipality.

6 d. In addition to the requirements set forth in subsections a. and c.
7 of this section, for a residential project consisting of newly-constructed
8 residential units to qualify for an incentive award, the developer shall
9 reserve at least 20 percent of the residential units constructed for
10 occupancy by low- and moderate-income households with affordability
11 controls as adopted by the authority, in consultation with the agency, in
12 accordance with paragraph (2) of subsection a. of section 56 of
13 P.L.2020, c.156 (C.34:1B-324), except that a residential project
14 receiving a federal historic rehabilitation tax credit pursuant to section
15 47 of the federal Internal Revenue Code of 1986, 26 U.S.C. s.47, or a
16 tax credit pursuant to the "Historic Property Reinvestment Act,"
17 sections 2 through 8 of P.L.2020, c.156 (C.34:1B-270 through 34:1B-
18 276), shall be exempt from the affordability controls related to bedroom
19 distribution.

20 e. Prior to the board considering an application submitted by a
21 developer, the authority shall confirm with the Department of Labor and
22 Workforce Development, the Department of Environmental Protection,
23 and the Department of the Treasury whether the developer is in
24 substantial good standing with the respective department, or has entered
25 into an agreement with the respective department that includes a
26 practical corrective action plan for the developer. The developer shall
27 certify that any contractors or subcontractors that will perform work at
28 the redevelopment project: (1) are registered as required by "The Public
29 Works Contractor Registration Act," P.L.1999, c.238 (C.34:11-56.48 et
30 seq.); (2) have not been debarred by the Department of Labor and
31 Workforce Development from engaging in or bidding on Public Works
32 Contracts in the State; and (3) possess a tax clearance certificate issued
33 by the Division of Taxation in the Department of the Treasury. The
34 authority may also contract with an independent third party to perform
35 a background check on the developer.

36 f. Beginning on the third year following the date of issuance of a
37 final certificate of occupancy for a commercial project, and through the
38 conclusion of the eligibility period, if the average occupancy rate of the
39 commercial project is less than 60 percent during any applicable tax
40 period, the developer and co-applicant shall forfeit all credits otherwise
41 allowed for the tax period and for each subsequent tax period until the
42 authority verifies documentation, submitted by the developer or co-
43 applicant, demonstrating that the average occupancy rate has reached or
44 surpassed 60 percent for the tax period. The full amount of credit shall
45 be allowed to a developer and any co-applicant for the tax period in
46 which the average occupancy rate reaches or surpasses 60 percent.
47 Occupancy for the tax period shall be determined by the average of the

1 monthly occupancy for the applicable tax period. The occupancy
2 requirement in this subsection shall not apply to residential projects.
3 (cf: P.L.2023, c.98, s.3)
4

5 4. Section 60 of P.L.2020, c.156 (C.34:1B-328) is amended to read
6 as follows:

7 60. a. (1) Following approval and selection of an application
8 pursuant to sections 58 and 59 of P.L.2020, c.156 (C.34:1B-326 and
9 C.34:1B-327), the authority shall enter into an incentive award
10 agreement with the developer. The chief executive officer of the
11 authority shall negotiate the terms and conditions of the incentive award
12 agreement on behalf of the State.

13 (2) For a phased project, the incentive phase agreement shall set
14 forth, for each phase of the project and for the total project, the capital
15 investment requirements and the time periods in which each phase of
16 the project shall be commenced and completed. The awarding of tax
17 credits shall be conditioned on the developer's compliance with the
18 requirements of the agreement. A redevelopment project may be
19 completed in phases in accordance with rules adopted by the authority
20 if the redevelopment project has a total project cost in excess of
21 \$50,000,000.

22 b. An incentive award agreement shall specify the amount of the
23 incentive award the authority shall award to the developer and the
24 duration of the eligibility period. The duration of the eligibility period
25 **【shall not exceed 15 years for a commercial or mixed-use project and】**
26 shall not exceed 10 years for a commercial project, mixed-use project,
27 or residential project, except that 【to】 the authority shall consider
28 reducing the eligibility period if a shorter period would reduce the total
29 value of tax credits needed to reimburse a developer for all or part of the
30 project financing gap of a redevelopment project, **【the authority may, in**
31 **its discretion, approve a duration for the eligibility period that is shorter**
32 **than the applicable maximum periods】** enhance access to tax credit
33 monetization on cost effective terms, or otherwise enhance the
34 effectiveness of the program. The incentive award agreement shall
35 provide an estimated date of completion and include a requirement for
36 periodic progress reports, including the submittal of executed financing
37 commitments and documents that evidence site control; provided
38 however, that the developer may sell one or more buildings during the
39 eligibility period, provided that such sale is: an arms-length transaction
40 to an unrelated party, or for an amount at least equal to fair market value
41 based on an appraisal conducted within one year; and subject to the
42 purchaser's assumption of all obligations relating to the buildings
43 pursuant to sections 54 through 67 of P.L.2020, c.156 (C.34:1B-322
44 through C.34:1B-335). If the authority does not receive periodic
45 progress reports, or if the progress reports demonstrate unsatisfactory
46 progress, then the authority may rescind the incentive award. If the
47 authority rescinds an incentive award in the same calendar year in which
48 the authority approved the incentive award, then the authority may

1 assign the incentive award to another applicant. The incentive award
2 agreement may also provide for a verification of the financing gap at the
3 time the developer provides executed financing commitments to the
4 authority and a verification of the developer's projected cash flow at the
5 time of certification that the project is completed.

6 c. To ensure the protection of taxpayer money, if the authority
7 determines at project certification that the actual capital financing
8 approach utilized by the project has resulted in a financing gap that is
9 smaller than the financing gap determined at board approval, the
10 authority shall reduce the amount of the tax credit or accept payment
11 from the developer on a pro rata basis. If there is no project financing
12 gap due to the actual capital financing approach utilized by the project,
13 then the developer shall forfeit the incentive award. At the end of the
14 seventh year of the eligibility period, the authority shall evaluate the
15 developer's rate of return on investment and compare that rate of return
16 on investment to the reasonable and appropriate rate of return at the time
17 of board approval. If the actual rate of return on investment exceeds the
18 reasonable and appropriate rate of return on investment at the time of
19 board approval by more than 15 percent, the authority shall require the
20 developer to pay up to 20 percent of the amount in excess of the
21 reasonable and appropriate rate of return on investment. The authority
22 shall require an escrow account to be held by the authority until the end
23 of the eligibility period. Following the final year of the eligibility
24 period, the authority shall determine if the developer's rate of return
25 exceeded the reasonable and appropriate rate of return determined at
26 board approval. If the final rate of return does not exceed the reasonable
27 and appropriate rate of return determined at board approval, the
28 authority shall release to the developer the escrowed funds. If the
29 project final rate of return exceeds the reasonable and appropriate rate
30 of return determined at board approval, the authority shall require the
31 developer to pay up to 20 percent of the amount of the excess, which
32 shall include the funds held in escrow, and such funds shall be deposited
33 in the State General Fund.

34 d. The incentive award agreement shall include a requirement that
35 the authority confirm with the Department of Environmental Protection,
36 the Department of Labor and Workforce Development, and the
37 Department of the Treasury that the developer is in substantial good
38 standing with the respective department, or the developer has entered
39 into an agreement with the respective department that includes a
40 practical corrective action for the developer, and the developer shall
41 confirm that each contractor or subcontractor performing work at the
42 redevelopment project: (1) is registered as required by "The Public
43 Works Contractor Registration Act," P.L.1999, c.238 (C.34:11-56.48 et
44 seq.); (2) has not been debarred, suspended, or disqualified by the
45 Department of Labor and Workforce Development from engaging in or
46 bidding on Public Works Contracts in the State, or been debarred,
47 suspended, or disqualified by a federal agency from engaging in
48 federally-funded construction projects or bidding on federal contracting

1 opportunities; and (3) possesses a tax clearance certificate issued by the
2 Division of Taxation in the Department of the Treasury. The incentive
3 award agreement shall also include a provision that the developer shall
4 forfeit the incentive award in any year in which the developer is neither
5 in substantial good standing with each department nor has entered into
6 a practical corrective action. The incentive award agreement shall also
7 require a developer to engage in on-site consultations with the Division
8 of Workplace Safety and Health in the Department of Health.

9 e. (1) Except as provided in paragraph (2) of this subsection, the
10 authority shall not enter into an incentive award agreement for a
11 redevelopment project that includes at least one retail establishment
12 which will have more than 10 employees, at least one distribution center
13 which will have more than 20 employees, or at least one hospitality
14 establishment which will have more than 10 employees, unless the
15 incentive award agreement includes a precondition that any business
16 that serves as the owner or operator of the retail establishment,
17 distribution center, or hospitality establishment enters into a labor
18 harmony agreement with a labor organization or cooperating labor
19 organizations which represent retail establishment, hospitality
20 establishment, or distribution center employees in the State.

21 (2) A labor harmony agreement shall be required only if the State
22 has a proprietary interest in the redevelopment project and shall remain
23 in effect for as long as the State acts as a market participant in the
24 redevelopment project. The authority may enter into an incentive award
25 agreement with a developer without the labor harmony agreement
26 required under paragraph (1) of this subsection if the authority
27 determines that the redevelopment project would not be able to go
28 forward if a labor harmony agreement is required. The authority shall
29 support the determination by a written finding, which provides the
30 specific basis for the determination.

31 (3) (Deleted by amendment, P.L.2023, c.98)

32 f. (1) Except for a residential project that is located in a government-
33 restricted municipality, and in which 100 percent of the residential units
34 constructed in the residential project are reserved for occupancy by low-
35 and moderate-income households, for a redevelopment project whose
36 total project cost equals or exceeds \$10 million, in addition to the
37 incentive award agreement, a developer shall enter into a community
38 benefits agreement with the authority and the county or municipality in
39 which the redevelopment project is located. The agreement may
40 include, but shall not be limited to, requirements for training,
41 employment, and youth development and free services to underserved
42 communities in and around the community in which the redevelopment
43 project is located. Prior to entering a community benefits agreement,
44 the governing body of the county or municipality in which the
45 redevelopment project is located shall hold at least one public hearing
46 at which the governing body shall hear testimony from residents,
47 community groups, and other stakeholders on the needs of the
48 community that the agreement should address.

1 (2) The community benefits agreement shall provide for the creation
2 of a community advisory committee to oversee the implementation of
3 the agreement, monitor successes, ensure compliance with the terms of
4 the agreement, and produce an annual public report. The community
5 advisory committee created pursuant to this paragraph shall be
6 comprised of representatives of diverse community groups and residents
7 of the county or municipality in which the redevelopment project is
8 located.

9 (3) At the time the developer submits the annual report required
10 pursuant to section 62 of P.L.2020, c.156 (C.34:1B-330) to the
11 authority, the developer shall certify, under the penalty of perjury, that
12 it is in compliance with the terms of the community benefits agreement.
13 If the developer fails to provide the certification required pursuant to
14 this paragraph or the authority determines that the developer is not in
15 compliance with the terms of the community benefits agreement based
16 on the reports submitted by the community advisory committee
17 pursuant to paragraph (2) of this subsection, then the authority may
18 rescind an award or recapture all or part of any tax credits awarded.

19 (4) Notwithstanding any requirement of this subsection to the
20 contrary, a developer shall be considered to have met the requirements
21 of a community benefits agreement **【pursuant to this subsection】**, and
22 the requirements of paragraphs (2) and (3) of this subsection shall not
23 apply, if the developer submits to the authority:

24 (a) a copy of either the developer's approval letter from the authority
25 or a redevelopment agreement applicable to the qualified business
26 facility, provided that the approval letter is certified by the municipality
27 or the redevelopment agreement is **【certified】** adopted by resolution at
28 a public meeting by the municipality in which the redevelopment project
29 is located, and includes provisions that meet **【or exceed】** the
30 **【standards】** community benefit required **【for】** under a community
31 benefits agreement in this subsection **【**, as determined by the chief
32 executive officer pursuant to rules adopted by the authority**】**; or

33 (b) a resolution adopted by the governing body of the municipality
34 in which the redevelopment project is located, which resolution shall be
35 adopted after at least one public hearing at which the governing body
36 provides an opportunity for residents, community groups, and other
37 stakeholders to testify, and which resolution shall state that the
38 governing body has determined that the redevelopment project will
39 provide economic and social benefits to the community that fulfill the
40 purposes of this subsection, which benefits render a separate community
41 benefit agreement unnecessary, and explain the reasons supporting the
42 governing body's determination.

43 g. A developer shall submit, prior to the first disbursement of tax
44 credits under the incentive award agreement, but no later than six
45 months following project completion, satisfactory evidence of actual
46 project costs, as certified by a certified public accountant, evidence of a
47 temporary certificate of occupancy, or other event evidencing project

1 completion that begins the eligibility period indicated in the incentive
2 award agreement. The developer, or an authorized agent of the
3 developer, shall certify that the information provided pursuant to this
4 subsection is true under the penalty of perjury. Claims, records, or
5 statements submitted by a developer to the authority in order to receive
6 tax credits shall not be considered claims, records, or statements made
7 in connection with State tax laws.

8 h. The incentive award agreement shall include a provision
9 allowing the authority to extend, in individual cases, the deadline for
10 any annual reporting or certification requirement.

11 i. The incentive award agreement shall include one or more
12 provisions, as determined by the authority, concerning the terms and
13 conditions for default and the remedies for the developer of a
14 redevelopment project in the event of default. The incentive award
15 agreement shall not allow the authority to declare a cross-default when
16 the developer of a redevelopment project, including any business
17 affiliate of the developer or any other entity with common principals as
18 the developer, is in default with any other assistance program
19 administered by the authority.

20 (cf: P.L.2023, c.98, s.6)

21
22 5. Section 61 of P.L.2020, c.156 (C.34:1B-329) is amended to read
23 as follows:

24 61. a. Up to the limits established in subsection b. of this section and
25 in accordance with an incentive award agreement, beginning upon the
26 receipt of occupancy permits for any portion of the redevelopment
27 project, or upon any other event evidencing project completion as set
28 forth in the incentive award agreement, a developer shall be allowed a
29 total tax credit **that shall not exceed** as follows, subject to the
30 enhancements set forth in subsection c. of this section:

31 (1) 80 percent of the total project cost for a redevelopment project
32 that is located in a government-restricted municipality;

33 (2) 60 percent of the total project cost for a residential project that
34 receives a four-percent allocation from the federal Low Income Housing
35 Tax Credit Program administered by the agency, or a redevelopment
36 project that is located in a qualified incentive tract, enhanced area, or a
37 municipality with a Municipal Revitalization Index score of at least 50;
38 or

39 (3) 50 percent of the total project cost for any other redevelopment
40 project.

41 b. The value of all tax credits approved by the authority under the
42 program for a redevelopment project phase shall not exceed:

43 (1) \$120,000,000 per redevelopment project or phase for a
44 redevelopment project that is located in a government-restricted
45 municipality;

46 (2) \$90,000,000 per redevelopment project or phase for a
47 redevelopment project that is allowed a tax credit under paragraph (2)
48 of subsection a. of this section; and

1 (3) \$60,000,000 for any other redevelopment project or phase.

2 c. Notwithstanding the limitations set forth in subsection a. of this
3 section, but subject to the limitations of subsections b. and d. of this
4 section and the demonstration of a financing gap, a developer shall be
5 eligible for each of the following enhancements to the total tax credit
6 award:

7 (1) for a redevelopment project that includes the redevelopment of
8 a stranded asset, an enhancement of up to 10 percent of the project cost
9 of the redevelopment project;

10 (2) for a residential project that meets the three-bedroom
11 distribution requirement under the Uniform Housing Affordability
12 Controls, an enhancement of up to five percent of the project cost of the
13 residential project; and

14 (3) for a redevelopment project that meets local first source hiring
15 requirements for residents in the municipality or county in which the
16 project is located and in surrounding municipalities, as appropriate, an
17 enhancement of up to three percent of the project cost of the
18 redevelopment project.

19 d. Except for a redevelopment project that is located in a
20 government restricted municipality:

21 (1) the total tax credits awarded for the redevelopment project,
22 together with all tax credits awarded under any other program
23 administered by the authority, shall not exceed 80 percent of the project
24 cost of the redevelopment project; and

25 (2) for a redevelopment project that receives tax credits under the
26 Federal Low-Income Housing Tax Credit Program, the total tax credits
27 awarded for the redevelopment project, together with all tax credits
28 awarded under any other program administered by the authority and
29 under the Federal Low-Income Housing Tax Credit Program, shall not
30 exceed 90 percent of the project cost.

31 (cf: P.L.2023, c.98, s.7)

32

33 6. Section 62 of P.L.2020, c.156 (C.34:1B-330) is amended to
34 read as follows:

35 62. a. A developer approved for an incentive award pursuant to
36 sections 58 and 59 of P.L.2020, c.156 (C.34:1B-326 and C.34:1B-
37 327) and that enters an incentive award agreement pursuant to section
38 60 of P.L.2020, c.156 (C.34:1B-328) shall submit annually,
39 commencing in the year in which the incentive award is issued and
40 for the remainder of the eligibility period, a report indicating whether
41 the developer is aware of any condition, event, or act that would
42 cause the developer not to be in compliance with the incentive award
43 agreement or the provisions of sections 54 through 67 of P.L.2020,
44 c.156 (C.34:1B-322 through C.34:1B-335) and any additional
45 reporting requirements contained in the incentive award agreement
46 or tax credit certificate. The developer, or an authorized agent of the
47 developer, shall certify that the information provided pursuant to this
48 subsection is true under the penalty of perjury.

1 b. (1) Upon receipt and review of each report submitted during
2 the eligibility period, the authority shall provide to the developer and
3 the director a certificate of compliance indicating the amount of tax
4 credits that the developer may apply against the developer's tax
5 liability.

6 (2) Upon receipt by the director of the certificate of compliance,
7 the director shall allow the developer a credit against the tax imposed
8 pursuant to section 5 of P.L.1945, c.162 (C.54:10A-5). A developer
9 shall apply the credit awarded against the developer's liability under
10 section 5 of P.L.1945, c.162 (C.54:10A-5), sections 2 and 3 of
11 P.L.1945, c.132 (C.54:18A-2 and C.54:18A-3), section 1 of
12 P.L.1950, c.231 (C.17:32-15), or N.J.S.17B:23-5 for the privilege
13 period **[during]** identified in the tax credit certificate which the
14 director **[allows]** issues to the developer **[a tax credit]** pursuant to
15 this subsection, or within the three successive tax periods
16 immediately following the tax period in which the tax credit
17 certificate is received by the developer. A developer may carry
18 forward an unused credit resulting from the limitations of paragraph
19 (3) of this subsection, if necessary, for use in the seven privilege
20 periods next following the privilege period for which the credits are
21 **[awarded]** applied. Credits granted to a partnership shall be passed
22 through to the partners, members, or owners, respectively, pro-rata,
23 or pursuant to an executed agreement among the partners, members,
24 or owners documenting an alternate distribution method provided to
25 the director accompanied by any additional information as the
26 director may prescribe.

27 (3) The director shall prescribe the order of priority of the
28 application of the credit allowed under this section and any other
29 credits allowed by law against the tax imposed under section 5 of
30 P.L.1945, c.162 (C.54:10A-5). The amount of the credit applied
31 under this section against the tax imposed pursuant to section 5 of
32 P.L.1945, c.162 (C.54:10A-5) for a privilege period, together with
33 any other credits allowed by law, shall not reduce the tax liability to
34 an amount less than the statutory minimum provided in subsection
35 (e) of section 5 of P.L.1945, c.162 (C.54:10A-5).
36 (cf: P.L.2022, c.46, s.1)

37
38 7. Section 63 of P.L.2020, c.156 (C.34:1B-331) is amended to
39 read as follows:

40 63. a. A developer may apply to the director and the chief
41 executive officer of the authority for a tax credit transfer certificate,
42 covering one or more years, in lieu of the developer being allowed
43 any amount of the credit against the tax liability of the developer.
44 The tax credit transfer certificate, upon receipt thereof by the
45 developer from the director and the chief executive officer of the
46 authority, may be sold or assigned, in full or in part in an amount not
47 less than \$25,000, in the privilege period during which the developer
48 receives the tax credit transfer certificate from the director, to another

1 person, who may apply the credit against a tax liability pursuant to
2 section 5 of P.L.1945, c.162 (C.54:10A-5), sections 2 and 3 of
3 P.L.1945, c.132 (C.54:18A-2 and C.54:18A-3), section 1 of
4 P.L.1950, c.231 (C.17:32-15), or N.J.S.17B:23-5. The certificate
5 provided to the developer shall include a statement waiving the
6 developer's right to claim the amount of the credit that the developer
7 has elected to sell or assign against the developer's tax liability.

8 b. The developer shall not sell or assign, including a collateral
9 assignment, a tax credit transfer certificate allowed under this section
10 for consideration received by the developer of less than 85 percent of
11 the transferred credit amount before considering any further
12 discounting to present value which shall be permitted, except a
13 developer of a residential project consisting of newly-constructed
14 residential units may assign a tax credit transfer certificate for
15 consideration of less than 85 percent subject to the submission of a
16 plan to the authority and the agency to use the proceeds derived from
17 the assignment of tax credits to complete the residential project,
18 except a developer of a residential project consisting of newly-
19 constructed residential units that has received federal low income
20 housing tax credits under 26 U.S.C. s.42(b)(1)(B)(i) may assign a tax
21 credit transfer certificate for consideration of no less than 65 percent
22 subject to the submission of a plan to the authority and the New
23 Jersey Housing and Mortgage Finance Agency to use the proceeds
24 derived from the assignment of tax credits to complete the residential
25 project. The tax credit transfer certificate issued to a developer by
26 the director shall be subject to any limitations and conditions
27 imposed on the application of State tax credits pursuant to sections
28 54 through 67 of P.L.2020, c.156 (C.34:1B-322 through 34:1B-335)
29 and any other terms and conditions that the director may prescribe;
30 provided, however, that the holder of a tax credit certificate may
31 transfer all or part of the tax credit amount, within the three
32 successive tax periods immediately following the tax period in which
33 the tax credit certificate is received by the developer, on or after the
34 date of issuance of the tax credit transfer certificate, for use by the
35 transferee in the tax period for which it was issued or within the three
36 successive tax periods immediately following the tax period in which
37 the tax credit transfer certificate is received by the transferee, and the
38 transferee may carry forward all or part of the tax credit amount in
39 any of the next five successive tax periods after the tax period for
40 which it was used. Notwithstanding any provision of this section to
41 the contrary, the amount of tax credits that may be claimed by the
42 transferee in any tax period shall not exceed the total tax credit
43 amount divided by the duration of the eligibility period in years.

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

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

- 4 (1) the name of the transferor;
5 (2) the name of the transferee;
6 (3) the value of the tax credit transfer certificate; and
7 (4) the consideration received by the transferor.

8 e. When a tax credit certificate is issued to a developer after the
9 tax period in which all or part of the tax credits may be used by the
10 developer or a holder of the credit transfer certificate, the developer
11 or transferee shall be allowed to use the tax credit for the same tax
12 period specified in the tax credit certificate, or within the three
13 successive tax periods immediately following the tax period in which
14 the certificate is received by the developer or transferee. In this
15 circumstance, the developer or transferee shall not be required to
16 amend its tax return for the tax period in which it applies the tax
17 credit or for a tax period preceding the tax period in which the tax
18 credit is applied.

19 (cf: P.L.2023, c.98, s.8)

20
21 8. Section 65 of P.L.2020, c.156 (C.34:1B-333) is amended to read
22 as follows:

23 65. a. As used in this section, "transformative project" means a
24 redevelopment project: that has a project financing gap; that has a total
25 project cost of at least \$150,000,000; that, subject to the provisions of
26 subsection h. of this section, includes 200,000 or more square feet of
27 new or substantially renovated industrial, commercial, or residential
28 space for a project located in a government-restricted municipality, that
29 includes 250,000 or more square feet of film studios, professional
30 stages, television studios, recording studios, screening rooms, or other
31 infrastructure for film production, that includes 300,000 or more square
32 feet of new or substantially renovated industrial, commercial, or
33 residential space for a project located in an enhanced area, or that
34 includes 500,000 or more square feet of new or substantially renovated
35 industrial, commercial, or residential space for any other project; and,
36 for a commercial project, that is of special economic importance as
37 measured by the level of new jobs, new capital investment,
38 opportunities to leverage leadership in a high-priority targeted industry,
39 or other state priorities as determined by the authority pursuant to rules
40 and regulations promulgated to implement this section.
41 Notwithstanding the provisions of subsection b. of section 14 of
42 P.L.2023, c.98 (C.34:1B-335.1) to the contrary, for applications
43 submitted on and after the effective date of P.L.2023, c.98 (C.34:1B-
44 335.1 et al.), if the redevelopment project is located entirely on land
45 designated by the Department of Environmental Protection as a
46 brownfield development area pursuant to section 7 of P.L.2005, c.223
47 (C.58:10B-25.1), and the project cost of the redevelopment project
48 includes at least \$15,000,000 in environmental remediation costs, the

1 redevelopment project shall constitute a project of special economic
2 importance. A transformative project may be completed in phases,
3 which phases may be determined by the authority based on factors such
4 as written architectural plans and specifications completed before or
5 during the physical work, certificates of occupancy, or financial and
6 operational plans. The criteria developed by the authority shall include,
7 but shall not be limited to:

8 (1) the extent to which the proposed transformative project would
9 create modern facilities that enhance the State's competitiveness in
10 attracting targeted industries;

11 (2) (a) for a residential project, the construction of 700 or more new
12 residential units; or

13 (b) for a residential project containing ~~less~~ fewer than 700 new
14 residential units, the construction of 200 or more new residential units
15 if the project is located in a government-restricted municipality, 300 or
16 more residential units if the project is located in an enhanced area, or
17 400 or more residential units for all other mixed-use projects; or

18 (c) for a residential project containing ~~less~~ fewer than 700 new
19 residential units, the construction of ~~50,000~~ 20,000 square feet or
20 more of commercial space, which commercial space may include retail
21 space; and

22 (d) for a residential project, 20 percent of the new residential units
23 shall be constructed for occupancy by low- and moderate-income
24 households with affordability controls as adopted by the authority, in
25 consultation with the agency, in accordance with paragraph (2) of
26 subsection a. of section 56 of P.L.2020, c.156 (C.34:1B-324), except
27 that a residential project receiving a federal historic rehabilitation tax
28 credit pursuant to section 47 of the federal Internal Revenue Code of
29 1986, 26 U.S.C. s.47, or a tax credit pursuant to the "Historic Property
30 Reinvestment Act," sections 2 through 8 of P.L.2020, c.156 (C.34:1B-
31 270 through 34:1B-276), shall be exempt from the affordability controls
32 related to bedroom distribution; and

33 (3) the extent to which the proposed project would leverage the
34 competitive economic development advantages of the State's mass
35 transit assets, higher education assets, and other economic development
36 assets in attracting or retaining both employers and skilled workers
37 generally or in targeted industries.

38 A "transformative project" shall not include a redevelopment
39 project at which more than 50 percent of the premises is occupied by
40 one or more businesses engaged in final point of sale retail.

41 b. (1) The authority may award incentive awards to transformative
42 projects in accordance with the provisions of sections 55 through 67 of
43 P.L.2020, c.156 (C.34:1B-323 through 34:1B-335).

44 (2) (a) For transformative projects completed in phases, the
45 developer shall enter into a transformative phase agreement with the
46 authority.

47 (b) As used in this subsection, "transformative phase agreement"
48 shall mean a sub-agreement of the incentive award agreement that

1 governs the timing, capital investment, and other applicable details of
2 the respective phase of a phased project.

3 (3) Notwithstanding the provisions of section 57 of P.L.2020, c.156
4 (C.34:1B-325), or any other section of P.L.2020, c.156 (C.34:1B-269 et
5 al.) to the contrary, a transformative project shall be completed, and the
6 developer shall be issued a certificate of occupancy for the
7 transformative project facilities by the applicable enforcing agency,
8 within five years of executing the incentive award agreement, except
9 that the authority may, in its discretion, extend this deadline by up to
10 one additional year. For transformative projects completed in phases,
11 the transformative project shall be completed, and the developer shall
12 be issued certificates of occupancy for all phases of the transformative
13 project facilities by the applicable enforcing agency, within 10 years of
14 executing either the incentive award agreement or the first
15 transformative phase agreement corresponding to the transformative
16 project.

17 (4) Notwithstanding the provisions of sections 55 and 60 of
18 P.L.2020, c.156 (C.34:1B-323 and C.34:1B-328), or any other section
19 of P.L.2020, c.156 (C.34:1B-269 et al.) to the contrary, each phase of a
20 transformative project completed in phases shall have a separate
21 eligibility period. After completing each phase, the developer shall
22 submit a certification that the phase is completed. If the authority
23 approves the certification, the tax credit allowed to the developer shall
24 be increased by the tax credit amount corresponding to that phase.
25 Notwithstanding the different eligibility periods for each phase, all
26 conditions and requirements applicable during an eligibility period
27 pursuant to sections 55 through 67 of P.L.2020, c.156 (C.34:1B-323
28 through 34:1B-335) shall apply to the entire transformative project until
29 the end of the eligibility period for the last phase.

30 (5) Notwithstanding the provisions of section 60 of P.L.2020, c.156
31 (C.34:1B-328), or any other section of P.L.2020, c.156 (C.34:1B-269 et
32 al.) to the contrary, for a transformative project completed in phases, a
33 review of the project financing gap shall be performed at the
34 certification of completion of each phase, and the authority shall re-
35 evaluate the developer's rate of return in the seventh year and at the end
36 of the eligibility period for the last phase, provided that the authority
37 may also re-evaluate the developer's rate of return during the fifth year
38 of any earlier phase.

39 (6) A transformative project receiving an incentive award pursuant
40 to this section, other than a project that includes 250,000 or more square
41 feet of film studios, professional stages, television studios, recording
42 studios, screening rooms or other infrastructure for film production,
43 shall be located in an incentive area, a distressed municipality, a
44 government-restricted municipality, or an enhanced area. A
45 transformative project receiving an incentive award pursuant to this
46 section that includes 250,000 or more square feet of film studios,
47 professional stages, television studios, recording studios, screening
48 rooms or other infrastructure for film production may be located

1 anywhere in the State. The authority shall not consider an application
2 for a transformative project unless the applicant submits with its
3 application a letter evidencing support for the transformative project
4 from the governing body of the municipality in which the transformative
5 project is located.

6 c. The authority shall review the transformative project cost,
7 evaluate and validate the project financing gap estimated by the
8 developer, and conduct a State fiscal impact analysis to ensure that the
9 overall public assistance provided to the transformative project will
10 result in a net positive benefit to the State. In determining whether a
11 transformative project will result in a net positive benefit to the State,
12 the authority shall not consider the value of any taxes exempted, abated,
13 rebated, or retained under the "Five-Year Exemption and Abatement
14 Law," P.L.1991, c.441 (C.40A:21-1 et seq.), the "Long Term Tax
15 Exemption Law," P.L.1991, c.431 (C.40A:20-1 et al.), the "New Jersey
16 Urban Enterprise Zones Act," P.L.1983, c.303 (C.52:27H-60 et seq.), or
17 any other law that has the effect of lowering or eliminating the
18 developer's State or local tax liability. The determination made pursuant
19 to this subsection shall be based on the potential tax liability of the
20 developer without regard for potential tax losses if the developer were
21 to locate in another state. The authority shall assess the cost of these
22 reviews to the applicant. A developer shall pay to the authority the full
23 amount of the direct costs of an analysis concerning the developer's
24 application for an incentive award that a third party retained by the
25 authority performs, if the authority deems such retention to be
26 necessary. The authority shall evaluate the net economic benefits on a
27 present value basis under which the requested tax credit allocation
28 amount is discounted to present value at the same discount rate as the
29 projected benefits from the implementation of the proposed
30 transformative project for which an award of tax credits is being sought.
31 Projects that are predominantly residential shall be excluded from the
32 calculation of the net benefit test required pursuant to this subsection.

33 d. In determining net benefits for any business or person
34 considering locating in a transformative project and applying to receive
35 from the authority any other economic development incentive
36 subsequent to the award of transformative project tax credits pursuant
37 to section 65 of P.L.2020, c.156 (C.34:1B-333), the authority shall not
38 credit the business or person with any benefit that was previously
39 credited to the transformative project pursuant to section 65 of
40 P.L.2020, c.156 (C.34:1B-333).

41 e. The authority shall administer the credits awarded pursuant to
42 this section in accordance with the provisions of sections 62 and 63 of
43 P.L.2020, c.156 (C.34:1B-330 and C.34:1B-331).

44 f. Prior to allocating an incentive award to a developer, the
45 authority shall confirm with the Department of Labor and Workforce
46 Development, the Department of Environmental Protection, and the
47 Department of the Treasury that the developer is in substantial good
48 standing with the respective department, or the developer has entered

1 into an agreement with the respective department that includes a
2 practical corrective action plan, and the developer shall certify that each
3 contractor or subcontractor performing work at the transformative
4 project: (1) is registered as required by "The Public Works Contractor
5 Registration Act," P.L.1999, c.238 (C.34:11-56.48 et seq.); (2) has not
6 been debarred by the Department of Labor and Workforce Development
7 from engaging in or bidding on Public Works Contracts in the State; and
8 (3) possesses a tax clearance certificate issued by the Division of
9 Taxation in the Department of the Treasury. The authority may also
10 contract with an independent third party to perform a background check
11 on the developer.

12 g. Notwithstanding the limitation on incentive awards set forth in
13 subsection b. of section 61 and section 98 of P.L.2020, c.156 (C.34:1B-
14 329 and C.34:1B-362) to the contrary, the authority may allow a
15 developer of a transformative project a tax credit in an amount not to
16 exceed the lesser of:

17 (1) (a) 80 percent of the total project cost for a transformative
18 project that is located in a government-restricted municipality;

19 (b) 60 percent of the total project cost for a residential
20 transformative project that receives a four-percent allocation from the
21 federal Low Income Housing Tax Credit Program administered by the
22 agency or a transformative project that is located in a qualified incentive
23 tract, enhanced area, or a municipality with a Municipal Revitalization
24 Index score of at least 50; or

25 (c) 50 percent of the total project cost for any other transformative
26 project;

27 (2) the total value of the project financing gap; or

28 (3) \$400,000,000 except that for a transformative project that is
29 developed in phases, the \$400,000,000 limitation on incentive awards
30 set forth in this paragraph shall apply to the total aggregate award for all
31 phases of the transformative project.

32 h. Notwithstanding the limitations set forth in subsection g. of this
33 section, a developer of a transformative project shall be eligible for each
34 of the following enhancements to the total tax credit award:

35 (1) for a transformative project that includes the redevelopment of a
36 stranded asset, an enhancement of up to 10 percent of the project cost of
37 the transformative project;

38 (2) for a residential transformative project that meets the three-
39 bedroom distribution requirement under the Uniform Housing
40 Affordability Controls, an enhancement of up to five percent of the
41 project cost of the residential transformative project; and

42 (3) for a transformative project that meets local first source hiring
43 requirements for residents in the municipality or county in which the
44 project is located and in surrounding municipalities, as appropriate, an
45 enhancement of up to three percent of the project cost of the
46 transformative project.

47 i. (1) The parking component of a transformative project shall be
48 included in the calculation of the total square footage of the project,

provided that the parking component shall be constructed in conformity with local zoning, planning, or similar requirements, or up to the amount required by the Residential Site Improvement Standards, regardless of whether the Residential Site Improvement Standards apply to the parking component. Any portion of the parking component that exceeds the local parking requirements or the Residential Site Improvement Standards shall not be included in the calculation of the total square footage of the project.

(2) Notwithstanding any provision of paragraph (1) of this subsection to the contrary, the entire parking component of a project located in a government restricted municipality shall be included in the calculation of the total square footage of the project.

(cf: P.L.2023, c.98, s.9)

9. Section 14 of P.L.2023, c.98 (C.34:1B-335.1) is amended to read as follows:

14. a. (1) Except as otherwise provided in subsection b. of this section, all program applications **【completed after】** submitted to the authority on or after the date six months prior to the effective date of **【P.L.2023, c.98 (C.34:1B-335.1 et al.)】** P.L. , c. (C.) (pending before the Legislature as this bill) shall be subject to the "New Jersey Aspire Program Act," sections 54 through 67 of P.L.2020, c.156 (C.34:1B-322 through 34:1B-335), as amended as supplemented by P.L.2023, c.98 (C.34:1B-335.1 et al.), and as further amended and supplemented by P.L. , c. (C.) (pending before the Legislature as this bill), including the rules and regulations adopted pursuant to subsection b. of section 67 of P.L.2020, c.156 (C.34:1B-335), except that applications submitted to the authority prior to the effective date of P.L. , c. (C.) (pending before the Legislature as this bill) shall be subject to the rules and regulations concerning application fees that were in effect immediately before the effective date of P.L. , c. (C.) (pending before the Legislature as this bill).

(2) **【**Except as otherwise provided in subsection b. of this section, all program applications completed on or before the effective date of P.L.2023, c.98 (C.34:1B-335.1 et al.) shall be subject to the provisions of the "New Jersey Aspire Program Act," sections 54 through 67 of P.L.2020, c.156 (C.34:1B-322 through 34:1B-335), as such provisions remained in effect immediately before the effective date of P.L.2023, c.98 (C.34:1B-335.1 et al.), including the rules and regulations adopted pursuant to subsection a. of section 67 of P.L.2020, c.156 (C.34:1B-335).**】** (Deleted by amendment, P.L. , c. (pending before the Legislature as this bill)

b. Notwithstanding any provision of P.L.2020, c.156 (C.34:1B-269 et al.) to the contrary, if a completed application for a residential project is submitted to the authority on or before the 121st calendar day next following effective date of P.L.2023, c.98 (C.34:1B-335.1 et al.), the applicant for the residential project has received all

1 applicable approvals pursuant to the "Municipal Land Use Law,"
2 P.L.1975, c.291 (C.40:55D-1 et seq.) on or before the 121st calendar
3 day next following the effective date of P.L.2023, c.98 (C.34:1B-
4 335.1 et al.), and the applicant submits written notice to the authority,
5 before the authority's approval or denial of the application, electing
6 for the application to be governed under the provisions of this
7 subsection, then the residential units constructed for occupancy by
8 low- and moderate-income households within the residential project
9 shall not be subject to the affordability controls adopted by the
10 authority, in consultation with the agency, pursuant to paragraph (2)
11 of subsection a. of section 56 of P.L.2020, c.156 (C.34:1B-324) and
12 subsection b. of section 67 of P.L.2020, c.156 (C.34:1B-335). In this
13 event, the application for the residential project shall be reviewed,
14 approved, and administered in accordance with the provisions of the
15 "New Jersey Aspire Program Act," sections 54 through 67 of
16 P.L.2020, c.156 (C.34:1B-322 through 34:1B-335), as such
17 provisions remained in effect immediately before the effective date
18 of P.L.2023, c.98 (C.34:1B-335.1 et al.), including the rules and
19 regulations adopted pursuant to subsection a. of section 67 of
20 P.L.2020, c.156 (C.34:1B-335), except that the application shall be
21 subject to:

22 (1) the determination of a reasonable and appropriate return on
23 investment, as defined in section 55 of P.L.2020, c.156 (C.34:1B-
24 323), as amended by P.L.2023, c.98 (C.34:1B-335.1 et al.); and

25 (2) the limitation on tax credit awards set forth in subsection b.
26 of section 61 of P.L.2020, c.156 (C.34:1B-329) and subsection g. of
27 section 65 of P.L.2020, c.156 (C.34:1B-333), respectively, as
28 amended by P.L.2023, c.98 (C.34:1B-335.1 et al.).
29 (cf: P.L.2023, c.98, s.14)

30

31 10. (New section) The authority shall promulgate a schedule of
32 application and other fees imposed under the program, which fees
33 shall be limited to the coverage of actual direct costs of administering
34 the program, the coverage of reasonable indirect costs of
35 administering the program, and the maintenance of reasonable
36 reserves for administering the program. Any application fee or other
37 fee charged by the authority shall be proportional to the tax credit
38 amount awarded for a redevelopment project under the program.

39

40 11. (New section) a. The authority shall establish, as part of the
41 program, a "Redevelopment Project Bridge Financing Program" to
42 facilitate the ability of a developer to secure financing for a
43 redevelopment project until such time as tax credits are issued pursuant
44 to the "New Jersey Aspire Program Act," sections 54 through 67 of
45 P.L.2020, c.156 (C.34:1B-322 through C.34:1B-335), as amended as
46 supplemented. Through the program, the authority shall provide full or
47 partial loans or loan guarantees, at the authority's discretion, to the
48 developers of redevelopment projects for the purpose of ensuring the

1 completion of the redevelopment projects. As determined by the
2 authority, the Redevelopment Project Bridge Financing Program may
3 consist of:

4 (1) the issuance of redevelopment project bridge financing loans,
5 subject to the provisions of subsection b. of this section; and

6 (2) the provision of redevelopment project loan guarantees, subject
7 to the provisions of subsection c. of this section.

8 b. (1) The authority may issue a redevelopment project bridge
9 financing loan to the developer of an approved redevelopment project,
10 upon application by the developer, provided that the authority
11 determines that:

12 (a) a project financing gap continues to exist after the award of tax
13 credits to the developer of the redevelopment project; and

14 (b) the redevelopment project bridge financing loan will enable the
15 completion of the redevelopment project.

16 (2) A developer who seeks a redevelopment project bridge
17 financing loan shall submit an application to the authority, which
18 application shall include:

19 (a) a proposed loan principle and interest amount;

20 (b) a proposed repayment schedule;

21 (c) an accounting of the remaining project financing gap; and

22 (d) any other information as the authority shall require.

23 (3) The authority may issue the redevelopment project bridge
24 financing loan in such amount as it deems appropriate, subject to such
25 terms, including, but not limited to, interest rates, collateral, and
26 repayment or release schedules, as the authority shall deem reasonable
27 and appropriate, except that each worker employed to perform
28 construction work on the redevelopment project shall be paid not less
29 than the prevailing wage rate for the worker's craft or trade, as
30 determined by the Commissioner of Labor and Workforce Development
31 pursuant to P.L.1963, c.150 (C.34:11-56.25 et seq.) and P.L.2005, c.379
32 (C.34:11-56.58 et seq.).

33 c. (1) The authority may provide a loan guarantee to the developer
34 of an approved redevelopment project, upon application by the
35 developer, provided that the authority determines that:

36 (a) a project financing gap continues to exist after the initial award
37 of tax credits to the developer of the redevelopment project; and

38 (b) the loan guarantee will enable the developer to access the
39 financing needed to complete the redevelopment project.

40 (2) A developer who seeks a loan guarantee shall submit an
41 application to the authority, which application shall include:

42 (a) a proposed loan guarantee amount and terms;

43 (b) an accounting of the remaining project financing gap; and

44 (c) any other information as the authority shall require.

45 (3) The authority may issue the loan guarantees in such amounts as
46 it deems appropriate, subject to such terms as the authority deems
47 reasonable and appropriate, except that each worker employed to
48 perform construction work on the redevelopment project shall be paid

1 not less than the prevailing wage rate for the worker's craft or trade, as
2 determined by the Commissioner of Labor and Workforce Development
3 pursuant to P.L.1963, c.150 (C.34:11-56.25 et seq.) and P.L.2005, c.379
4 (C.34:11-56.58 et seq.).

5 d. (1) The authority shall establish a Redevelopment Project Bridge
6 Financing Revolving Fund from which the authority shall provide all
7 loans issued pursuant to subsection b. of this section and provide all loan
8 guarantees issued pursuant to subsection c. of this section. All monies
9 received from payments of the principle and interest for loans issued
10 pursuant to this section shall be deposited into the Redevelopment
11 Project Bridge Financing Revolving Fund, which fund shall remain until
12 the authority determines that there no longer remains a need for bridge
13 financing or until December 31, 2028, whichever occurs first. After the
14 fund is no longer needed, or upon its expiration, all monies in the fund
15 shall be deposited into the General Fund.

16 (2) Within 90 days after the effective date of P.L. , c. (C.)
17 (pending before the Legislature as this bill), the authority shall submit a
18 recommendation to the Governor and to the Legislature, pursuant to
19 section 2 of P.L.1991, c.164 (C.52:14-19.1), for the amount of
20 appropriations needed to fund the Redevelopment Project Bridge
21 Financing Program.

22

23 12. (New section) a. To facilitate the efficient monetization of tax
24 credits awarded under the program, the Department of the Treasury
25 shall, at such times as the department deems necessary, redeem the
26 tax credits awarded to a developer for a redevelopment project at a
27 discount from face value. The tax credit redemptions shall be made
28 at such discounts as the State Treasurer deems appropriate, except
29 that the discount shall not exceed 10 percent of the face value of the
30 tax credits.

31 b. The tax credit redemptions shall be paid in the same manner
32 as refunds of tax payable under section 5 of P.L.1945, c.162
33 (C.54:10A-5), sections 2 and 3 of P.L.1945, c.132 (C.54:18A-2 and
34 C.54:18A-3), section 1 of P.L.1950, c.231 (C.17:32-15), or
35 N.J.S.17B:23-5, notwithstanding that such tax is not applicable to the
36 person or entity seeking the redemption. The State Treasurer shall
37 allow the proceeds of the tax credit redemption to be issued over one
38 or more tax periods, but not to exceed the applicable eligibility
39 period.

40

41 13. Section 89 of P.L.2020, c.156 (C.52:18A-263) is amended to
42 read as follows:

43 89. a. The Director of the Division of Taxation in the Department
44 of the Treasury may purchase unused tax credits awarded under a
45 program listed in subsection b. of this section, including tax credit
46 transfer certificates issued by the director in lieu of a tax credit
47 allowed under such programs. The director shall not pay

1 consideration in excess of 75 percent of the credit amount to be
2 purchased, except for a credit awarded under:

3 (1) the "Emerge Program Act," sections 68 through 81 of
4 P.L.2020, c.156 (C.34:1B-336 et al.), which shall be subject to the
5 provisions of paragraph (4) of subsection d. of section 77 of
6 P.L.2020, c.156 (C.34:1B-345); or

7 (2) the "New Jersey Aspire Program Act," sections 54 through 67
8 (C.34:1B-222 through C.34:1B-335), as amended and supplemented,
9 which shall be subject to the provisions of section 12 of
10 P.L. , c. (C.) (pending before the Legislature as this bill).

11 b. The Director of the Division of Taxation in the Department of
12 the Treasury may purchase tax credits awarded under the following:

13 (1) the "Historic Property Reinvestment Act," sections 1 through
14 8 of P.L.2020, c.156 (C.34:1B-269 through C.34:1B-276);

15 (2) the "Brownfield Redevelopment Incentive Program Act,"
16 sections 9 through 19 of P.L.2020, c.156 (C.34:1B-277 through
17 C.34:1B-287);

18 (3) the "New Jersey Innovation Evergreen Act," sections 20
19 through 34 of P.L.2020, c.156 (C.34:1B-288 through C.34:1B-302);

20 (4) the "Food Desert Relief Act," sections 35 through 42 of
21 P.L.2020, c.156 (C.34:1B-303 through C.34:1B-310);

22 (5) the "New Jersey Community-Anchored Development Act,"
23 sections 43 through 53 of P.L.2020, c.156 (C.34:1B-311 through
24 C.34:1B-321);

25 (6) the "New Jersey Aspire Program Act," sections 54 through 67
26 of P.L.2020, c.156 (C.34:1B-322 through C.34:1B-335);

27 (7) the " Emerge Program Act," sections 68 through 81 of
28 P.L.2020, c.156 (C.34:1B-336 et al.);

29 (8) the Grow New Jersey Assistance Program established
30 pursuant to section 3 of P.L.2011, c.149 (C.34:1B-244);

31 (9) section 6 of P.L.2010, c.57 (C.34:1B-209.4);

32 (10) the State Economic Redevelopment and Growth Grant
33 program established pursuant to section 5 of P.L.2009, c.90
34 (C.52:27D-489e);

35 (11) section 1 of P.L.2018, c.56 (C.54:10A-5.39b); and

36 (12) section 2 of P.L.2018, c.56 (C.54A:4-12b).

37 (cf: P.L.2020, c.156, s.89)

38

39 14. Section 4 of P.L.1945, c.162 (C.54:10A-4) is amended to read
40 as follows:

41 4. For the purposes of this act, unless the context requires a
42 different meaning:

43 (a) "Commissioner" or "director" shall mean the Director of the
44 Division of Taxation of the State Department of the Treasury.

45 (b) "Allocation factor" shall mean the proportionate part of a
46 taxpayer's net worth or entire net income used to determine a measure
47 of its tax under this act.

1 (c) "Corporation" shall mean any corporation, joint-stock
2 company or association and any business conducted by a trustee or
3 trustees wherein interest or ownership is evidenced by a certificate of
4 interest or ownership or similar written instrument, any other entity
5 classified as a corporation for federal income tax purposes, and any
6 state or federally chartered building and loan association or savings
7 and loan association.

8 (d) "Net worth" shall mean the aggregate of the values disclosed
9 by the books of the corporation for (1) issued and outstanding capital
10 stock, (2) paid-in or capital surplus, (3) earned surplus and undivided
11 profits, and (4) surplus reserves which can reasonably be expected to
12 accrue to holders or owners of equitable shares, not including
13 reasonable valuation reserves, such as reserves for depreciation or
14 obsolescence or depletion. Notwithstanding the foregoing, net worth
15 shall not include any deduction for the amount of the excess
16 depreciation described in paragraph (2) (F) of subsection (k) of this
17 section. The foregoing aggregate of values shall be reduced by 50%
18 of the amount disclosed by the books of the corporation for
19 investment in the capital stock of one or more subsidiaries, which
20 investment is defined as ownership (1) of at least 80% of the total
21 combined voting power of all classes of stock of the subsidiary
22 entitled to vote and (2) of at least 80% of the total number of shares
23 of all other classes of stock except nonvoting stock which is limited
24 and preferred as to dividends. In the case of investment in an entity
25 organized under the laws of a foreign country, the foregoing requisite
26 degree of ownership shall effect a like reduction of such investment
27 from the net worth of the taxpayer, if the foreign entity is considered
28 a corporation for any purpose under the United States federal income
29 tax laws, such as (but not by way of sole examples) for the purpose
30 of supplying deemed paid foreign tax credits or for the purpose of
31 status as a controlled foreign corporation. In calculating the net
32 worth of a taxpayer entitled to reduction for investment in
33 subsidiaries, the amount of liabilities of the taxpayer shall be reduced
34 by such proportion of the liabilities as corresponds to the ratio which
35 the excluded portion of the subsidiary values bears to the total assets
36 of the taxpayer.

37 In the case of banking corporations which have international
38 banking facilities as defined in subsection (n), the foregoing
39 aggregate of values shall also be reduced by retained earnings of the
40 international banking facility. Retained earnings means the earnings
41 accumulated over the life of such facility and shall not include the
42 distributive share of dividends paid and federal income taxes paid or
43 payable during the tax year.

44 If in the opinion of the director, the corporation's books do not
45 disclose fair valuations the director may make a reasonable
46 determination of the net worth which, in his opinion, would reflect
47 the fair value of the assets, exclusive of subsidiary investments as
48 defined aforesaid, carried on the books of the corporation, in

1 accordance with sound accounting principles, and such determination
2 shall be used as net worth for the purpose of this act.

3 (e) (Deleted by amendment, P.L.1998, c.114.)

4 (f) "Investment company" shall mean any corporation whose
5 business during the period covered by its report consisted, to the
6 extent of at least 90 percent thereof of holding, investing and
7 reinvesting in stocks, bonds, notes, mortgages, debentures, patents,
8 patent rights and other securities for its own account, but this shall
9 not include any corporation which: (1) is a merchant or a dealer of
10 stocks, bonds and other securities, regularly engaged in buying the
11 same and selling the same to customers; or (2) had less than 90
12 percent of its average gross assets in New Jersey, at cost, invested in
13 stocks, bonds, debentures, mortgages, notes, patents, patent rights or
14 other securities or consisting of cash on deposit during the period
15 covered by its report; or (3) is a banking corporation, a savings
16 institution, or a financial business corporation as defined in the
17 Corporation Business Tax Act.

18 (g) "Regulated investment company" shall mean any corporation
19 which for a period covered by its report, is registered and regulated
20 under the Investment Company Act of 1940 (54 Stat. 789), as
21 amended.

22 (h) "Taxpayer" shall mean any corporation, any combined group
23 filing a mandatory or elective New Jersey combined return, and any
24 partnership required, or consenting, to report or to pay taxes, interest
25 or penalties under this act. "Taxpayer" shall not include a partnership
26 that is listed on a United States national stock exchange.

27 (i) "Fiscal year" shall mean an accounting period ending on any
28 day other than the last day of December on the basis of which the
29 taxpayer is required to report for federal income tax purposes.

30 (j) Except as herein provided, "privilege period" shall mean the
31 calendar or fiscal accounting period for which a tax is payable under
32 this act.

33 (k) "Entire net income" shall mean total net income from all
34 sources, whether within or without the United States, and shall
35 include the gain derived from the employment of capital or labor, or
36 from both combined, as well as profit gained through a sale or
37 conversion of capital assets.

38 For the purpose of this act, the amount of a taxpayer's entire net
39 income shall be deemed prima facie to be equal in amount to the
40 taxable income, before net operating loss deduction and special
41 deductions, which the taxpayer is required to report, or, if the
42 taxpayer is classified as a partnership for federal tax purposes, would
43 otherwise be required to report, to the United States Treasury
44 Department for the purpose of computing its federal income tax,
45 provided however, that in the determination of such entire net
46 income,

47 (1) Entire net income shall exclude for the periods set forth in
48 paragraph (2)(F)(i) of this subsection, any amount, except with

1 respect to qualified mass commuting vehicles as described in section
2 168(f)(8)(D)(v) of the Internal Revenue Code as in effect
3 immediately prior to January 1, 1984, which is included in a
4 taxpayer's federal taxable income solely as a result of an election
5 made pursuant to the provisions of paragraph (8) of that section.

6 (2) Entire net income shall be determined without the exclusion,
7 deduction or credit of:

8 (A) The amount of any exemption or credit allowed in any law of
9 the United States imposing any tax on or measured by the income of
10 corporations.

11 (B) Any part of any income from dividends or interest on any kind
12 of stock, securities or indebtedness, except as provided in paragraph
13 (5) of subsection (k) of this section.

14 (C) Taxes paid or accrued to the United States, a possession or
15 territory of the United States, a state, a political subdivision thereof,
16 or the District of Columbia, or to any foreign country, state, province,
17 territory or subdivision thereof, on or measured by profits or income,
18 or business presence or business activity, or the tax imposed by this
19 act, or any tax paid or accrued with respect to subsidiary dividends
20 excluded from entire net income as provided in paragraph (5) of
21 subsection (k) of this section.

22 (D) (Deleted by amendment, P.L.1985, c.143.)

23 (E) (Deleted by amendment, P.L.1995, c.418.)

24 (F) (i) The amount by which depreciation reported to the United
25 States Treasury Department for property placed in service on and
26 after January 1, 1981, but prior to taxpayer fiscal or calendar
27 accounting years beginning on and after the effective date of
28 P.L.1993, c.172, for purposes of computing federal taxable income
29 in accordance with section 168 of the Internal Revenue Code in effect
30 after December 31, 1980, exceeds the amount of depreciation
31 determined in accordance with the Internal Revenue Code provisions
32 in effect prior to January 1, 1981, but only with respect to a taxpayer's
33 accounting period ending after December 31, 1981; provided,
34 however, that where a taxpayer's accounting period begins in 1981
35 and ends in 1982, no modification shall be required with respect to
36 this paragraph (F) for the report filed for such period with respect to
37 property placed in service during that part of the accounting period
38 which occurs in 1981. The provisions of this subparagraph shall not
39 apply to assets placed in service prior to January 1, 1998 of a gas, gas
40 and electric, and electric public utility that was subject to the
41 provisions of P.L.1940, c.5 (C.54:30A-49 et seq.) prior to 1998.

42 (ii) For the periods set forth in subparagraph (F)(i) of paragraph
43 (2) of this subsection, any amount, except with respect to qualified
44 mass commuting vehicles as described in section 168(f)(8)(D)(v) of
45 the Internal Revenue Code as in effect immediately prior to January
46 1, 1984, which the taxpayer claimed as a deduction in computing
47 federal income tax pursuant to a qualified lease agreement under
48 paragraph (8) of that section.

1 The director shall promulgate rules and regulations necessary to
2 carry out the provisions of this section, which rules shall provide,
3 among others, the manner in which the remaining life of property
4 shall be reported.

5 (G) (i) The amount of any civil, civil administrative, or criminal
6 penalty or fine, including a penalty or fine under an administrative
7 consent order, assessed and collected for a violation of a State or
8 federal environmental law, an administrative consent order, or an
9 environmental ordinance or resolution of a local governmental entity,
10 and any interest earned on the penalty or fine, and any economic
11 benefits having accrued to the violator as a result of a violation,
12 which benefits are assessed and recovered in a civil, civil
13 administrative, or criminal action, or pursuant to an administrative
14 consent order. The provisions of this paragraph shall not apply to a
15 penalty or fine assessed or collected for a violation of a State or
16 federal environmental law, or local environmental ordinance or
17 resolution, if the penalty or fine was for a violation that resulted from
18 fire, riot, sabotage, flood, storm event, natural cause, or other act of
19 God beyond the reasonable control of the violator, or caused by an
20 act or omission of a person who was outside the reasonable control
21 of the violator.

22 (ii) The amount of treble damages paid to the Department of
23 Environmental Protection pursuant to subsection a. of section 7 of
24 P.L.1976, c.141 (C.58:10-23.11f), for costs incurred by the
25 department in removing, or arranging for the removal of, an
26 unauthorized discharge upon failure of the discharger to comply with
27 a directive from the department to remove, or arrange for the removal
28 of, the discharge.

29 (H) The amount of any sales and use tax paid by a utility vendor
30 pursuant to section 71 of P.L.1997, c.162.

31 (I) With respect to privilege periods ending before July 31, 2023,
32 interest paid, accrued or incurred for the privilege period to a related
33 member, as defined in section 5 of P.L.2002, c.40 (C.54:10A-4.4),
34 except that a deduction shall be permitted to the extent that the
35 taxpayer establishes by clear and convincing evidence, as determined
36 by the director, that: (i) a principal purpose of the transaction giving
37 rise to the payment of the interest was not to avoid taxes otherwise
38 due under Title 54 of the Revised Statutes or Title 54A of the New
39 Jersey Statutes, (ii) the interest is paid pursuant to arm's length
40 contracts at an arm's length rate of interest, and (iii)(aa) the related
41 member was subject to a tax on its net income or receipts in this State
42 or another state or possession of the United States or in a foreign
43 nation, (bb) a measure of the tax includes the interest received from
44 the related member, and (cc) the rate of tax applied to the interest
45 received by the related member is equal to or greater than a rate three
46 percentage points less than the rate of tax applied to taxable interest
47 by this State pursuant to section 5 of P.L.1945, c.162 (C.54:10A-5).

1 With respect to privilege periods ending before July 31, 2023, a
2 deduction shall also be permitted if the taxpayer establishes by clear
3 and convincing evidence, as determined by the director, that the
4 disallowance of a deduction is unreasonable, or the taxpayer and the
5 director agree in writing to the application or use of an alternative
6 method of apportionment under section 8 of P.L.1945, c.162
7 (C.54:10A-8); nothing in this subsection shall be construed to limit
8 or negate the director's authority to otherwise enter into agreements
9 and compromises otherwise allowed by law.

10 With respect to privilege periods ending before July 31, 2023, a
11 deduction shall also be permitted to the extent that the taxpayer
12 establishes by a preponderance of the evidence, as determined by the
13 director, that the interest is directly or indirectly paid, accrued or
14 incurred to (i) a related member in a foreign nation which has in force
15 a comprehensive income tax treaty with the United States and the
16 related member (aa) was subject to tax in the foreign nation on a tax
17 base that included the payment paid, accrued, or incurred; and (bb)
18 under which the related member's income received from the
19 transaction was taxed at an effective tax rate equal to or greater than
20 a rate of three percentage points less than the rate of tax applied to
21 taxable interest by the State of New Jersey pursuant to section 5 of
22 P.L.1945, c.162 (C.54:10A-5), provided however that the taxpayer
23 shall disclose on its return for the privilege period the name of the
24 related member, the amount of the interest, the relevant foreign
25 nation, and such other information as the director may prescribe or
26 (ii) to an independent lender and the taxpayer guarantees the debt on
27 which the interest is required. The adjustments required by this
28 subparagraph shall not apply to transactions between related
29 members included in a combined group reported on a New Jersey
30 combined return.

31 (J) (i) Amounts deducted for federal tax purposes pursuant to
32 section 199 of the federal Internal Revenue Code of 1986, 26 U.S.C.
33 s.199, except that this exclusion shall not apply to amounts deducted
34 pursuant to that section that are exclusively based upon domestic
35 production gross receipts of the taxpayer which are derived only from
36 any lease, rental, license, sale, exchange, or other disposition of
37 qualifying production property which the taxpayer demonstrates to
38 the satisfaction of the director was manufactured or produced by the
39 taxpayer in whole or in significant part within the United States but
40 not qualified production property that was grown or extracted by the
41 taxpayer. "Manufactured or produced" as used in this paragraph shall
42 be limited to performance of an operation or series of operations the
43 object of which is to place items of tangible personal property in a
44 form, composition, or character different from that in which they
45 were acquired. The change in form, composition, or character shall
46 be a substantial change, and result in a transformation of property
47 into a different or substantially more usable product.

1 (ii) For privilege periods beginning after December 31, 2017,
2 notwithstanding the provisions of P.L.1945, c.162 (C.54:10A-1 et
3 seq.) or any other law to the contrary, for the purposes of determining
4 the amount of income pursuant to P.L.1945, c.162 (C.54:10A-1 et
5 seq.) that is net of expenses, no amounts shall be taken as a deduction
6 pursuant to section 199A of the Internal Revenue Code (26 U.S.C.
7 s.199A).

8 (K) (i) For privilege periods beginning after December 31, 2017
9 and ending before July 31, 2022, the interest deduction limitation in
10 subsection (j) of section 163 of the Internal Revenue Code (26 U.S.C.
11 s.163), shall apply on a pro-rata basis to interest paid to both related
12 and unrelated parties, regardless of whether the related parties are
13 subject to the add-back provision of either subparagraph (I) of
14 paragraph (2) of this subsection or in section 5 of P.L.2002, c.40
15 (C.54:10A-4.4).

16 (ii) For privilege periods beginning after December 31, 2017 and
17 ending on and after July 31, 2022, the interest deduction limitation in
18 subsection (j) of section 163 of the Internal Revenue Code (26 U.S.C.
19 s.163), shall apply to a combined group as though the combined
20 group filed a federal consolidated return; provided, however, for the
21 purposes of applying the limitation in subsection (j) of section 163 of
22 the Internal Revenue Code (26 U.S.C. s.163), with regard to affiliates
23 that were members of the federal consolidated return but were not
24 members of the combined group included on the New Jersey
25 combined return, the combined group and the affiliates will also be
26 treated as having filed one federal consolidated return.

27 (3) The director may, whenever necessary to properly reflect the
28 entire net income of any taxpayer, determine the year or period in
29 which any item of income or deduction shall be included, without
30 being limited to the method of accounting employed by the taxpayer.

31 (4) There shall be allowed as a deduction from entire net income
32 of a banking corporation, to the extent not deductible in determining
33 federal taxable income, the eligible net income of an international
34 banking facility determined as follows:

35 (A) The eligible net income of an international banking facility
36 shall be the amount remaining after subtracting from the eligible
37 gross income the applicable expenses;

38 (B) Eligible gross income shall be the gross income derived by an
39 international banking facility, which shall include, but not be limited
40 to, gross income derived from:

41 (i) Making, arranging for, placing or carrying loans to foreign
42 persons, provided, however, that in the case of a foreign person which
43 is an individual, or which is a foreign branch of a domestic
44 corporation (other than a bank), or which is a foreign corporation or
45 foreign partnership which is controlled by one or more domestic
46 corporations (other than banks), domestic partnerships or resident
47 individuals, all the proceeds of the loan are for use outside of the
48 United States;

1 (ii) Making or placing deposits with foreign persons which are
2 banks or foreign branches of banks (including foreign subsidiaries)
3 or foreign branches of the taxpayers or with other international
4 banking facilities;

5 (iii) Entering into foreign exchange trading or hedging
6 transactions related to any of the transactions described in this
7 paragraph; or

8 (iv) Such other activities as an international banking facility may,
9 from time to time, be authorized to engage in;

10 (C) Applicable expenses shall be any expense or other deductions
11 attributable, directly or indirectly, to the eligible gross income
12 described in subparagraph (B) of this paragraph.

13 (5) (A) (i) Entire net income shall exclude 100% of dividends
14 which were included in computing such taxable income for federal
15 income tax purposes, paid to the taxpayer by one or more subsidiaries
16 owned by the taxpayer to the extent of the 80% or more ownership
17 of investment described in subsection (d) of this section for privilege
18 periods beginning on or before December 31, 2016.

19 (ii) For privilege periods beginning after December 31, 2016 and
20 before January 1, 2019, entire net income shall exclude 95% of
21 dividends which were included in computing such taxable income for
22 federal income tax purposes, paid or deemed paid, to the taxpayer by
23 one or more subsidiaries owned by the taxpayer to the extent of the
24 80% or more ownership of investment described in subsection (d) of
25 this section. For the purposes of calculating the tax liability owed for
26 the paid or deemed paid dividends included in entire net income by
27 this subsubparagraph (ii), the taxpayer shall use either their three-
28 year average allocation factor for the taxpayer's 2014 through 2016
29 tax years reported on the taxpayer's tax returns or 3.5 percent,
30 whichever is lower.

31 (iii) For privilege periods beginning on and after January 1, 2019
32 and ending before July 31, 2023, entire net income shall exclude 95%
33 of dividends which were included in computing such taxable income
34 for federal income tax purposes, paid or deemed paid to the taxpayer
35 by one or more subsidiaries owned by the taxpayer to the extent of
36 the 80% or more ownership of investment described in subsection (d)
37 of this section.

38 (iv) For privilege periods ending on and after July 31, 2023, entire
39 net income shall exclude 100 percent of dividends and deemed
40 dividends that were included in computing such taxable income for
41 federal income tax purposes, paid or deemed paid to the taxpayer by
42 one or more subsidiaries owned by the taxpayer to the extent of the
43 80 percent or more ownership of investment described in subsection
44 (d) of this section.

45 (B) Entire net income shall exclude 50% of dividends which were
46 included in computing such taxable income for federal income tax
47 purposes, paid or deemed paid to the taxpayer by one or more
48 subsidiaries owned by the taxpayer to the extent of 50% or more

1 ownership of investment, such ownership of investment calculated in
2 the same manner as the 80% or more of ownership of investment is
3 calculated as described in subsection (d) of this section.

4 (C) To the extent a subsidiary received dividends from other
5 subsidiaries and included those dividends in its entire net income for
6 the purposes of determining its tax liability pursuant to section 5 of
7 P.L.1945, c.162 (C.54:10A-5) and paid tax on those dividends, the
8 taxpayer receiving those same dividends from the subsidiary shall
9 exclude those dividends from its entire net income based on the
10 subsidiary's allocation factor used by the subsidiary in determining
11 its tax liability pursuant to section 5 of P.L.1945, c.162 (C.54:10A-
12 5). This subparagraph (C) shall not apply to privilege periods ending
13 on and after July 31, 2019.

14 (D) For privilege periods ending on and after July 31, 2019 but
15 before July 31, 2020, to the extent a subsidiary received dividends
16 from other subsidiaries and included those dividends in its entire net
17 income for the purposes of determining its tax liability pursuant to
18 section 5 of P.L.1945, c.162 (C.54:10A-5) and paid tax on those
19 dividends, the taxpayer receiving those same dividends from the
20 subsidiary shall exclude those dividends from its entire net income.

21 (E) For privilege periods ending on and after July 31, 2020, for
22 purposes of this paragraph (5), the members of a combined group
23 filing a New Jersey combined return shall be treated as one taxpayer
24 with regard to dividends and deemed dividends that were received as
25 part of the unitary business of the combined group.

26 (F) For privilege periods ending on and after July 31, 2023:

27 (i) The exclusion provided by this paragraph (5) shall be
28 deducted from entire net income after the State modifications that
29 increase federal entire net income but before the other State
30 modifications that reduce entire net income and before the allocation
31 of entire net income to this State.

32 (ii) In computing the total amount of the dividends and deemed
33 dividends excluded by this paragraph (5) for privilege periods ending
34 on and after July 31, 2023, the amount of dividends and deemed
35 dividends excluded shall be reduced by the amount of the expenses
36 and deductions that are attributable to those dividends and deemed
37 dividends. For purposes of this paragraph (5), expenses and
38 deductions related to dividends shall equal five percent of all
39 dividends and deemed dividends received by a taxpayer during an
40 income year.

41 (G) For privilege periods ending on and after July 31, 2023, for
42 the purposes of this paragraph (5) and for subsection d. of section 18
43 of P.L.2018, c.48 (C.54:10A-4.6), the income amounts required to be
44 included in federal taxable income pursuant to 26 U.S.C. s.951A,
45 shall be considered a dividend.

46 (6) (A) Net operating loss deduction. For privilege periods ending
47 before July 31, 2019, there shall be allowed as a deduction for the
48 privilege period the net operating loss carryover to that period.

1 (B) Net operating loss carryover. A net operating loss for any
2 privilege period ending after June 30, 1984 shall be a net operating
3 loss carryover to each of the seven privilege periods following the
4 period of the loss and a net operating loss for any privilege period
5 ending after June 30, 2009 shall be a net operating loss carryover to
6 each of the twenty privilege periods following the period of the loss.
7 The entire amount of the net operating loss for any privilege period
8 (the "loss period") shall be carried to the earliest of the privilege
9 periods to which the loss may be carried. The portion of the loss
10 which shall be carried to each of the other privilege periods shall be
11 the excess, if any, of the amount of the loss over the sum of the entire
12 net income, computed without the exclusions permitted in paragraphs
13 (4) and (5) of this subsection or the net operating loss deduction
14 provided by subparagraph (A) of this paragraph, for each of the prior
15 privilege periods to which the loss may be carried.

16 (C) Net operating loss. For purposes of this paragraph the term
17 "net operating loss" means the excess of the deductions over the gross
18 income used in computing entire net income without the net
19 operating loss deduction provided for in subparagraph (A) of this
20 paragraph and the exclusions in paragraphs (4) and (5) of this
21 subsection.

22 (D) Change in ownership. Where there is a change in 50% or more
23 of the ownership of a corporation because of redemption or sale of
24 stock and the corporation changes the trade or business giving rise to
25 the loss, no net operating loss sustained before the changes may be
26 carried over to be deducted from income earned after such changes.
27 In addition where the facts support the premise that the corporation
28 was acquired under any circumstances for the primary purpose of the
29 use of its net operating loss carryover, the director may disallow the
30 carryover.

31 (E) Notwithstanding the provisions of this paragraph (6) of
32 subsection (k) of this section to the contrary, for privilege periods
33 beginning during calendar year 2002 and calendar year 2003, no
34 deduction for any net operating loss carryover shall be allowed and
35 for privilege periods beginning during calendar year 2004 and
36 calendar year 2005, there shall be allowed as a deduction for the
37 privilege period so much of the net operating loss carryover as
38 reduces entire net income otherwise calculated by 50%. If and only
39 to the extent that any net operating loss carryover deduction is
40 disallowed by reason of this subparagraph (E), the date on which the
41 amount of the disallowed net operating loss carryover deduction
42 would otherwise expire shall be extended by a period equal to the
43 period for which application of the net operating loss was disallowed
44 by this subparagraph.

45 Provided, that this subparagraph (E) shall not restrict the surrender
46 or acquisition of corporation business tax benefit certificates
47 pursuant to section 1 of P.L.1997, c.334 (C.34:1B-7.42a) and shall

1 not restrict the application of corporation business tax benefit
2 certificates pursuant to section 2 of P.L.1997, c.334 (C.54:10A-4.2).

3 (F) Reduction for discharge of indebtedness. A net operating loss
4 for any privilege period ending after June 30, 2014, and any net
5 operating loss carryover to such privilege period, shall be reduced by
6 the amount excluded from federal taxable income under
7 subparagraph (A), (B), or (C) of paragraph (1) of subsection (a) of
8 section 108 of the federal Internal Revenue Code (26 U.S.C. s.108),
9 for the privilege period of the discharge of indebtedness.

10 (7) The entire net income of gas, electric and gas and electric
11 public utilities that were subject to, or would have been subject to tax
12 if doing business in this State, the provisions of P.L.1940, c.5
13 (C.54:30A-49 et seq.) prior to 1998, shall be adjusted by substituting
14 the New Jersey depreciation allowance for federal tax depreciation
15 with respect to assets placed in service prior to January 1, 1998. For
16 gas, electric, and gas and electric public utilities that were subject to,
17 or would have been subject to tax if doing business in this State, the
18 provisions of P.L.1940, c.5 (C.54:30A-49 et seq.) prior to 1998, the
19 New Jersey depreciation allowance shall be computed as follows: All
20 depreciable assets placed in service prior to January 1, 1998 shall be
21 considered a single asset account. The New Jersey tax basis of this
22 depreciable asset account shall be an amount equal to the carryover
23 adjusted basis for federal income tax purposes on December 31, 1997
24 of all depreciable assets in service on December 31, 1997, increased
25 by the excess, of the "net carrying value," defined to be adjusted book
26 basis of all assets and liabilities, excluding deferred income taxes,
27 recorded on the public utility's books of account on December 31,
28 1997, over the carryover adjusted basis for federal income tax
29 purposes on December 31, 1997 of all assets and liabilities owned by
30 the gas, electric, or gas and electric public utility as of December 31,
31 1997. "Books of account" for gas, gas and electric, and electric public
32 utilities means the uniform system of accounts as promulgated by the
33 Federal Energy Regulatory Commission and adopted by the Board of
34 Public Utilities. The following adjustments to entire net income shall
35 be made pursuant to this section:

36 (A) Depreciation for property placed in service prior to January 1,
37 1998 shall be adjusted as follows:

38 (i) Depreciation for federal income tax purposes shall be
39 disallowed in full.

40 (ii) A deduction shall be allowed for the New Jersey depreciation
41 allowance. The New Jersey depreciation allowance shall be
42 computed for the single asset account described above based on the
43 New Jersey tax basis as adjusted above as if all assets in the single
44 asset account were first placed in service on January 1, 1998.
45 Depreciation shall be computed using the straight line method over a
46 thirty-year life. A full year's depreciation shall be allowed in the
47 initial tax year. No half-year convention shall apply. The depreciable
48 basis of the single account shall be reduced by the adjusted federal

1 tax basis of assets sold, retired, or otherwise disposed of during any
2 year on which gain or loss is recognized for federal income tax
3 purposes as described in subparagraph (B) of this paragraph.

4 (B) Gains and losses on sales, retirements and other dispositions
5 of assets placed in service prior to January 1, 1998 shall be
6 recognized and reported on the same basis as for federal income tax
7 purposes.

8 (C) The Director of the Division of Taxation shall promulgate
9 regulations describing the methodology for allocating the single asset
10 account in the event that a portion of the utility's operations are
11 separated, spun-off, transferred to a separate company or otherwise
12 desegregated.

13 (8) In the case of taxpayers that are gas, electric, gas and electric,
14 or telecommunications public utilities as defined pursuant to
15 subsection (q) of this section, the director shall have authority to
16 promulgate rules and issue guidance correcting distortions and
17 adjusting timing differences resulting from the adoption of P.L.1997,
18 c.162 (C.54:10A-5.25 et al.).

19 (9) Notwithstanding paragraph (1) of this subsection, entire net
20 income shall not include the income derived by a corporation
21 organized in a foreign country from the international operation of a
22 ship or ships, or from the international operation of aircraft, if such
23 income is exempt from federal taxation pursuant to section 883 of the
24 federal Internal Revenue Code of 1986, 26 U.S.C. s.883.

25 (10) Entire net income shall exclude all income of an alien
26 corporation the activities of which are limited in this State to
27 investing or trading in stocks and securities for its own account,
28 investing or trading in commodities for its own account, or any
29 combination of those activities, within the meaning of section 864 of
30 the federal Internal Revenue Code of 1986, 26 U.S.C. s.864, as in
31 effect on December 31, 1998. Notwithstanding the previous sentence,
32 if an alien corporation undertakes one or more infrequent,
33 extraordinary or non-recurring activities, including but not limited to
34 the sale of tangible property, only the income from such infrequent,
35 extraordinary or non-recurring activity shall be subject to the tax
36 imposed pursuant to P.L.1945, c.162 (C.54:10A-1 et seq.), and that
37 amount of income subject to tax shall be determined without regard
38 to the allocation to that specific transaction of any general business
39 expense of the taxpayer and shall be specifically assigned to this State
40 for taxation by this State without regard to section 6 of P.L.1945,
41 c.162 (C.54:10A-6). For the purposes of this paragraph, "alien
42 corporation" means a corporation organized under the laws of a
43 jurisdiction other than the United States or its political subdivisions.

44 (11) No deduction shall be allowed for research and experimental
45 expenditures, to the extent that those research and experimental
46 expenditures are qualified research expenses or basic research
47 payments for which an amount of credit is claimed pursuant to
48 section 1 of P.L.1993, c.175 (C.54:10A-5.24) unless those research

1 and experimental expenditures are also used to compute a federal
2 credit claimed pursuant to section 41 of the federal Internal Revenue
3 Code of 1986, 26 U.S.C. s.41; provided, however, for privilege
4 periods beginning on and after January 1, 2022, a deduction for
5 research and experimental expenditures shall be allowed during the
6 same privilege period for which a credit is claimed pursuant to
7 section 1 of P.L.1993, c.175 (C.54:10A-5.24), notwithstanding the
8 timing schedule required by the federal Internal Revenue Code of
9 1986, 26 U.S.C. s.174, for the deduction of specified research and
10 experimental expenditures.

11 (12)(A) Notwithstanding the provisions of subsection (k) of
12 section 168 of the federal Internal Revenue Code of 1986, 26 U.S.C.
13 s.168, subsection (b) of section 1400L of the federal Internal Revenue
14 Code of 1986, 26 U.S.C. s.1400L, or any other federal law, for
15 property acquired after September 10, 2001, the depreciation
16 deduction otherwise allowed pursuant to section 167 of the federal
17 Internal Revenue Code of 1986, 26 U.S.C. s.167, shall be determined
18 pursuant to the provisions of the federal Internal Revenue Code of
19 1986 (26 U.S.C. s.1 et seq.) in effect on December 31, 2001.

20 (B) The director shall prescribe the rules and regulations
21 necessary to carry out the provisions of this paragraph, including,
22 among others, those for determining the adjusted basis of the
23 acquired property for the purposes of the Corporation Business Tax
24 Act (1945), P.L.1945, c.162.

25 (13)(A) Notwithstanding the provisions of section 179 of the
26 federal Internal Revenue Code of 1986, 26 U.S.C. s.179, for property
27 placed in service on or after January 1, 2004, the costs that a taxpayer
28 may otherwise elect to treat as an expense which is not chargeable to
29 a capital account shall be determined pursuant to the provisions of
30 the federal Internal Revenue Code of 1986 (26 U.S.C. s.1 et seq.) in
31 effect on December 31, 2002.

32 (B) The director shall prescribe the rules and regulations
33 necessary to carry out the provisions of this paragraph, including,
34 among others, those for determining the adjusted basis of the
35 acquired property for the purposes of the Corporation Business Tax
36 Act (1945), P.L.1945, c.162.

37 (14)Notwithstanding the provisions of subsection (i) of section
38 108 of the federal Internal Revenue Code of 1986 (26 U.S.C. s.108),
39 for privilege periods beginning after December 31, 2008 and before
40 January 1, 2011, entire net income shall include the amount of
41 discharge of indebtedness income excluded for federal income tax
42 purposes pursuant to subsection (i) of section 108 of the federal
43 Internal Revenue Code of 1986 (26 U.S.C. s.108), and for privilege
44 periods beginning on or after January 1, 2014 and before January 1,
45 2019, entire net income shall exclude the amount of discharge of
46 indebtedness income included for federal income tax purposes,
47 pursuant to subsection (i) of section 108 of the federal Internal
48 Revenue Code of 1986 (26 U.S.C. s.108).

1 (15) Entire net income shall exclude the gain or income derived
2 from the sale or assignment of a tax credit transfer certificate
3 pursuant to section 7 of P.L.2011, c.149 (C.34:1B-248) **【and】**,
4 section 10 of P.L.2014, c.63 (C.34:1B-251), or the "New Jersey
5 Economic Recovery Act of 2020," P.L.2020, c.156 (C.34:1B-269 et
6 al.), as amended and supplemented.

7 (16)(A) There shall be allowed as a deduction an amount
8 computed in accordance with this paragraph.

9 (B) For purposes of this paragraph, "net deferred tax liability"
10 means deferred tax liabilities that exceed the deferred tax assets of
11 the combined group, as computed in accordance with generally
12 accepted accounting principles, and "net deferred tax asset" means
13 that deferred tax assets exceed the deferred tax liabilities of the
14 combined group, as computed in accordance with generally accepted
15 accounting principles.

16 (C) Only publicly traded companies, including affiliated
17 corporations participating in the filing of a publicly traded company's
18 financial statements prepared in accordance with generally accepted
19 accounting principles, as of the effective date of this paragraph, shall
20 be eligible for this deduction.

21 (D) If the provisions of sections 18 through 23 of P.L.2018, c.48
22 (C.54:10A-4.6 to C.54:10A-4.11) result in an aggregate increase to
23 the members' net deferred tax liability or an aggregate decrease to the
24 members' net deferred tax asset, or an aggregate change from a net
25 deferred tax asset to a net deferred tax liability, the combined group
26 shall be entitled to a deduction, as determined in this paragraph.

27 (E) (i) Beginning with the combined group's first privilege period
28 on or after January 1 of the fifth year after the effective date of
29 P.L.2018, c.48 (C.54:10A-5.41 et al.), a combined group shall be
30 entitled to a deduction from combined group entire net income equal
31 to one-tenth of the amount necessary to offset the increase in the net
32 deferred tax liability or decrease in the net deferred tax asset, or
33 aggregate change from a net deferred tax asset to a net deferred tax
34 liability, according to the schedule provided by subsubparagraphs (ii)
35 and (iii) of this subparagraph (E). Such increase in the net deferred
36 tax liability or decrease in the net deferred tax asset or the aggregate
37 change from a net deferred tax asset to a net deferred tax liability
38 shall be computed based on the change that would result from the
39 imposition of the unitary reporting requirements under sections 1 and
40 18 through 23 of P.L.2018, c.48 (C.54:10A-5.41 and C.54:10A-4.6
41 to C.54:10A-4.11) but for the deduction provided under this
42 paragraph as of the effective date of this paragraph.

43 (ii) For group privilege periods beginning on and after January 1,
44 2023, but before January 1, 2030, the combined group may deduct
45 one percent of the amount necessary to offset the increase in the net
46 deferred tax liability or decrease in the net deferred tax asset, or
47 aggregate change from a net deferred tax asset to a net deferred tax
48 liability, during a group privilege period. Such increase in the net

1 deferred tax liability or decrease in the net deferred tax asset or the
2 aggregate change from a net deferred tax asset to a net deferred tax
3 liability shall be computed based on the change that would result
4 from the imposition of the unitary reporting requirements under
5 sections 1 and 18 through 23 of P.L.2018, c.48 (C.54:10A-5.41 and
6 C.54:10A-4.6 to C.54:10A-4.11) but for the deduction provided
7 under this paragraph as of the effective date of this paragraph.

8 (iii) For group privilege periods beginning on and after January 1,
9 2030, the combined group may deduct up to five percent of any
10 remaining unused amount of the deduction during the group privilege
11 period, until the group privilege period in which the total deduction
12 amount has been fully utilized. Such increase in the net deferred tax
13 liability or decrease in the net deferred tax asset or the aggregate
14 change from a net deferred tax asset to a net deferred tax liability
15 shall be computed based on the change that would result from the
16 imposition of the unitary reporting requirements under sections 1 and
17 18 through 23 of P.L.2018, c.48 (C.54:10A-5.41 and C.54:10A-4.6
18 to C.54:10A-4.11) but for the deduction provided under this
19 paragraph as of the effective date of this paragraph.

20 (F) The deferred tax impact determined in subparagraph (E) of
21 this paragraph must be converted to the annual Deferred Tax
22 Deduction amount, as follows:

23 (i) the deferred tax impact determined in subparagraph (E) of this
24 paragraph shall be divided by the rate determined under section 5 of
25 P.L.1945, c.162 (C.54:10A-5) at the effective date of P.L.2018, c.48
26 (C.54:10A-5.41 et al.);

27 (ii) the resulting amount shall be further divided by the New
28 Jersey unitary business allocation factor that was used by the
29 combined group in the calculation of the deferred tax assets and
30 deferred tax liabilities as described in subparagraph (E) of this
31 paragraph;

32 (iii) the resulting amount represents the total net Deferred Tax
33 Deduction available over the period as described in subparagraph (E)
34 of this paragraph.

35 (G) The deduction calculated under this paragraph shall not be
36 adjusted as a result of any events happening subsequent to such
37 calculation, including, but not limited to, any disposition or
38 abandonment of assets. Such deduction shall be calculated without
39 regard to the federal tax effect and shall not alter the tax basis of any
40 asset. If the deduction under this section is greater than combined
41 group entire net income, any excess deduction shall be carried
42 forward and applied as a deduction to combined group entire net
43 income in future privilege periods until fully utilized.

44 (H) Any combined group intending to claim a deduction under
45 this paragraph shall file a statement with the director on or before
46 July 1 of the year subsequent to the first privilege period for which a
47 combined return is required. Such statement shall specify the total
48 amount of the deduction which the combined group claims on such

1 form and in such manner as prescribed by the director. No deduction
2 shall be allowed under this paragraph for any privilege period except
3 to the extent claimed on such timely filed statement in accordance
4 with this paragraph.

5 (17)(A) In the case of a taxpayer that is a cannabis licensee, there
6 shall be allowed as a deduction an amount equal to any expenditure
7 that is eligible to be claimed as a federal income tax deduction but is
8 disallowed because cannabis is a controlled substance under federal
9 law, and income shall be determined without regard to section 280E
10 of the Internal Revenue Code (26 U.S.C. s.280E) for cannabis
11 licensees.

12 (B) In the case of a taxpayer that is a cannabis licensee, there shall
13 be allowed as a deduction an amount equal to any expenditure that
14 would qualify as a specified research or experimental expenditure
15 pursuant to section 174 of the Internal Revenue Code but is
16 disallowed as a deduction for federal tax purposes because cannabis
17 is a controlled substance under federal law. Any expenditure that is
18 claimed as a deduction pursuant to this subparagraph may also be
19 claimed as a qualified research expense for purposes of the credit
20 allowed pursuant to section 1 of P.L.1993, c.175 (C.54:10A-5.24).

21 (C) For purposes of this paragraph, "licensee" means the same as
22 that term is defined in section 3 of P.L.2021, c.16 (C.24:6I-33).

23 (18)For privilege periods ending on and after July 31, 2022:

24 (A) Notwithstanding subparagraph (A) of paragraph (2) of this
25 subsection or any other law or treaty to the contrary, for a corporation
26 that is incorporated or formed in a foreign nation with a
27 comprehensive tax treaty with the United States, and that is not a
28 member of a world-wide group combined return filed pursuant to
29 subsection b. of section 23 of P.L.2018, c.48 (C.54:10A-4.11), entire
30 net income shall not include an item of income or loss excluded or
31 exempted from federal taxable income under the terms of the treaty,
32 and no other deduction, exclusion, or elimination shall be permitted
33 for an item of income or loss excluded by this paragraph.

34 (B) For a non-U.S. corporation that files a federal tax return and
35 is not a member of a combined group filing a New Jersey combined
36 return on a world-wide basis pursuant to subsection b. of section 23
37 of P.L.2018, c.48 (C.54:10A-4.11), the non-U.S. corporation shall
38 only include its income or loss included in federal taxable income,
39 which shall be limited to only the non-U.S. corporation's effectively
40 connected income or loss, as modified by the provisions of the
41 Corporation Business Tax Act (1945), P.L.1945, c.162 (C.54:10A-1
42 et seq.), and the items of expense and the allocation factor receipts
43 attributable to such items of income or loss.

44 (l) "Real estate investment trust" shall mean any corporation,
45 trust or association qualifying and electing to be taxed as a real estate
46 investment trust under federal law.

47 (m) "Financial business corporation" shall mean any corporate
48 enterprise which is (1) in substantial competition with the business

1 of national banks and which (2) employs moneyed capital with the
2 object of making profit by its use as money, through discounting and
3 negotiating promissory notes, drafts, bills of exchange and other
4 evidences of debt; buying and selling exchange; making of or dealing
5 in secured or unsecured loans and discounts; dealing in securities and
6 shares of corporate stock by purchasing and selling such securities
7 and stock without recourse, solely upon the order and for the account
8 of customers; or investing and reinvesting in marketable obligations
9 evidencing indebtedness of any person, copartnership, association or
10 corporation in the form of bonds, notes or debentures commonly
11 known as investment securities; or dealing in or underwriting
12 obligations of the United States, any state or any political subdivision
13 thereof, or of a corporate instrumentality of any of them. This shall
14 include, without limitation of the foregoing, business commonly
15 known as industrial banks, dealers in commercial paper and
16 acceptances, sales finance, personal finance, small loan and mortgage
17 financing businesses, as well as any other enterprise employing
18 moneyed capital coming into competition with the business of
19 national banks; provided that the holding of bonds, notes, or other
20 evidences of indebtedness by individual persons not employed or
21 engaged in the banking or investment business and representing
22 merely personal investments not made in competition with the
23 business of national banks, shall not be deemed financial business.
24 Nor shall "financial business" include national banks, production
25 credit associations organized under the Farm Credit Act of 1933 or
26 the Farm Credit Act of 1971, Pub.L.92-181 (12 U.S.C. s.2091 et
27 seq.), stock and mutual insurance companies duly authorized to
28 transact business in this State, security brokers or dealers or
29 investment companies or bankers not employing moneyed capital
30 coming into competition with the business of national banks, real
31 estate investment trusts, or any of the following entities organized
32 under the laws of this State: credit unions, savings banks, savings and
33 loan and building and loan associations, pawnbrokers, and State
34 banks and trust companies.

35 (n) "International banking facility" shall mean a set of asset and
36 liability accounts segregated on the books and records of a depository
37 institution, United States branch or agency of a foreign bank, or an
38 Edge or Agreement Corporation that includes only international
39 banking facility time deposits and international banking facility
40 extensions of credit as such terms are defined in section 204.8(a)(2)
41 and section 204.8(a)(3) of Regulation D of the board of governors of
42 the Federal Reserve System, 12 CFR Part 204, effective December 3,
43 1981. In the event that the United States enacts a law, or the board of
44 governors of the Federal Reserve System adopts a regulation which
45 amends the present definition of international banking facility or of
46 such facilities' time deposits or extensions of credit, the
47 Commissioner of Banking and Insurance shall forthwith adopt
48 regulations defining such terms in the same manner as such terms are

1 set forth in the laws of the United States or the regulations of the
2 board of governors of the Federal Reserve System. The regulations
3 of the Commissioner of Banking and Insurance shall thereafter
4 provide the applicable definitions.

5 (o) "S corporation" means a corporation that has elected to be an
6 "S corporation" pursuant to section 1361 of the federal Internal
7 Revenue Code of 1986, 26 U.S.C. s.1361, for the taxable year.

8 (p) "New Jersey S corporation" means a taxpayer that has made a
9 valid election to be an S corporation for federal tax purposes, and that
10 has not made a valid election pursuant to subsection d. of section 20
11 of P.L.2022, c.133 (C.54:10A-5.22).

12 (q) "Public Utility" means "public utility" as defined in R.S.48:2-
13 13.

14 (r) "Qualified investment partnership" means a partnership under
15 this act that has more than 10 members or partners with no member
16 or partner owning more than a 50% interest in the entity and that
17 derives at least 90% of its gross income from dividends, interest,
18 payments with respect to securities loans, and gains from the sale or
19 other disposition of stocks or securities or foreign currencies or
20 commodities or other similar income (including but not limited to
21 gains from swaps, options, futures or forward contracts) derived with
22 respect to its business of investing or trading in those stocks,
23 securities, currencies or commodities, but "investment partnership"
24 shall not include a "dealer in securities" within the meaning of section
25 1236 of the federal Internal Revenue Code of 1986, 26 U.S.C. s.1236.

26 (s) "Savings institution" means a state or federally chartered
27 building and loan association, savings and loan association, or
28 savings bank.

29 (t) "Partnership" means an entity classified as a partnership for
30 federal income tax purposes.

31 (u) "Prior net operating loss conversion carryover" means a net
32 operating loss incurred in a privilege period ending prior to July 31,
33 2019 and converted from a pre-allocation net operating loss to a post-
34 allocation net operating loss as follows:

35 (1) As used in this subsection:

36 "Base year" means the last privilege period ending prior to July
37 31, 2019.

38 "Base year BAF" means the taxpayer's business allocation factor
39 as provided in sections 6 through 10 of P.L.1945, c.162 (C.54:10A-6
40 through C.54:10A-10) for purposes of calculating entire net income
41 for the base year, as such section was in effect for the last privilege
42 period ending prior to July 31, 2019.

43 "UNOL" means the unabsorbed portion of net operating loss as
44 calculated under paragraph (6) of subsection (k) of this section as
45 such paragraph was in effect for the last privilege period ending prior
46 to July 31, 2019, that was not deductible in previous privilege periods
47 and was eligible for carryover on the last day of the base year subject

1 to the limitations for deduction under such subsection, including any
2 net operating loss sustained by the taxpayer during the base year.

3 (2) The prior net operating loss conversion carryover shall be
4 calculated as follows:

5 (A) The taxpayer shall first calculate the tax value of its UNOL
6 for the base year and for each preceding privilege period for which
7 there is a UNOL. The value of the UNOL for each privilege period is
8 equal to the product of (I) the amount of the taxpayer's UNOL for a
9 privilege period, and (II) the taxpayer's base year BAF. This result
10 shall equal the taxpayer's prior net operating loss conversion
11 carryover.

12 (B) The taxpayer shall continue to carry over its prior net
13 operating loss conversion carryover to offset its allocated entire net
14 income as provided in sections 6 through 10 of P.L.1945, c.162
15 (C.54:10A-6 through C.54:10A-10) for privilege periods ending on
16 and after July 31, 2019. Such carryover periods shall not exceed the
17 twenty privilege periods following the privilege period of the initial
18 loss. The entire amount of the prior net operating loss conversion
19 carryover for any privilege period shall be carried to the earliest of
20 the privilege periods to which the loss may be carried. The portion of
21 the prior net operating loss conversion carryover which shall be
22 carried to each of the other privilege periods shall be the excess, if
23 any, of the amount of the prior net operating loss conversion
24 carryover over the sum of the entire net income, computed without
25 the exclusions permitted in paragraphs (4) and (5) of subsection (k)
26 of this section allocated to this State. For privilege periods ending
27 on and after July 31, 2023, for the purpose of computing taxable net
28 income for a current privilege period, the amount of the prior net
29 operating loss conversion carryover shall be subtracted from entire
30 net income allocated to this State, after the application of paragraphs
31 (4) and (5) of subsection (k) of this section against current privilege
32 period income when the entire net income allocated to this State for
33 the privilege period is greater than zero.

34 (C) The prior net operating loss conversion carryover computed
35 under this subsection shall be applied against the entire net income
36 allocated to this State before the net operating loss carryover
37 computed under subsection (v) of this section.

38 (v) "Net operating loss deduction" means the amount allowed as
39 a deduction for the net operating loss carryover to the privilege
40 period, calculated as follows:

41 (1) Net operating loss carryover. A net operating loss for any
42 privilege period ending on or after July 31, 2019, shall be a net
43 operating loss carryover to each of the twenty privilege periods
44 following the period of the loss. The entire amount of the net
45 operating loss for any privilege period shall be carried to the earliest
46 of the privilege periods to which the loss may be carried. For
47 privilege periods ending before July 31, 2023, the portion of the loss
48 which shall be carried to each of the other privilege periods shall be

1 the excess, if any, of the amount of the loss over the sum of the entire
2 net income, computed without the exclusions permitted in paragraphs
3 (4) and (5) of subsection (k) of this section allocated to this State.
4 For privilege periods ending on and after July 31, 2023, the portion
5 of the loss that shall be carried to each of the other privilege periods
6 shall be the excess, if any, of the amount of the loss over the sum of
7 the entire net income, after the application of paragraphs (4) and (5)
8 of subsection (k) of this section allocated to this State; provided,
9 however, for the purpose of computing taxable net income for the
10 privilege period, the net operating loss carryover shall only be
11 subtracted from entire net income allocated to this State when the
12 entire net income allocated to this State is greater than zero.

13 (2) Net operating loss. For purposes of this paragraph the term
14 "net operating loss" means the excess of the deductions over the gross
15 income used in computing entire net income, without regard to any
16 net operating loss carryover, and for privilege periods ending before
17 July 31, 2023, computed without the exclusions in paragraphs (4) and
18 (5) of subsection (k) of this section, and for privilege periods ending
19 on and after July 31, 2023, computed after the application of
20 paragraphs (4) and (5) of subsection (k) of this section, allocated to
21 this State pursuant to sections 6 through 10 of P.L.1945, c.162
22 (C.54:10A-6 through C.54:10A-10).

23 (3) Reduction for discharge of indebtedness. A net operating loss
24 for any privilege period ending on or after July 31, 2019, and any net
25 operating loss carryover to such privilege period, shall be reduced by
26 the amount excluded from federal taxable income under
27 subparagraph (A), (B), or (C) of paragraph (1) of subsection (a) of
28 section 108 of the federal Internal Revenue Code, 26 U.S.C. s.108,
29 for the privilege period of the discharge of indebtedness.

30 (4) A net operating loss carryover shall not include any net
31 operating loss incurred during any privilege period ending prior to
32 July 31, 2019.

33 (5) Change in ownership. Where there is a change in 50% or more
34 of the ownership of a corporation because of redemption or sale of
35 stock and the corporation changes the trade or business giving rise to
36 the loss, no net operating loss sustained before the changes may be
37 carried over to be deducted from income earned after such changes.
38 In addition, where the facts support the premise that the corporation
39 was acquired under any circumstances for the primary purpose of the
40 use of its net operating loss carryover, the director may disallow the
41 carryover; provided, however, this paragraph shall not apply between
42 members of a combined group reported on a New Jersey combined
43 return.

44 (w) "Taxable net income" means entire net income allocated to
45 this State as calculated pursuant to sections 6 through 8 of P.L.1945,
46 c.162 (C.54:10A-6 through 54:10A-8) as modified by subtracting any
47 prior net operating loss conversion carryforward calculated pursuant
48 to subsection (u) of this section, and any net operating loss calculated

1 pursuant to subsection (v) of this section; provided, however, for
2 privilege periods ending on and after July 31, 2023, when subtracting
3 any net operating losses calculated pursuant to subsection (v) of this
4 section or the combined group net operating losses calculated
5 pursuant to subsection h. of section 18 of P.L.2018, c.48 (C.54:10A-
6 4.6), the limitation set forth in paragraph (2) of subsection (a) of
7 Internal Revenue Code Section 172 (26 U.S.C. s.172(a)(2)) shall
8 apply, except that August 1, 2023 is substituted for the reference to
9 January 1, 2018 in subparagraph (A) of paragraph (2) of subsection
10 a. of Internal Revenue Code Section 172 (26 U.S.C. s.172), and July
11 31, 2023 is substituted for the reference to December 31, 2017 in
12 subparagraph (B) of paragraph (2) of subsection (a) of Internal
13 Revenue Code Section 172 (26 U.S.C. s.172). For privilege periods
14 ending on and after July 31, 2023, for a combined group, before
15 subtracting the prior net operating loss conversion carryforwards and
16 subtracting the net operating losses of the combined group when
17 computing the total taxable net income, the combined group shall
18 first add together the allocated entire net income from the unitary
19 business of the combined group and the portion of allocated entire
20 net income of members with activities independent of the group, and
21 then subtract the prior net operating loss conversion carryforwards
22 and then the net operating losses.

23 (x) "Affiliated group" means, for purposes of section 23 of
24 P.L.2018, c.48 (C.54:10A-4.11), an affiliated group as defined in
25 section 1504 of the federal Internal Revenue Code, 26 U.S.C. s.1504,
26 except such affiliated group shall include all U.S. domestic
27 corporations that are commonly owned, directly or indirectly, by any
28 member of such affiliated group, without regard to whether the
29 affiliated group includes (1) corporations included in more than one
30 federal consolidated return, (2) corporations engaged in one or more
31 unitary businesses, or (3) corporations that are not engaged in a
32 unitary business with any other member of the affiliated group.

33 For purposes of this subsection:

34 "U.S. domestic corporations" means: (1) business entities
35 wherever incorporated or formed that are U.S. domestic corporations,
36 are deemed to be, or are treated as U.S. domestic corporations under
37 the provisions of the federal Internal Revenue Code; or (2) any
38 entities incorporated or formed under the laws of a foreign nation that
39 are required to file federal tax returns if such entities have effectively
40 connected income within the meaning of the federal Internal Revenue
41 Code; and

42 "Commonly owned" means that more than 50 percent of the voting
43 control of each member of an affiliated group is directly or indirectly
44 owned by a common owner or owners, either corporate or non-
45 corporate, whether or not the owner or owners are members of the
46 affiliated group. Whether voting control is indirectly owned shall be
47 determined in accordance with section 318 of the federal Internal
48 Revenue Code (26 U.S.C. s.318).

1 (y) "Combinable captive insurance company" means an entity
2 that is treated as an association taxable as a corporation under the
3 federal Internal Revenue Code:

4 (1) more than 50% of the voting stock of which is owned or
5 controlled, directly or indirectly, by a single entity that is treated as
6 an association taxable as a corporation under the federal Internal
7 Revenue Code, and not exempt from federal income tax;

8 (2) that is licensed as a captive insurance company under the laws
9 of this State or another jurisdiction;

10 (3) whose business includes providing, directly and indirectly,
11 insurance or reinsurance covering the risks of its parent, members of
12 its affiliated group, or both; and

13 (4) 50% or less of whose gross receipts for the privilege period
14 consist of premiums from arrangements that constitute insurance for
15 federal income tax purposes.

16 A combinable captive insurance company shall not be exempt
17 under section 3 of P.L.1945, c.162 (C.54:10A-3). A captive insurance
18 company that does not meet the definition of combinable captive
19 insurance company shall be excluded as provided in subsection k. of
20 section 18 of P.L.2018, c.48 (C.54:10A-4.6) and shall be exempt
21 under section 3 of P.L.1945, c.162 (C.54:10A-3).

22 For purposes of this definition:

23 "Affiliated group" shall have the same meaning as that term is
24 given by section 1504 of the federal Internal Revenue Code, 26
25 U.S.C. s.1504, except that the term "common parent corporation" as
26 used in section 1504 of the federal Internal Revenue Code, 26 U.S.C.
27 s.1504, shall mean any person, as defined in section 7701 of the
28 federal Internal Revenue Code, 26 U.S.C. s.7701, and references to
29 "at least 80%" in section 1504 of the federal Internal Revenue Code,
30 26 U.S.C. s.1504, shall be read as "50% or more." Section 1504 of
31 the federal Internal Revenue Code, 26 U.S.C. s.1504, shall be read
32 without regard to the exclusions provided for in subsection (b) of that
33 section.

34 "Gross receipts" includes the amounts included in gross receipts
35 for purposes of paragraph (15) of subsection (c) of section 501 of the
36 federal Internal Revenue Code, 26 U.S.C. s.501, except that those
37 amounts also include all premiums.

38 "Premiums" includes consideration for annuity contracts and
39 excludes any part of the consideration for insurance, reinsurance, or
40 annuity contracts that do not provide bona fide insurance,
41 reinsurance, or annuity benefits.

42 (z) "Combined group" means the group of all companies that
43 have common ownership and are engaged in a unitary business,
44 where at least one company is subject to tax under this chapter, and
45 shall include all business entities, except as provided for under any
46 section of the Corporation Business Tax Act (1945), P.L.1945, c.162
47 (C.54:10A-1 et seq.).

1 A combined group shall be treated, for privilege periods ending
2 on and after July 31, 2020, as one taxpayer for purposes of paragraph
3 (1) of subsection (c) of section 5 of P.L.1945, c.162 (C.54:10A-5)
4 and section 1 of P.L.2018, c.48 (C.54:10A-5.41) for the income
5 derived from the unitary business; provided however, with regard to
6 the surtax imposed pursuant to section 1 of P.L.2018, c.48
7 (C.54:10A-5.41) and for that purpose only, the portion of income that
8 is attributable to a member which is a public utility exempt from the
9 surtax shall not be included when computing the surtax due.

10 (aa) "Common ownership" means that more than 50% of the
11 voting control of each member of a combined group is directly or
12 indirectly owned by a common owner or owners, either corporate or
13 non-corporate, whether or not the owner or owners are members of
14 the combined group. Whether voting control is indirectly owned shall
15 be determined in accordance with section 318 of the federal Internal
16 Revenue Code, 26 U.S.C. s.318.

17 (bb) "Group privilege period" means, if two or more members in
18 the combined group file in the same federal consolidated tax return,
19 the same income year as that used on the federal consolidated tax
20 return and, in all other cases, the privilege period of the managerial
21 member.

22 (cc) "Managerial member" means if the combined group has a
23 common parent corporation and that common parent corporation is a
24 taxable member, the managerial member shall be the common parent
25 corporation. In other cases, the combined group shall select a taxable
26 member as its managerial member or, in the discretion of the director
27 or upon failure of the combined group to select its managerial
28 member, the director shall designate a taxable member of the
29 combined group as managerial member.

30 (dd) "Member" means a business entity that is a part of a combined
31 group.

32 A corporation exempt pursuant to section 3 of P.L.1945, c.162
33 (C.54:10A-3) from the tax imposed by P.L.1945, c.162 (C.54:10A-1
34 et seq.) shall not be a member of a combined group.

35 (ee) "Nontaxable member" means a member that is: (i) not subject
36 to tax pursuant to the Corporation Business Tax Act (1945),
37 P.L.1945, c.162 (C.54:10A-1 et seq.); or (ii) (deleted by amendment,
38 P.L.2020, c.118 (C.54:10A-5.46 et al.).

39 (ff) "Taxable member" means a member that is subject to tax
40 pursuant to the Corporation Business Tax Act (1945), P.L.1945,
41 c.162 (C.54:10A-1 et seq.).

42 A New Jersey S corporation shall only be included as a taxable
43 member of a combined group filing a New Jersey combined return if
44 the New Jersey S Corporation elects to be included as a member and
45 taxed at the same rate as the other members of the combined group.
46 A New Jersey S corporation that does not elect to be included shall
47 be excluded as a member of the combined return and shall file a
48 separate return.

1 (gg)"Unitary business" means, for privilege periods ending before
2 July 31, 2023, a single economic enterprise that is made up either of
3 separate parts of a single business entity or of a group of business
4 entities under common ownership that are sufficiently
5 interdependent, integrated, and interrelated through their activities so
6 as to provide a synergy and mutual benefit that produces a sharing or
7 exchange of value among them and a significant flow of value among
8 the separate parts. For privilege periods ending on and after July 31,
9 2023, "unitary business" means a single economic enterprise that is
10 made up either of separate parts of a single business entity or of a
11 group of business entities under common ownership that are
12 sufficiently interdependent, integrated, or interrelated through their
13 activities so as to provide a synergy and mutual benefit that produces
14 a sharing or exchange of value among them and a significant flow of
15 value among the separate parts. "Unitary business" shall be
16 construed to the broadest extent permitted under the Constitution of
17 the United States. A business conducted by a partnership which is in
18 a unitary business with the combined group shall be treated as the
19 business of the partners that are members of the combined group,
20 whether the partnership interest is held directly or indirectly through
21 a series of partnerships, to the extent of a partner's distributive share
22 of partnership income. The amount of partnership income to be
23 included in the partner's entire net income shall be determined in
24 accordance with subsection a. of section 3 of P.L.2001, c.136
25 (C.54:10A-15.6) or subsection a. of section 4 of P.L.2001, c.136
26 (C.54:10A-15.7), as applicable. A business conducted directly or
27 indirectly by one corporation is unitary with that portion of a business
28 conducted by another corporation through its direct or indirect
29 interest in a partnership.

30 (hh)"Captive investment company" shall mean, for privilege
31 periods ending on and after July 31, 2023, an investment company
32 that is not regularly traded on an established securities market and of
33 which more than 50 percent of the voting stock is owned or
34 controlled, directly or indirectly, by a single corporation, other than
35 an investment company, that is not exempt from federal income tax.
36 For purposes of this subsection, a captive investment company shall
37 not include any captive investment company of which at least 50
38 percent of the shares, by vote or value, is owned or controlled,
39 directly or indirectly, by a state or federally chartered bank, savings
40 bank, or savings and loan association with assets that do not exceed
41 \$15 billion.

42 For privilege periods ending on and after July 31, 2023, any voting
43 stock in an investment company that is held in a segregated asset
44 account of a life insurance corporation, as described in section 817
45 of the Internal Revenue Code, shall not be taken into account for
46 purposes of determining whether an investment company is a captive
47 regulated investment company.

1 For privilege periods ending on and after July 31, 2023, a captive
2 investment company shall be taxed in the same manner as a C
3 corporation, and subsection d. of section 5 of P.L. 1945, c. 162 (C.
4 54:10A-5) shall not apply. A captive investment company shall not
5 be permitted to claim any deductions or expenses that were permitted
6 for federal purposes, solely as a result of the entity being an
7 investment company, when computing federal taxable net income. A
8 captive investment company shall be a member of a combined group
9 and shall be included as a member on the combined return.

10 (ii) "Captive real estate investment trust" shall mean, for privilege
11 periods ending on and after July 31, 2023, a real estate investment
12 trust that is not regularly traded on an established securities market
13 and of which more than 50 percent of the voting stock is owned or
14 controlled, directly or indirectly, by a single entity that is treated as
15 an association taxable as a corporation under the Internal Revenue
16 Code, is not exempt from federal income tax, and is not a real estate
17 investment trust. For purposes of this subsection, a captive real estate
18 investment trust shall not include any captive real estate investment
19 trust of which at least 50 percent of the shares, by vote or value, is
20 owned or controlled, directly or indirectly, by a state or federally
21 chartered bank, savings bank, or savings and loan association with
22 assets that do not exceed \$15 billion.

23 For privilege periods ending on and after July 23, 2023, any voting
24 stock in a real estate investment trust that is held in a segregated asset
25 account of a life insurance corporation, as described in section 817
26 of the Internal Revenue Code (26 U.S.C. s.817), shall not be taken
27 into account for purposes of determining whether a real estate
28 investment trust is a captive real estate investment trust. For
29 purposes of this subsection, an association taxable as a corporation
30 shall not include any listed Australian property trust or any qualified
31 foreign entity.

32 For privilege periods ending on and after July 31, 2023, a captive
33 real estate investment trust shall be taxed in the same manner as a C
34 corporation, and subsection d. of section 5 of P.L.1945, c.162
35 (C.54:10A-5) shall not apply. A captive real estate investment trust
36 shall not be permitted to claim any deductions or expenses that were
37 permitted for federal purposes, solely as a result of the entity being a
38 real estate investment trust, when computing federal taxable net
39 income. A captive real estate investment trust shall be a member of
40 a combined group and shall be included as a member on the combined
41 return.

42 As used in this subsection:

43 "Australian property trust" means an Australian unit trust that is
44 registered as a managed investment scheme under the Australian
45 Corporations Act, and in which the principal class of units is listed
46 on a recognized stock exchange in Australia and is regularly traded
47 on an established securities market; or an entity organized as a trust,
48 provided that a listed Australian property trust owns or controls,

1 directly or indirectly, 75 percent or more of the voting power or value
2 of the beneficial interests of shares of the trust.

3 "Qualified foreign entity" means a corporation, trust, association,
4 or partnership that is organized outside the laws of the United States
5 and that satisfies the following criteria:

6 (1) At least 75 percent of the entity's total asset value at the close
7 of its taxable year is represented by real estate assets, as defined at
8 subparagraph (B) of paragraph (5) of subsection (c) of section 856 of
9 the Internal Revenue Code (26 U.S.C. s.856), including shares or
10 certificates of beneficial interest in any real estate investment trust,
11 cash and cash equivalents, and United States Government securities;

12 (2) The entity is not subject to tax on amounts distributed to its
13 beneficial owners, or is exempt from entity-level taxation;

14 (3) The entity distributes, on an annual basis, at least 85 percent
15 of its taxable income, as computed in the jurisdiction in which it is
16 organized, to the holders of its shares or certificates of beneficial
17 interest;

18 (4) No more than 10 percent of the voting power or value in the
19 entity is held directly, indirectly, or constructively by a single entity
20 or individual, or the shares or certificates of beneficial interests of
21 the entity are regularly traded on an established securities market;
22 and

23 (5) The entity is organized in a country that has a tax treaty with
24 the United States.

25 (jj) "Captive regulated investment company" shall mean, for
26 privilege periods ending on and after July 31, 2023, a regulated
27 investment company that is not regularly traded on an established
28 securities market, and of which more than 50 percent of the voting
29 stock is owned or controlled, directly or indirectly, by a single
30 corporation, other than a regulated investment company, that is not
31 exempt from federal income tax. For purposes of this subsection, a
32 captive regulated investment company shall not include any captive
33 regulated investment company of which at least 50 percent of the
34 shares, by vote or value, is owned or controlled, directly or indirectly,
35 by a state or federally chartered bank, savings bank, or savings and
36 loan association with assets that do not exceed \$15 billion.

37 For privilege periods ending on and after July 31, 2023, any voting
38 stock in a regulated investment company that is held in a segregated
39 asset account of a life insurance corporation, as described in section
40 817 of the Internal Revenue Code (26 U.S.C. s.817), shall not be
41 taken into account for purposes of determining whether a regulated
42 investment company is a captive regulated investment company.

43 For privilege periods ending on and after July 31, 2023, a captive
44 regulated investment company shall be taxed in the same manner as
45 a C corporation and subsection d. of section 5 of P.L.1945, c.162
46 (C.54:10A-5) shall not apply. A captive real estate investment
47 company shall not be permitted to claim any deductions or expenses
48 that were permitted for federal purposes, solely as a result of the

1 entity being a regulated investment company, when computing
2 federal taxable net income. A captive regulated investment company
3 shall be a member of a combined group and shall be included as a
4 member on the combined return.

5 (kk)"World-wide basis" and "world-wide group" shall mean, for
6 privilege periods ending on and after July 31, 2022, for the purposes
7 of sections 18 through 23 of P.L.2018, c.48 (C.54:10A-4.6 through
8 C.54:10A-4.11) and for the purposes of combined reporting in
9 general under the Corporation Business Tax Act (1945), P.L.1945,
10 c.162 (C.54:10A-1 et seq.), that the combined group shall include all
11 of the members of the combined group, wherever located or formed.
12 For privilege periods ending on and after July 31, 2022, the combined
13 group shall include all of the income and attributes of those members
14 regardless of how or whether those members file federal returns or
15 report or include their income in federal taxable income for federal
16 purposes, and without regard to any exemption or exclusion from
17 federal taxable income under the terms of a tax treaty; provided,
18 however, any deductions that are allowed under the federal Internal
19 Revenue Code that are also allowable under the Corporation Business
20 Tax Act (1945), P.L.1945, c.162 (C.54:10A-1 et seq.), that would
21 apply to a U.S. corporation, but that a non-U.S. corporation is
22 prohibited from claiming for federal corporation income tax purposes
23 because the corporation's income was not included in federal taxable
24 income for any reason or because the corporation is a non-U.S.
25 corporation, shall be allowed for the non-U.S. corporation members
26 of the combined group for New Jersey corporation business tax
27 purposes as though those non-U.S. corporation members were U.S.
28 corporations.

29 (cf: P.L.2023, c.96, s.1)

30
31 15. N.J.S.54A:5-1 is amended to read as follows:

32 54A:5-1. New Jersey Gross Income Defined. New Jersey gross
33 income shall consist of the following categories of income:

34 a. Salaries, wages, tips, fees, commissions, bonuses, and other
35 remuneration received for services rendered whether in cash or in
36 property, and amounts paid or distributed, or deemed paid or
37 distributed, out of a medical savings account that are not excluded
38 from gross income pursuant to section 5 of P.L.1997, c.414
39 (C.54A:6-27).

40 b. Net profits from business. The net income from the operation
41 of a business, profession or other activity after provision for all costs
42 and expenses incurred in the conduct thereof, determined either on a
43 cash or accrual basis in accordance with the method of accounting
44 allowed for federal income tax purposes but without deduction of the
45 amount of:

46 (1) taxes based on income;

47 (2) a civil, civil administrative, or criminal penalty or fine,
48 including a penalty or fine under an administrative consent order,

1 assessed and collected for a violation of a State or federal
2 environmental law, an administrative consent order, or an
3 environmental ordinance or resolution of a local governmental entity,
4 and any interest earned on the penalty or fine, and any economic
5 benefits having accrued to the violator as a result of a violation,
6 which benefits are assessed and recovered in a civil, civil
7 administrative, or criminal action, or pursuant to an administrative
8 consent order. The provisions of this paragraph shall not apply to a
9 penalty or fine assessed or collected for a violation of a State or
10 federal environmental law, or local environmental ordinance or
11 resolution, if the penalty or fine was for a violation that resulted from
12 fire, riot, sabotage, flood, storm event, natural cause, or other act of
13 God beyond the reasonable control of the violator, or caused by an
14 act or omission of a person who was outside the reasonable control
15 of the violator; and

16 (3) treble damages paid to the Department of Environmental
17 Protection pursuant to subsection a. of section 7 of P.L.1976, c.141
18 (C.58:10-23.11f) for costs incurred by the department in removing,
19 or arranging for the removal of, an unauthorized discharge upon the
20 failure of the discharger to comply with a directive from the
21 department to remove, or arrange for the removal of, a discharge.

22 c. Net gains or income from disposition of property. Net gains
23 or net income, less net losses, derived from the sale, exchange or
24 other disposition of property, including real or personal, whether
25 tangible or intangible as determined in accordance with the method
26 of accounting allowed for federal income tax purposes. For the
27 purpose of determining gain or loss, the basis of property shall be the
28 adjusted basis used for federal income tax purposes, except as
29 expressly provided for under this act, but without a deduction for
30 penalties, fines, or economic benefits excepted pursuant to paragraph
31 (2), or for treble damages excepted pursuant to paragraph (3) of
32 subsection b. of this section.

33 A taxpayer's net gain or loss on the sale, exchange or other
34 disposition of a share of an S corporation shall be calculated by
35 increasing the adjusted basis of the share by an amount equal to the
36 shareholder's net losses and deductions in respect of the share
37 allowed and deducted from income for federal income tax purposes,
38 not including any personal net operating loss deductions, to the extent
39 that such net losses were not offset by the taxpayer's pro rata share of
40 S corporation income otherwise subject to taxation pursuant to
41 subsection p. of this section in respect of another S corporation,
42 subject to rules of priority and assignment determined by the director.

43 For the tax year 1976, any taxpayer with a tax liability under this
44 subsection, or under the "Tax on Capital Gains and Other Unearned
45 Income Act," P.L.1975, c.172 (C.54:8B-1 et seq.), shall not be
46 subject to payment of an amount greater than the amount he would
47 have paid if either return had covered all capital transactions during
48 the full tax year 1976; provided, however, that the rate which shall

1 apply to any capital gain shall be that in effect on the date of the
2 transaction. To the extent that any loss is used to offset any gain
3 under P.L.1975, c.172, it shall not be used to offset any gain under
4 the "New Jersey Gross Income Tax Act," N.J.S.54A:1-1 et seq.

5 The term "net gains or income" shall not include gains or income
6 derived from obligations which are referred to in clause (1) or (2) of
7 N.J.S.54A:6-14 of this act or from securities which evidence
8 ownership in a qualified investment fund as defined in section 2 of
9 P.L.1987, c.310 (C.54A:6-14.1). The term "net gains or income"
10 shall not include gains or income derived from the sale or assignment
11 of a tax credit transfer certificate pursuant to section 7 of P.L.2011,
12 c.149 (C.34:1B-248) **and**, section 10 of P.L.2014, c.63 (C.34:1B-
13 251), or the "New Jersey Economic Recovery Act of 2020,"
14 P.L.2020, c.156 (C.34:1B-269 et al.), as amended and supplemented,
15 from any sale or assignment of a tax credit issued pursuant to an
16 award of tax credits approved by the New Jersey Economic
17 Development Authority **prior to July 1, 2018**, regardless of when
18 such sale or assignment occurs. The term "net gains or net income"
19 shall not include gains or income from transactions to the extent to
20 which nonrecognition is allowed for federal income tax purposes.
21 The term "sale, exchange or other disposition" shall not include the
22 exchange of stock or securities in a corporation a party to a
23 reorganization in pursuance of a plan of reorganization, solely for
24 stock or securities in such corporation or in another corporation a
25 party to the reorganization and the transfer of property to a
26 corporation by one or more persons solely in exchange for stock or
27 securities in such corporation if immediately after the exchange such
28 person or persons are in control of the corporation. For purposes of
29 this clause, stock or securities issued for services shall not be
30 considered as issued in return for property.

31 For purposes of this clause, the term "reorganization" means**--**:

32 (i) A statutory merger or consolidation;

33 (ii) The acquisition by one corporation, in exchange solely for all
34 or part of its voting stock (or in exchange solely for all or a part of
35 the voting stock of a corporation which is in control of the acquiring
36 corporation) of stock of another corporation if, immediately after the
37 acquisition, the acquiring corporation has control of such other
38 corporation (whether or not such acquiring corporation had control
39 immediately before the acquisition);

40 (iii) The acquisition by one corporation, in exchange solely for all
41 or part of its voting stock (or in exchange solely for all or a part of
42 the voting stock of a corporation which is in control of the acquiring
43 corporation), of substantially all of the properties of another
44 corporation, but in determining whether the exchange is solely for
45 stock the assumption by the acquiring corporation of a liability of the
46 other, or the fact that property acquired is subject to a liability, shall
47 be disregarded;

1 (iv) A transfer by a corporation of all or a part of its assets to
2 another corporation if immediately after the transfer the transferor,
3 or one or more of its shareholders (including persons who were
4 shareholders immediately before the transfer), or any combination
5 thereof, is in control of the corporation to which the assets are
6 transferred;

7 (v) A recapitalization;

8 (vi) A mere change in identity, form, or place of organization
9 however effected; or

10 (vii) The acquisition by one corporation, in exchange for stock of
11 a corporation (referred to in this subclause as "controlling
12 corporation") which is in control of the acquiring corporation, of
13 substantially all of the properties of another corporation which in the
14 transaction is merged into the acquiring corporation shall not
15 disqualify a transaction under subclause (i) if such transaction would
16 have qualified under subclause (i) if the merger had been into the
17 controlling corporation, and no stock of the acquiring corporation is
18 used in the transaction;

19 (viii) A transaction otherwise qualifying under subclause (i) shall
20 not be disqualified by reason of the fact that stock of a corporation
21 (referred to in this subclause as the "controlling corporation") which
22 before the merger was in control of the merged corporation is used in
23 the transaction, if after the transaction, the corporation surviving the
24 merger holds substantially all of its properties and of the properties
25 of the merged corporation (other than stock of the controlling
26 corporation distributed in the transaction); and in the transaction,
27 former shareholders of the surviving corporation exchanged, for an
28 amount of voting stock of the controlling corporation, an amount of
29 stock in the surviving corporation which constitutes control of such
30 corporation.

31 For purposes of this clause, the term "control" means the
32 ownership of stock possessing at least 80% of the total combined
33 voting power of all classes of stock entitled to vote and at least 80%
34 of the total number of shares of all other classes of stock of the
35 corporation.

36 For purposes of this clause, the term "a party to a reorganization"
37 includes a corporation resulting from a reorganization, and both
38 corporations, in the case of a reorganization resulting from the
39 acquisition by one corporation of stock or properties of another. In
40 the case of a reorganization qualifying under subclause (i) by reason
41 of subclause (vii) the term "a party to a reorganization" includes the
42 controlling corporation referred to in such subclause (vii).

43 Notwithstanding any provisions hereof, upon every such exchange
44 or conversion, the taxpayer's basis for the stock or securities received
45 shall be the same as the taxpayer's actual or attributed basis for the
46 stock, securities or property surrendered in exchange therefor.

47 d. Net gains or net income derived from or in the form of rents,
48 royalties, patents, and copyrights.

1 e. Interest, except interest referred to in clause (1) or (2) of
2 N.J.S.54A:6-14, or distributions paid by a qualified investment fund
3 as defined in section 2 of P.L.1987, c.310 (C.54A:6-14.1), to the
4 extent provided in that section.

5 f. Dividends. "Dividends" means any distribution in cash or
6 property made by a corporation, association or business trust that is
7 not an S corporation, (1) out of accumulated earnings and profits, or
8 (2) out of earnings and profits of the year in which such dividend is
9 paid and any distribution in cash or property made by an S
10 corporation, as specifically determined pursuant to section 16 of
11 P.L.1993, c.173 (C.54A:5-14).

12 The term "dividends" shall not include distributions paid by a
13 qualified investment fund as defined in section 2 of P.L.1987, c.310
14 (C.54A:6-14.1), to the extent provided in that section.

15 g. Gambling winnings.

16 h. Net gains or income derived through estates or trusts.

17 i. Income in respect of a decedent.

18 j. Amounts distributed or withdrawn from an employee trust
19 attributable to contributions to the trust which were excluded from
20 gross income under the provisions of chapter 6 of Title 54A of the
21 New Jersey Statutes, amounts rolled over from an IRA, as defined
22 pursuant to subsection (a) of section 408 of the federal Internal
23 Revenue Code of 1986, 26 U.S.C. s.408, that is not a Roth IRA, as
24 defined pursuant to subsection b. of section 2 of P.L.1998, c.57
25 (C.54A:6-28) to an IRA that is a Roth IRA, and pensions and
26 annuities except to the extent of exclusions in N.J.S.54A:6-10
27 hereunder, notwithstanding the provisions of N.J.S.18A:66-51,
28 P.L.1973, c.140, s.41 (C.43:6A-41), P.L.1954, c.84, s.53 (C.43:15A-
29 53), P.L.1944, c.255, s.17 (C.43:16A-17), P.L.1965, c.89, s.45
30 (C.53:5A-45), R.S.43:10-14, P.L.1943, c.160, s.22 (C.43:10-18.22),
31 P.L.1948, c.310, s.22 (C.43:10-18.71), P.L.1954, c.218, s.32
32 (C.43:13-22.34), P.L.1964, c.275, s.11 (C.43:13-22.60), R.S.43:10-
33 57, P.L.1938, c.330, s.13 (C.43:10-105), R.S.43:13-44, and
34 P.L.1943, c.189, s.5 (C.43:13-37.5).

35 k. Distributive share of partnership income, excluding the gain
36 or income derived from the sale or assignment of a tax credit transfer
37 certificate pursuant to section 7 of P.L.2011, c.149 (C.34:1B-248)
38 **[and]**, section 10 of P.L.2014, c.63 (C.34:1B-251), or the "New
39 Jersey Economic Recovery Act of 2020," P.L.2020, c.156 (C.34:1B-
40 269 et al.), as amended and supplemented, from any sale or
41 assignment of a tax credit issued pursuant to an award of tax credits
42 approved by the New Jersey Economic Development Authority
43 **[prior to July 1, 2018]**, regardless of when such sale or assignment
44 occurs.

45 l. Amounts received as prizes and awards, except as provided in
46 N.J.S.54A:6-8 and N.J.S.54A:6-11 hereunder.

47 m. Rental value of a residence furnished by an employer or a
48 rental allowance paid by an employer to provide a home.

1 n. Alimony and separate maintenance payments to the extent
2 that such payments are required to be made under a decree of divorce
3 or separate maintenance but not including payments for support of
4 minor children.

5 o. Income, gain or profit derived from acts or omissions defined
6 as crimes or offenses under the laws of this State or any other
7 jurisdiction.

8 p. Net pro rata share of S corporation income, excluding the gain
9 or income derived from the sale or assignment of a tax credit transfer
10 certificate pursuant to section 7 of P.L.2011, c.149 (C.34:1B-248)
11 **[and]**, section 10 P.L.2014, c.63 (C.34:1B-251), or the "New Jersey
12 Economic Recovery Act of 2020," P.L.2020, c.156 (C.34:1B-269 et
13 al.), as amended and supplemented, from any sale or assignment of a
14 tax credit issued pursuant to an award of tax credits approved by the
15 New Jersey Economic Development Authority **[prior to July 1,**
16 **2018]**, regardless of when such sale or assignment occurs.

17 (cf: P.L.2018, c.131, s.8)

18
19 16. Section 1 of P.L.1979, c.303 (C.34:1B-5.1) is amended to read
20 as follows:

21 1. a. The New Jersey Economic Development Authority shall
22 adopt rules and regulations requiring that not less than the prevailing
23 wage rate be paid to workers employed in the performance of any
24 construction contract, including contracts for millwork fabrication,
25 undertaken in connection with authority financial assistance or any of
26 its projects, those projects which it undertakes pursuant to P.L.2002,
27 c.43 (C.52:27BBB-1 et al.), or undertaken to fulfill any condition of
28 receiving authority financial assistance, including the performance of
29 any contract to construct, renovate or otherwise prepare a facility for
30 operations which are necessary for the receipt of authority financial
31 assistance, unless the work performed under the contract is performed
32 on a facility owned by a landlord of the entity receiving the assistance
33 and less than 35 percent of the facility is leased by the entity at the time
34 of the contract and under any agreement to subsequently lease the
35 facility. The prevailing wage rate shall be the rate determined by the
36 Commissioner of Labor and Workforce Development pursuant to the
37 provisions of P.L.1963, c.150 (C.34:11-56.25 et seq.). For the purposes
38 of this section, "authority financial assistance" means any loan, loan
39 guarantee, grant, incentive, tax exemption or other financial assistance
40 that is approved, funded, authorized, administered or provided by the
41 authority to any entity and is provided before, during or after completion
42 of a project, including but not limited to, all authority financial
43 assistance received by the entity pursuant to the "Business Employment
44 Incentive Program Act," P.L.1996, c.26 (C.34:1B-124 et al.) that
45 enables the entity to engage in a construction contract, but this section
46 shall not be construed as requiring the payment of the prevailing wage
47 for construction commencing more than two years after an entity has
48 executed with the authority a commitment letter regarding authority

1 financial assistance and the first payment or other provision of the
2 assistance is received.

3 b. The New Jersey Economic Development Authority shall adopt
4 rules and regulations requiring that not less than the prevailing wage
5 rate be paid to workers employed in the performance of any contract,
6 for construction, demolition, remediation, removal of hazardous
7 substances, alteration, custom fabrication, repair work, or maintenance
8 work, including painting and decorating, or excavation, grading, pile
9 driving, concrete form, or other types of foundation work in connection
10 with the "New Jersey Community-Anchored Development Act,"
11 sections 43 through 53 of P.L.2020, c.156 (C.34:1B-311 through 34:1B-
12 321), the "New Jersey Aspire Program Act," sections 54 through 67 of
13 P.L.2020, c.156 (C.34:1B-322 through C.34:1B-335), and the "New
14 Jersey Emerge Program Act," sections 68 through 81 of P.L.2020, c.156
15 (C.34:1B-336 et al.). The requirements of this subsection shall apply to
16 any site preparation work performed 24 months prior to and during the
17 incentive eligibility period of any project receiving tax credits under the
18 "New Jersey Community-Anchored Development Act," sections 43
19 through 53 of P.L.2020, c.156 (C.34:1B-311 through C.34:1B-321), the
20 "New Jersey Aspire Program Act," sections 54 through 67 of P.L.2020,
21 c.156 (C.34:1B-322 through C.34:1B-335), and the "New Jersey
22 Emerge Program Act," sections 68 through 81 of P.L.2020, c.156
23 (C.34:1B-336 et al.), and to projects receiving financial assistance under
24 the "Redevelopment Project Bridge Financing Program," established
25 pursuant to section 11 of P.L. , c. (C.) (pending before the
26 Legislature as this bill), in which there is a continuity of ownership in
27 the site of the redevelopment project, including work undertaken to
28 fulfill any condition of receiving tax credits under the programs. Work
29 that is subject to the requirements of this subsection shall include the
30 performance of any contract for construction, demolition, remediation,
31 removal of hazardous substances, alteration, custom fabrication, repair
32 work, or maintenance work, including painting and decorating, or
33 excavation, grading, pile driving, concrete form, or other types of
34 foundation work undertaken on a facility for operations which are
35 necessary for the receipt of tax credits under the "New Jersey
36 Community-Anchored Development Act," sections 43 through 53 of
37 P.L.2020, c.156 (C.34:1B-311 through C.34:1B-321), the "New Jersey
38 Aspire Program Act," sections 54 through 67 of P.L.2020, c.156
39 (C.34:1B-322 through C.34:1B-335), and the "New Jersey Emerge
40 Program Act," sections 68 through 81 of P.L.2020, c.156 (C.34:1B-336
41 et al.), or the receipt of financial assistance under the "Redevelopment
42 Project Bridge Financing Program," established pursuant to section 11
43 of P.L. , c. (C.) (pending before the Legislature as this bill),
44 unless the work performed under the contract is performed on a facility
45 owned by a landlord of the entity receiving the tax credit and less than
46 35 percent of the facility is leased by the entity at the time of the contract
47 and under any agreement to subsequently lease the facility. The
48 prevailing wage rate shall be the rate determined by the Commissioner

1 of Labor and Workforce Development pursuant to the provisions of
2 P.L.1963, c.150 (C.34:11-56.25 et seq.), and all contractors and
3 subcontractors subject to the prevailing wage requirement set forth in
4 this section shall be registered with the Department of Labor and
5 Workforce Development pursuant to the provisions of section 5 of
6 P.L.1999, c.238 (C.34:11-56.52). An applicant for tax credits under the
7 "New Jersey Community-Anchored Development Act," sections 43
8 through 53 of P.L.2020, c.156 (C.34:1B-311 through C.34:1B-321), the
9 "New Jersey Aspire Program Act," sections 54 through 67 of P.L.2020,
10 c.156 (C.34:1B-322 through C.34:1B-335), and the "New Jersey
11 Emerge Program Act," sections 68 through 81 of P.L.2020, c.156
12 (C.34:1B-336 et al.), shall certify under penalty of perjury as part of its
13 application that all construction contracts undertaken on any project in
14 connection with an award under the programs comply with the
15 prevailing wage requirements of this subsection. If at any time the
16 authority determines that the developer made a material
17 misrepresentation regarding compliance with the provisions of this
18 subsection on the developer's application, the developer shall forfeit 35
19 percent of the tax credits allowed under the programs, and pay to the
20 affected workers back wages in an amount that compensates the workers
21 at the prevailing wage rate for the work performed.

22 (cf: P.L.2020, c.156, s.112)

23
24 17. This act shall take effect immediately.

25 26 27 STATEMENT

28
29 This bill amends and supplements the "New Jersey Aspire Program
30 Act" (Aspire Program) and provides for certain related changes to the
31 New Jersey Gross Income Tax and Corporation Business Tax. The bill
32 also establishes the "Redevelopment Project Bridge Financing
33 Program," as part of the Aspire Program, to offer additional financial
34 assistance for redevelopment projects that have an outstanding project
35 financing gap.

36 37 *Aspire Program Definitions*

38 The bill revises the definition of a "commercial project" to include
39 industrial space that is predominantly used for warehouse distribution
40 or fulfillment centers and has at least \$10 million in environmental
41 remediation costs. The bill amends the definition of an "incentive area"
42 to include an endorsed plan and removes certain transportation
43 connectivity requirements that exist under current law. The bill defines
44 a "mixed-use project" as a redevelopment project including a residential
45 component and a nonresidential component.

46 Under the bill, a "stranded asset" is defined as any building
47 previously used for commercial, retail, office space, manufacturing, or
48 industrial purposes, which building is no longer used for such purposes,
49 and which has been abandoned, experienced significant vacancies for at

1 least two consecutive years, or has fallen into such disrepair as to be
2 untenable.

3 The bill also clarifies that the definition of the term “project cost”
4 also applies to the term “total project cost.” The definition for “total
5 project cost” under current law instead applies for the term “total
6 development cost” or “total redevelopment cost” under the bill.

7 The bill provides that for a redevelopment project that is located in
8 a government restricted municipality, the calculation of “project cost”
9 or “total project cost” also includes the costs of land and building
10 acquisition, professional services, environmental remediation, and
11 infrastructure improvements.

12

13 *Aspire Program Changes Concerning Residential Projects*

14 The bill provides that the New Jersey Economic Development
15 Authority’s (authority) housing affordability controls are to be
16 consistent with those in the “Fair Housing Act,” except not including
17 the bedroom distribution requirements for three-bedroom housing units.

18 The bill provides that, in addition to the exemption for certain
19 commercial tenants, commercial subtenants, or other commercial
20 occupants with rights in a redevelopment project, any residential tenant
21 of a redevelopment project is also exempt from the requirement to pay
22 the prevailing wage rate for each worker’s craft or trade when that
23 worker is employed to perform building services work at the
24 redevelopment project.

25

26 *Sale of Buildings Under the Aspire Program*

27 A developer is permitted, under the bill, to sell one or more buildings
28 during the eligibility period if the sale is an arms-length sale and is
29 subject to the purchaser’s assumption of all obligations under the Aspire
30 Program.

31

32 *Aspire Program Community Benefit Requirement*

33 The bill amends current law to exempt the developers of certain
34 projects from the requirements of a community benefits agreement once
35 the host municipality certifies the approval letter or adopts the
36 redevelopment agreement at a public meeting, which documents are
37 required to state that the community benefit under a community benefits
38 agreement has been met.

39

40 *Aspire Program Occupancy Requirement*

41 Beginning on the third year following the date of issuance of a final
42 certificate of occupancy during the eligibility period of a commercial
43 project and through the eligibility period, the developer and any co-
44 applicant is required to maintain at least 60 percent occupancy or to
45 forfeit all tax credits for the tax period in which occupancy falls below
46 this minimum requirement. Tax credits are allowed in full upon
47 restoration of 60 percent or greater occupancy. Occupancy is to be

1 measured by the average occupancy rate during the relevant tax period.
2 Residential projects are exempt from this requirement.

3

4 *Eligibility for Aspire Program*

5 Among other conditions of eligibility under current law, a developer
6 may qualify for an incentive award if the developer has not commenced
7 any construction at the site for the redevelopment project prior to
8 applying for the Aspire Program, with certain exceptions. The bill adds
9 a condition that if demolition and site remediation activities were
10 commenced prior to application, the developer is required to have paid
11 all construction workers engaged in such work at the prevailing wage
12 rate for their respective crafts or trades.

13

14 *Incentive Award Agreement*

15 Under current law, an incentive award agreement is to include a
16 requirement that the developer confirm that each contractor or
17 subcontractor performing work on the project has not been debarred by
18 the Department of Labor and Workforce Development from engaging
19 in or bidding on Public Works Contracts in the State. The bill adds to
20 this requirement that the developer is required to confirm that each
21 contractor or subcontractor performing work on the project is also not
22 suspended or disqualified from the same activity. The bill further
23 requires that a developer confirm that each contractor or subcontractor
24 performing work on the project is not debarred, suspended, or
25 disqualified by a federal agency from engaging in federally-funded
26 construction projects or bidding on federal contracting opportunities.

27

28 *Eligibility Period Under Aspire Program*

29 The bill reduces the maximum duration of an eligibility period for a
30 commercial project, mixed-use project, or residential project to 10
31 years. Under current law, the maximum duration of an eligibility period
32 for a commercial or mixed-use project is 15 years, and for a residential
33 project is 10 years. The bill adds that the authority may determine a
34 shorter eligibility period if this reduction would enhance access to tax
35 credit monetization or otherwise enhance the effectiveness of the
36 program.

37

38 *Total Tax Credit Eligibility Under Aspire Program*

39 The bill increases the amount of tax credits that may be awarded to
40 a developer in certain circumstances. Specifically, the bill provides that
41 a developer may be allowed each of the following enhancements to the
42 developer's total tax credit award: (1) for a redevelopment project that
43 includes redevelopment of a stranded asset, an increase of up to 10
44 percent of the project cost; (2) for a residential project meeting the three-
45 bedroom distribution requirements of the Uniform Housing
46 Affordability Controls, an increase of up to five percent of the project
47 cost; or (3) for a redevelopment project meeting local first source hiring
48 requirements for residents in the municipality or county in which the

1 project is located and in surrounding municipalities, as appropriate, an
2 increase of up to three percent of the project cost.

3 However, except for any redevelopment project that is located in a
4 government restricted municipality, the bill limits a developer's total tax
5 credits awarded under the Aspire Program, together with any program
6 administered by the authority for a redevelopment project, to: 90 percent
7 of the project cost for redevelopment projects that receive tax credits
8 under the federal Low-Income Housing Tax Credit Program; and 80
9 percent of the project cost for all other redevelopment projects.

10

11 *Aspire Program Tax Credit Carry Forward and Transfer*

12 Under current law, a developer is required to apply tax credits during
13 the tax periods approved by the authority. This bill additionally
14 authorizes a developer to apply tax credits within the three successive
15 tax periods immediately following the tax period in which the tax credit
16 certificate is received by the developer. Similarly, a developer is
17 authorized under the bill to transfer the tax credits, and a transferee is
18 authorized to use the tax credits, within the three successive tax periods
19 immediately following the tax period in which the tax credit certificate
20 is received by the developer.

21

22 *Transformative Projects Under Aspire Program*

23 This bill amends current requirements for certain transformative
24 projects. Under current law, a residential project with fewer than 700
25 new residential units is required to include the construction of: (1) not
26 less than 200 new residential units if the project is located in a
27 government-restricted municipality, 300 new residential units if the
28 project is located in an enhanced area, or 400 residential units for all
29 other mixed-use projects; and (2) 50,000 square feet or more of
30 commercial space to qualify as a transformative project. Under this bill,
31 these residential projects would be required to include the construction
32 of either: (1) not less than 200 new residential units if the project is
33 located in a government-restricted municipality, 300 new residential
34 units if the project is located in an enhanced area, or 400 residential units
35 for all other mixed-use projects; or (2) 20,000 square feet or more of
36 commercial space, which may include retail space.

37 Additionally, the bill permits a parking component to be included in
38 the calculation of the total square footage of a transformative project,
39 but only if constructed in agreement with local zoning, planning, or
40 similar requirements, or up to the amount required by the Residential
41 Site Improvement Standards, regardless of whether the Residential Site
42 Improvement Standards apply to the parking component. Portions of a
43 parking component that exceed local parking requirements or the
44 Residential Site Improvement Standards are not to be included in these
45 calculations. However, if the project is located within a government
46 restricted municipality, the entire parking component is required to be
47 included in the calculation of square footage requirements for a

1 transformative project, regardless of agreement with local requirements
2 or Residential Site Improvement Standards.

3 The bill provides that a developer may be allowed each of the
4 following enhancements to the developer's total tax credit award: (1)
5 for a transformative project that includes redevelopment of a stranded
6 asset, an increase of up to 10 percent of the project cost; (2) for a
7 residential transformative project meeting the three-bedroom
8 distribution requirements of the Uniform Housing Affordability
9 Controls, an increase of up to five percent of the project cost; or (3) for
10 a transformative project meeting local first source hiring requirements
11 for residents in the municipality or county in which the project is located
12 and in surrounding municipalities, as appropriate, an increase of up to
13 three percent of the project cost.

14
15 *Aspire Program Fees*

16 The bill requires that the fees charged by the authority under the
17 program be proportional to the tax credit amount allowed for a
18 redevelopment project. The authority is required to promulgate a
19 schedule of fees that are limited to coverage of actual direct costs of
20 administering the program, coverage of reasonable indirect costs of
21 administering the program, and maintenance of reasonable reserves for
22 administering the program.

23 The bill provides that any application submitted on or after the date
24 six months prior to the bill's effective date is subject to the new
25 requirements provided for in the bill, except for the fees imposed on
26 applications that precede the effective date of the bill.

27
28 *Redevelopment Project Bridge Financing Program Under Aspire*
29 *Program*

30 The bill provides for the establishment of a "Redevelopment Project
31 Bridge Financing Program" for the purpose of offering loans or loan
32 guarantees, at the discretion of the authority, to the developers of
33 redevelopment projects that have an outstanding project financing gap.
34 The purpose of the Redevelopment Project Bridge Financing Program
35 is to offer additional financing to the developer of a redevelopment
36 project, prior to the issuance of tax credits under the Aspire Program, to
37 ensure the completion of the project.

38 To apply for a loan under the program, the developer is required to
39 submit to the authority a proposed loan and interest amount, a
40 repayment plan, an accounting of the remaining project financing gap,
41 and any other information the authority requires. To apply for a loan
42 guarantee, the developer is required to submit to the authority a
43 proposed loan guarantee amount and terms, an accounting of the
44 remaining project gap, and any other information the authority requires.
45 As a condition of requiring a loan or loan guarantee, the bill requires
46 each worker employed to perform construction work on the
47 redevelopment project to be paid not less than the prevailing wage rate
48 for the worker's craft or trade.

1 The bill authorizes the authority to issue loans and loan guarantees
2 using a “Redevelopment Project Bridge Financing Revolving Fund,”
3 into which all monies received from loan repayments are to be
4 deposited. All monies received in the fund are to support the program
5 until such time as the authority determines there remains no need for
6 bridge financing, or until December 31, 2028, whichever occurs first, at
7 which point the monies in the Redevelopment Project Bridge Financing
8 Revolving Fund are to be deposited into the General Fund.

9 The bill requires that the authority recommend to the Governor and
10 the Legislature an amount for appropriation, which amount is necessary
11 for the administration of the Redevelopment Project Bridge Financing
12 Program.

13

14 *Aspire Program Tax Credit Redemption*

15 The bill requires the Department of the Treasury to redeem unused
16 tax credits, as the department deems necessary. The bill authorizes the
17 department to purchase such certificates at a discount of their face value,
18 which discount may not exceed 10 percent. The tax credit redemptions
19 are to be paid in the same manner as tax refunds, except that the
20 proceeds of the redemption may be issued over one or more tax periods,
21 but not to exceed the eligibility period.

22

23 *Changes to Corporate Business Tax and Gross Income Tax*

24 The bill amends current law to exclude gains from the transfer of tax
25 credits issued pursuant to the “New Jersey Economic Recovery Act of
26 2020” from the calculation of “entire net income” under the New Jersey
27 Corporate Business Tax and “gross income” under the New Jersey
28 Gross Income Tax.

[First Reprint]

SENATE, No. 1323

STATE OF NEW JERSEY
221st LEGISLATURE

PRE-FILED FOR INTRODUCTION IN THE 2024 SESSION

Sponsored by:

Senator NELLIE POU

District 35 (Bergen and Passaic)

Senator PAUL A. SARLO

District 36 (Bergen and Passaic)

Assemblywoman ELIANA PINTOR MARIN

District 29 (Essex and Hudson)

Assemblywoman ELLEN J. PARK

District 37 (Bergen)

Assemblyman BENJIE E. WIMBERLY

District 35 (Bergen and Passaic)

Co-Sponsored by:

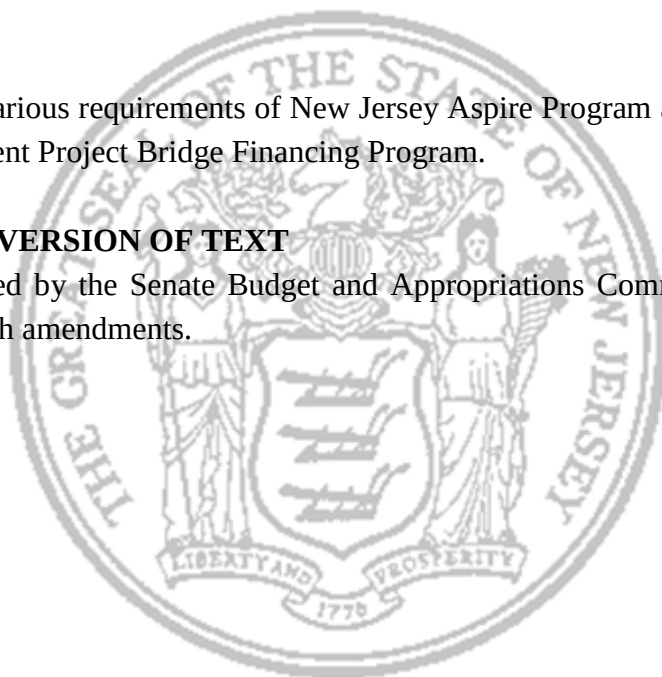
Assemblywomen Reynolds-Jackson and Speight

SYNOPSIS

Revises various requirements of New Jersey Aspire Program and establishes Redevelopment Project Bridge Financing Program.

CURRENT VERSION OF TEXT

As reported by the Senate Budget and Appropriations Committee on June 26, 2024, with amendments.



(Sponsorship Updated As Of: 12/19/2024)

1 **AN ACT** concerning the New Jersey Aspire Program, amending
2 various parts of the statutory law, and supplementing P.L.2020,
3 c.156.

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

7
8 1. Section 55 of P.L.2020, c.156 (C.34:1B-323) is amended to
9 read as follows:

10 55. As used in sections 54 through 67 of P.L.2020, c.156
11 (C.34:1B-322 through 34:1B-335):

12 "Agency" means the New Jersey Housing and Mortgage Finance
13 Agency established pursuant to P.L.1983, c.530 (C.55:14K-1 et seq.).

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

16 "Aviation district" means all areas within the boundaries of the
17 Atlantic City International Airport, established pursuant to section 24
18 of P.L.1991, c.252 (C.27:25A-24), and the Federal Aviation
19 Administration William J. Hughes Technical Center and the area
20 within a one-mile radius of the outermost boundary of the Atlantic
21 City International Airport and the Federal Aviation Administration
22 William J. Hughes Technical Center ¹, and the Trenton-Mercer
23 Airport, established pursuant to R.S.40:8-2 and the area within a one-
24 mile radius of the outermost boundary of the terminal located at 1100
25 Terminal Circle Drive, Ewing Township¹.

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

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

39 "Cash flow" means the profit or loss that an investment property
40 earns from rent, deposits, and other fees after financial obligations,
41 such as debt, maintenance, government payments, and other expenses,
42 have been paid.

43 "Collaborative workspace" means coworking, accelerator,
44 incubator, or other shared working environments that promote

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:

¹Senate SBA committee amendments adopted June 26, 2024.

1 collaboration, interaction, socialization, and coordination among
2 tenants through the clustering of multiple businesses or individuals.
3 For this purpose, the collaborative workspace shall be the greater of:
4 2,500 of dedicated square feet or 10 percent of the total property on
5 which the redevelopment project is situated. The collaborative
6 workspace shall include a community manager, be focused on
7 collaboration among the community members, and include regularly
8 scheduled education events for the community members. The
9 collaborative workspace shall also include a physical open space that
10 supports the engagement of its community members.

11 "Commercial project" means a redevelopment project, which is
12 predominantly commercial and, if located in a government-restricted
13 municipality, contains 25,000 or more square feet, or if located in any
14 other municipality, contains 50,000 or more square feet of office and
15 retail space, industrial space ¹including, but not limited to, any
16 industrial space that is predominantly used for warehouse distribution
17 or fulfillment centers and has at least \$10 million in environmental
18 remediation costs¹, or film studios, professional stages, television
19 studios, recording studios, screening rooms, or other infrastructure for
20 film production, and may include a parking component. The term
21 "commercial project" includes a redevelopment project comprised
22 solely of a health care or health services center, which contains not
23 less than 10,000 square feet devoted to health care or health services,
24 and which may include a parking component.

25 "Developer" means a person who enters or proposes to enter into
26 an incentive award agreement pursuant to the provisions of section 60
27 of P.L.2020, c.156 (C.34:1B-328), including, but not limited, to a
28 lender that completes a redevelopment project, operates a
29 redevelopment project, or completes and operates a redevelopment
30 project.

31 "Director" means the Director of the Division of Taxation in the
32 Department of the Treasury.

33 "Distressed municipality" means a municipality that is qualified to
34 receive assistance under P.L.1978, c.14 (C.52:27D-178 et seq.), a
35 municipality under the supervision of the Local Finance Board
36 pursuant to the provisions of the "Local Government Supervision Act
37 (1947)," P.L.1947, c.151 (C.52:27BB-1 et seq.), a municipality
38 identified by the Director of the Division of Local Government
39 Services in the Department of Community Affairs to be facing serious
40 fiscal distress, a SDA municipality, or a municipality in which a major
41 rail station is located.

42 "Economic development incentive" means a financial incentive,
43 awarded by the authority, or agreed to between the authority and a
44 business or person, for the purpose of stimulating economic
45 development or redevelopment in New Jersey, including, but not
46 limited to, a bond, grant, loan, loan guarantee, matching fund, tax
47 credit, or other tax expenditure.

1 "Eligibility period" means the period not to exceed 15 years for a
2 commercial or mixed-use project or the period not to exceed 10 years
3 for a residential project specified in an incentive award agreement
4 during which a developer may claim a tax credit under the program, as
5 such period shall be determined by the authority pursuant to subsection
6 b. of section 60 of P.L.2020, c.156 (C.34:1B-328).

7 "Enhanced area" means (1) a municipality that contains an urban
8 transit hub, as defined in section 2 of P.L.2007, c.346 (C.34:1B-208);
9 (2) the five municipalities with the highest poverty rates according to
10 the 2017 Municipal Revitalization Index; and (3) the three
11 municipalities with the highest percentage of SNAP recipients
12 according to the 2017 Municipal Revitalization Index.

13 "Environmental remediation costs" means any costs incurred by a
14 developer in the completion of any actions necessary to investigate,
15 clean up, or respond to a known, suspected, or threatened discharge of
16 contaminants, including, as necessary, the preliminary assessment, site
17 investigation, remedial investigation, and remedial action, pursuant to
18 sections 23 through 43 and section 45 of P.L.1993, c.139 (C.58:10B-1
19 et seq.).

20 "Food delivery source" means access to nutritious foods, such as
21 fresh fruits and vegetables, through grocery operators, including, but
22 not limited to a full-service supermarket or grocery store, and other
23 healthy food retailers of at least 16,000 square feet, including, but not
24 limited to, a prepared food establishment selling primarily nutritious
25 ready-to-serve meals.

26 "Food desert community" means a physically contiguous area in
27 the State in which residents have limited access to nutritious foods,
28 such as fresh fruits and vegetables, and that has been designated as a
29 food desert community pursuant to subsection b. of section 38 of
30 P.L.2020, c.156 (C.34:1B-306).

31 "Government-restricted municipality" means a municipality in this
32 State with a municipal revitalization index distress score of at least 75,
33 that met the criteria for designation as an urban aid municipality in the
34 2019 State fiscal year, and that, on the effective date of P.L.2020,
35 c.156 (C.34:1B-269 et al.), is subject to financial restrictions imposed
36 pursuant to the "Municipal Stabilization and Recovery Act," P.L.2016,
37 c.4 (C.52:27BBBB-1 et seq.), or is restricted in its ability to levy
38 property taxes on property in that municipality as a result of the State
39 of New Jersey owning or controlling property representing at least 25
40 percent of the total land area of the municipality or as a result of the
41 federal government of the United States owning or controlling at least
42 50 acres of the total land area of the municipality, which is dedicated
43 as a national natural landmark.

44 "Health care or health services center" means an establishment that
45 consists of not less than 10,000 square feet devoted to health care or
46 health services, where patients are admitted for or seek examination
47 and treatment by one or more physicians, dentists, psychologists, or
48 other medical practitioners, and which is located in a municipality with

1 a Municipal Revitalization Index distress score of at least 50, a
2 distressed municipality, or a qualified incentive tract.

3 "Hospitality establishment" means a hotel, motel, or any business,
4 however organized, that sells food, beverages, or both for consumption
5 by patrons on the premises.

6 "Incentive area" means an aviation district; a port district; an area
7 designated pursuant to the "State Planning Act," P.L.1985, c.398
8 (C.52:18A-196 et seq.), as Planning Area 1 (Metropolitan), Planning
9 Area 2 (Suburban), **or** a Designated Center, **provided** an area
10 designated as Planning Area 2 (Suburban) or a Designated Center shall
11 be located within a one-half mile radius of the mid-point, with bicycle
12 and pedestrian connectivity, of a New Jersey Transit Corporation, Port
13 Authority Transit Corporation, or Port Authority Trans-Hudson
14 Corporation rail, bus, or ferry station, including all light rail stations,
15 or a high-frequency bus stop as certified by the New Jersey Transit
16 Corporation **or an Endorsed Plan**; an area designated as a brownfield
17 site pursuant to the "Brownfield and Contaminated Site Remediation
18 Act," sections 23 through 43 and section 45 of P.L.1993, c.139
19 (C.58:10B-1 et seq.); and an area of not less than 100 acres for which a
20 licensed site remediation professional has certified environmental
21 remediation costs, as defined in this section and in accordance with the
22 "Site Remediation Reform Act," sections 1 through 29 of P.L.2009,
23 c.60 (C.58:10C-1 et seq.), in an amount not less than \$10,000,000,
24 provided that any portion of such area is located in an area that
25 otherwise qualifies as an incentive area.

26 "Incentive award" means an award of tax credits to reimburse a
27 developer for all or a portion of the project financing gap of a
28 redevelopment project pursuant to the provisions of sections 54
29 through 67 of P.L.2020, c.156 (C.34:1B-322 through 34:1B-335).

30 "Incentive award agreement" means the contract executed between
31 a developer and the authority pursuant to section 60 of P.L.2020, c.156
32 (C.34:1B-328), which sets forth the terms and conditions under which
33 the developer may receive the incentive awards authorized pursuant to
34 the provisions of sections 54 through 67 of P.L.2020, c.156 (C.34:1B-
35 322 through 34:1B-335).

36 "Incubator facility" means a commercial property, which contains
37 5,000 or more square feet of office, laboratory, or industrial space,
38 which is located near, and presents opportunities for collaboration
39 with, a research institution, teaching hospital, college, or university,
40 and within which at least 75 percent of the gross leasable area is
41 restricted for use by one or more technology startup companies.

42 "Individuals with special needs" means individuals with mental
43 illness, individuals with physical or developmental disabilities, and
44 individuals in other emerging special needs groups identified by the
45 authority, based on guidelines established for the administration of the
46 Special Needs Housing Trust Fund established pursuant to section 1 of
47 P.L.2005, c.163 (C.34:1B-21.25a) or developed in consultation with
48 other State agencies.

1 "Labor harmony agreement" means an agreement between a
2 business that serves as the owner or operator of a retail establishment,
3 hospitality establishment, or distribution center and one or more labor
4 organizations, which requires, for the duration of the agreement: that
5 any participating labor organization and its members agree to refrain
6 from picketing, work stoppages, boycotts, or other economic
7 interference against the business; and that the business agrees to
8 maintain a neutral posture with respect to efforts of any participating
9 labor organization to represent employees at an establishment or other
10 unit in the retail establishment, hospitality establishment, or
11 distribution center, agrees to permit the labor organization to have
12 access to the employees, and agrees to guarantee to the labor
13 organization the right to obtain recognition as the exclusive collective
14 bargaining representatives of the employees in an establishment or unit
15 at the retail establishment, hospitality establishment, or distribution
16 center by demonstrating to the New Jersey State Board of Mediation,
17 Division of Private Employment Dispute Settlement, or a mutually
18 agreed-upon, neutral, third party that a majority of workers in the unit
19 have shown their preference for the labor organization to be their
20 representative by signing authorization cards indicating that
21 preference. The labor organization or organizations shall be from a list
22 of labor organizations which have requested to be on the list and which
23 the Commissioner of Labor and Workforce Development has
24 determined represent substantial numbers of retail establishment,
25 hospitality establishment, or distribution center employees in the State.

26 "Low-income housing" means housing affordable according to
27 federal Department of Housing and Urban Development or other
28 recognized standards for home ownership and rental costs and
29 occupied or reserved for occupancy by households with a gross
30 household income equal to 50 percent or less of the median gross
31 household income for households of the same size within the housing
32 region in which the housing is located.

33 "Major cultural institution" means a public or nonprofit institution,
34 not including an institution of higher education, within this State that
35 engages in the cultural, intellectual, scientific, environmental,
36 educational, or artistic enrichment of the people of this State, and
37 which institution is designated by the board as a major cultural
38 institution.

39 "Major rail station" means a railroad station that is located within a
40 qualified incentive area and that provides to the public access to a
41 minimum of six rail passenger service lines operated by the New
42 Jersey Transit Corporation.

43 "Minimum environmental and sustainability standards" means
44 standards established by the authority in accordance with the green
45 building manual prepared by the Commissioner of Community Affairs
46 pursuant to section 1 of P.L.2007, c.132 (C.52:27D-130.6), regarding
47 the use of renewable energy, energy-efficient technology, and non-

1 renewable resources to reduce environmental degradation and
2 encourage long-term cost reduction.

3 "Mixed-use project" means a redevelopment project that includes
4 both a residential component and a nonresidential component.

5 "Moderate-income housing" means housing affordable according
6 to federal Department of Housing and Urban Development or other
7 recognized standards for home ownership and rental costs and
8 occupied or reserved for occupancy by households with a gross
9 household income equal to more than 50 percent, but less than 80
10 percent, of the median gross household income for households of the
11 same size within the housing region in which the housing is located.

12 "Municipal Revitalization Index" means the index by the
13 Department of Community Affairs ranking New Jersey's
14 municipalities according to eight separate indicators that measure
15 diverse aspects of social, economic, physical, and fiscal conditions in
16 each locality.

17 "Port district" means the portions of a qualified incentive area that
18 are located within:

19 a. the "Port of New York District" of the Port Authority of New
20 York and New Jersey, as defined in Article II of the Compact Between
21 the States of New York and New Jersey of 1921; or

22 b. a 15-mile radius of the outermost boundary of each marine
23 terminal facility established, acquired, constructed, rehabilitated, or
24 improved by the South Jersey Port District established pursuant to
25 "The South Jersey Port Corporation Act," P.L.1968, c.60 (C.12:11A-1
26 et seq.).

27 "Program" means the New Jersey Aspire Program established by
28 section 56 of P.L.2020, c.156 (C.34:1B-324).

29 "Project cost" or "¹**[total]** eligible¹ project cost" means the costs
30 incurred in connection with a redevelopment project by a developer
31 until the issuance of a permanent certificate of occupancy, or until
32 such other time specified by the authority, for a specific investment or
33 improvement, including the costs relating to lands, except the cost of
34 acquiring such lands, buildings, improvements, real or personal
35 property, or any interest therein, including leases discounted to present
36 value, including lands under water, riparian rights, space rights, and air
37 rights acquired, owned, developed or redeveloped, constructed,
38 reconstructed, rehabilitated, or improved, any environmental
39 remediation costs, plus costs not directly related to construction,
40 including capitalized interest paid to third parties, of an amount not to
41 exceed 20 percent of the total costs and the cost of infrastructure
42 improvements, including ancillary infrastructure projects. When 100
43 percent of the residential units constructed in a residential project are
44 reserved for occupancy by low- and moderate-income households, the
45 term "project cost" shall also include the developer fees paid before
46 acquiring permanent financing, as well as the deferred developer fees
47 approved pursuant to the rules established by the agency. In addition
48 to the foregoing, the term "project cost" shall include the following

1 costs when incurred by a developer for a redevelopment project
2 located in a government restricted municipality: any development,
3 redevelopment, and relocation costs, including, but not limited to, land
4 ¹[and] costs, which land costs shall be capped at no more than 20
5 percent of the total project cost;¹ building acquisition costs; ¹carrying
6 costs and interest expenses on construction loans and other financing
7 up to project completion;¹ any soft costs, including engineering, legal,
8 accounting, and other professional services required for the completion
9 of the project; any environmental remediation costs; and any
10 infrastructure improvement for the project area, including, but not
11 limited to, costs of on- and off-site utility, road, pier, wharf, bulkhead,
12 or sidewalk construction or repair. The fees associated with the
13 application or administration of a grant under sections 54 through 67
14 of P.L.2020, c.156 (C.34:1B-322 through 34:1B-335) shall not
15 constitute a project cost, regardless of the location of the
16 redevelopment project.

17 "Project financing gap" means the part of the total project cost,
18 including reasonable and appropriate return on investment, that
19 remains to be financed after all other sources of capital have been
20 accounted for, including, but not limited to developer contributed
21 capital, which shall not be less than 20 percent of the ¹[total]¹ project
22 cost, and investor or financial entity capital or loans for which the
23 developer, after making all good faith efforts to raise additional
24 capital, certifies that additional capital cannot be raised from other
25 sources on a non-recourse basis; provided, however, that for a
26 redevelopment project located in a government-restricted municipality,
27 the developer contributed capital shall not be less than 10 percent of
28 the ¹[total]¹ project cost. Developer contributed capital may consist
29 of cash, deferred development fees, costs for project feasibility
30 incurred within the 12 months prior to application, property value less
31 any mortgages when the developer owns the project site, and any other
32 investment by the developer in the project deemed acceptable by the
33 authority, as provided by regulations promulgated by the authority.
34 Property value shall be valued at the lesser of: (i) the purchase price,
35 provided the property was purchased pursuant to an arm's length
36 transaction within 12 months of application; or (ii) the value as
37 determined by a current appraisal.

38 "Project labor agreement" means a form of pre-hire collective
39 bargaining agreement covering terms and conditions of a specific
40 project that satisfies the requirements set forth in section 5 of
41 P.L.2002, c.44 (C.52:38-5).

42 "Qualified incentive tract" means (i) a population census tract
43 having a poverty rate of 20 percent or more; or (ii) a census tract in
44 which the median family income for the census tract does not exceed
45 80 percent of the greater of the Statewide median family income or the
46 median family income of the metropolitan statistical area in which the
47 census tract is situated.

1 "Quality childcare facility" is a child care center licensed by the
2 Department of Children and Families or a registered family child care
3 home with the Department of Human Services, operating
4 continuously, which has not been subject to an enforcement action,
5 and which has and maintains a licensed capacity for children age 13
6 years or younger who attend for less than 24 hours a day.

7 "Reasonable and appropriate return on investment" means the
8 discount rate at which the present value of the future cash flows of an
9 investment equals the cost of the investment. In determining the
10 "reasonable and appropriate return on investment," an investment shall
11 not include any federal, State, or local tax credits. For a residential
12 project that utilizes federal low-income housing tax credits awarded by
13 the agency, the "reasonable and appropriate return on investment"
14 shall be based on the approval of deferred developer fees pursuant to
15 the rules established by the agency. In the event that a residential
16 project, which utilizes federal low-income housing tax credits awarded
17 by the agency, generates returns on equity other than federal or local
18 grants or proceeds from the sale of federal or local tax credits, the
19 "reasonable and appropriate return on investment" shall be based on
20 both the discount rate at which the present value of the future cash
21 flows of an investment equal the cost of the investment for the entire
22 project, and when evaluating only the units financed with federal low-
23 income housing tax credits awarded by the agency, the approval of
24 deferred developer fees pursuant to the rules established by the
25 agency.

26 "Redevelopment project" means a specific construction project or
27 improvement or phase of a project or improvement undertaken by a
28 developer, owner or tenant, or both, and any ancillary infrastructure
29 project. A redevelopment project may involve construction or
30 improvement upon lands, buildings, improvements, or real and
31 personal property, or any interest therein, including lands under water,
32 riparian rights, space rights, and air rights, acquired, owned, developed
33 or redeveloped, constructed, reconstructed, rehabilitated, or improved.

34 "Residential project" means a redevelopment project that is
35 predominantly residential, intended for multi-family residency, and
36 may include a parking component.

37 "SDA district" means an SDA district as defined in section 3 of
38 P.L.2000, c.72 (C.18A:7G-3).

39 "SDA municipality" means a municipality in which an SDA
40 district is situated.

41 ¹"Special mission non-profit project" means a project located in a
42 government-restricted municipality or in an enhanced area that: serves
43 a special mission, as determined by the authority, to accomplish the
44 public purpose of a non-profit that is a developer of or is affiliated
45 with the project; and includes no more than 100 units of 100 percent
46 affordable housing units and no more than 10,000 square feet of
47 commercial space.¹

1 "Stranded asset" means any building previously used for
2 commercial, retail, office space, manufacturing, or industrial purposes,
3 which building is no longer used for such purposes, and which has
4 been abandoned, experienced significant vacancies for at least two
5 consecutive years, or has fallen into such disrepair as to be
6 untenable. ¹"Stranded asset" includes vacant land that has been left
7 fallow for at least two consecutive years because of environmental
8 contamination.

9 "Targeted industry" means any industry identified from time to
10 time by the authority, which industry shall initially include advanced
11 transportation and logistics, advanced manufacturing, aviation,
12 autonomous vehicle and zero-emission vehicle research or
13 development, clean energy, life sciences, hemp processing,
14 information and high technology, finance and insurance, professional
15 services, film and digital media, non-retail food and beverage
16 businesses including food innovation, and other innovative industries
17 that disrupt current technologies or business models.¹

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

27 "Total **[project]** ¹**[development]** project¹ cost" ¹**[or "total**
28 **redevelopment cost"]**¹ means the costs incurred in connection with the
29 redevelopment project by the developer until the issuance of a
30 permanent certificate of occupancy, or upon such other event
31 evidencing project completion as set forth in the incentive grant
32 agreement, for a specific investment or improvement.

33 "Tourism destination project" means a non-gaming business
34 facility that will be among the most visited privately owned or
35 operated tourism or recreation sites in the State, and which has been
36 determined by the authority to be in an area appropriate for
37 development and in need of economic development incentive
38 assistance, including a non-gaming business within an established
39 Tourism District with a significant impact on the economic viability of
40 that district.

41 "Transit hub" means an urban transit hub, as defined in section 2 of
42 P.L.2007, c.346 (C.34:1B-208), that is located within an eligible
43 municipality, as defined in section 2 of P.L.2007, c.346 (C.34:1B-208)
44 and is located within a qualified incentive area.

45 "Transit hub municipality" means a Transit Village or a
46 municipality: a. which qualifies for State aid pursuant to P.L.1978,
47 c.14 (C.52:27D-178 et seq.), or which has continued to be a qualified
48 municipality thereunder pursuant to P.L.2007, c.111; and b. in which

1 30 percent or more of the value of real property was exempt from local
2 property taxation during tax year 2006. The percentage of exempt
3 property shall be calculated by dividing the total exempt value by the
4 sum of the net valuation which is taxable and that which is tax exempt.

5 "Transit Village" means a municipality that has been designated as
6 a transit village by the Commissioner of Transportation and the Transit
7 Village Task Force ¹【established pursuant to P.L.1985, c.398
8 (C.27:1A-5)】¹.

9 (cf: P.L.2023, c.98, s.1)

10
11 2. Section 56 of P.L.2020, c.156 (C.34:1B-324) is amended to
12 read as follows:

13 56. a. (1) The New Jersey Aspire Program is hereby established
14 as a program under the jurisdiction of the New Jersey Economic
15 Development Authority. The authority shall administer the
16 program to encourage redevelopment projects through the provision
17 of incentive awards to reimburse developers for certain project
18 financing gap costs. The board may approve the award of an
19 incentive award to a developer upon application to the authority
20 pursuant to sections 58 and 59 of P.L.2020, c.156 (C.34:1B-326 and
21 C.34:1B-327). The value of all tax credits approved by the
22 authority pursuant to sections 54 through 67 of P.L.2020, c.156
23 (C.34:1B-322 through 34:1B-335) shall be subject to the limitations
24 set forth in section 98 of P.L.2020, c.156 (C.34:1B-362).

25 (2) The authority, in consultation with the agency, shall adopt
26 rules and regulations, pursuant to subsection b. of section 67 of
27 P.L.2020, c.156 (C.34:1B-335), concerning the establishment and
28 administration of the affordability controls that shall apply to the
29 residential units constructed for occupancy by low- and moderate-
30 income households under the program, including, but not limited to,
31 residential units within residential projects that utilize federal low-
32 income housing tax credits awarded by the agency.
33 Notwithstanding any provision of law or regulation to the contrary,
34 the affordability controls shall, at a minimum, be consistent with the
35 affordability controls established in the rules and regulations
36 adopted pursuant to the "Fair Housing Act," P.L.1985, c.222
37 (C.52:27D-301 et al.), as in effect immediately prior to the effective
38 date of P.L.2023, c.98 (C.34:1B-335.1 et al.), including, but not
39 limited to, any requirements concerning the 【bedroom
40 distributions,】 affordability averages, affirmative marketing, and
41 long-term deed restrictions of residential units constructed for
42 occupancy by low- and moderate-income households, except not
43 including the bedroom distribution requirements for three-bedroom
44 housing units.

45 b. The chief executive officer of the authority shall designate
46 one staff member per government-restricted municipality in order to
47 keep the municipality informed on activities within the municipality

1 and to coordinate economic development initiatives.
2 (cf: P.L.2023, c.98, s.2)

3
4 3. Section 57 of P.L.2020, c.156 (C.34:1B-325) is amended to
5 read as follows:

6 57. a. Prior to March 1, 2029, a developer shall be eligible to
7 receive an incentive award for a redevelopment project only if the
8 developer demonstrates to the authority at the time of application that:

9 (1) without the incentive award, the redevelopment project is not
10 economically feasible;

11 (2) a project financing gap exists, or the authority determines that
12 the redevelopment project will generate a below market rate of return;

13 (3) the redevelopment project, except a film studio, professional
14 stage, television studio, recording studio, screening room, or other
15 infrastructure used for film production, is located in the incentive area;

16 (4) (a) except for demolition and site remediation activities, the
17 developer has not commenced any construction at the site of the
18 redevelopment project prior to submitting an application, unless the
19 authority determines that the redevelopment project would not be
20 completed otherwise or, in the event the redevelopment project is to be
21 undertaken in phases, the requested incentive award is limited to only
22 phases for which construction has not yet commenced;

23 (b) if the developer has commenced demolition and site
24 remediation activities at the site of the redevelopment project prior to
25 submitting an application ¹that includes those demolition and site
26 remediation costs as part of the eligible project cost¹, all construction
27 workers employed to undertake demolition and site remediation
28 activities at the site were paid not less than the prevailing wage rate for
29 the worker's craft or trade, as determined by the Commissioner of
30 Labor and Workforce Development pursuant to P.L.1963, c.150
31 (C.34:11-56.25 et seq.) and P.L.2005, c.379 (C.34:11-56.58 et seq.);

32 (5) the redevelopment project shall comply with minimum
33 environmental and sustainability standards;

34 (6) the redevelopment project shall comply with the authority's
35 affirmative action requirements, adopted pursuant to section 4 of
36 P.L.1979, c.303 (C.34:1B-5.4);

37 (7) (a) during the eligibility period, each worker employed to
38 perform construction work at the redevelopment project shall be paid
39 not less than the prevailing wage rate for the worker's craft or trade, as
40 determined by the Commissioner of Labor and Workforce
41 Development pursuant to P.L.1963, c.150 (C.34:11-56.25 et seq.) and
42 P.L.2005, c.379 (C.34:11-56.58 et seq.);

43 (b) during the eligibility period, each worker employed to perform
44 building services work at the redevelopment project, whether pursuant
45 to contract by the developer or a commercial tenant, commercial
46 subtenant, or other commercial occupant, shall be paid not less than
47 the prevailing wage rate for the worker's craft or trade, as determined
48 by the Commissioner of Labor and Workforce Development pursuant

1 to P.L.1963, c.150 (C.34:11-56.25 et seq.) and P.L.2005, c.379
2 (C.34:11-56.58 et seq.), except that this requirement shall not apply to
3 workers employed to perform building services work by **[a]** any
4 residential tenant or any commercial tenant, commercial subtenant, or
5 other commercial occupant that has a leasehold interest or other
6 occupancy right in a redevelopment project, which leasehold interest
7 or other occupancy right encompasses less than 5,000 square feet of
8 space within the project. The developer shall include in all
9 commercial leases or other commercial occupancy agreements, and
10 shall require that all subleases or other commercial occupancy
11 agreements applicable to the redevelopment project include, a
12 provision setting forth the requirements of this subparagraph, which
13 provision shall be in a form acceptable to the authority.
14 Notwithstanding any provisions of law to the contrary, if a commercial
15 tenant, commercial subtenant, or other commercial occupant violates
16 this provision due to the underpayment of the required prevailing wage
17 rate, then the issuance of tax credits to the developer and any co-
18 applicant shall be delayed until such time as documentation
19 demonstrating compliance has been provided to the Commissioner of
20 Labor and Workforce Development, subsequently reviewed and
21 approved by the Commissioner of Labor and Workforce Development,
22 and verified by the authority, which reviews and verification shall be
23 completed. If a violation is not cured, or is not capable of being cured,
24 within one year of receipt of notice of the violation, then the developer
25 and any co-applicant shall forfeit 50 percent of the tax credits
26 otherwise authorized for the tax period in which the notice of violation
27 was issued. If the violation is not cured on or before the conclusion of
28 that tax period, the developer and any co-applicant shall forfeit up to
29 100 percent of the tax credits otherwise authorized, as determined by
30 the authority, in each subsequent tax period until the first tax period
31 for which documentation demonstrating compliance has been provided
32 to the Commissioner of Labor and Workforce Development,
33 subsequently reviewed and approved by the Commissioner of Labor
34 and Workforce Development, and verified by the authority, which
35 reviews and verifications shall be completed. In this event, the
36 developer and any co-applicant shall be allowed the full tax credit
37 amount beginning in the tax period in which documentation of
38 compliance was reviewed and approved by the Commissioner of
39 Labor and Workforce Development and verified by the authority,
40 including each subsequent tax period in which the tax credits are
41 otherwise authorized;

42 (c) in the event a redevelopment project, or any portion thereof, is
43 undertaken by a tenant pursuant to a contract and the tenant has a
44 leasehold of more than 55 percent of space in the building owned or
45 controlled by the developer, the requirement that each worker
46 employed to perform building service work at the building be paid not
47 less than the prevailing wage shall apply to the entire building, except
48 as otherwise provided in subparagraph (b) of this paragraph for all

1 residential tenants and all commercial tenants, commercial subtenants,
2 or other commercial occupants with a leasehold interest or other
3 occupancy right encompassing less than 5,000 square feet;

4 (8) (a) the redevelopment project shall be completed, and the
5 developer shall be issued a certificate of occupancy for the
6 redevelopment project facilities by the applicable enforcing agency,
7 within four years of executing the incentive award agreement, or in the
8 case of a redevelopment project with a 'total' project cost in excess of
9 \$50,000,000, the incentive phase agreement corresponding to the
10 redevelopment project; or

11 (b) in the discretion of the authority, a redevelopment project with
12 a 'total' project cost in excess of \$50,000,000, and that is authorized to
13 be completed in phases, may be allowed no more than six years from
14 the date on which the incentive award agreement is executed to be
15 issued a certificate of occupancy by the applicable enforcement
16 agency;

17 (9) the developer has complied with all requirements for filing tax
18 and information returns and for paying or remitting required State
19 taxes and fees by submitting, as a part of the application, a tax
20 clearance certificate, as described in section 1 of P.L.2007, c.101
21 (C.54:50-39); and

22 (10) the developer is not more than 24 months in arrears at the
23 time of application.

24 b. In addition to the requirements set forth in subsection a. of this
25 section, for a commercial project to qualify for an incentive award the
26 developer shall demonstrate that the developer shall contribute capital
27 of at least 20 percent of the 'total' project cost, except that if a
28 redevelopment project is located in a government-restricted
29 municipality, the developer shall contribute capital of at least 10
30 percent of the 'total' project cost.

31 c. In addition to the requirements set forth in subsection a. of this
32 section, for a residential project or a commercial project comprised
33 solely of a health care or health service center to qualify for an
34 incentive award, the residential project or health care or health service
35 center shall:

36 (1) have a total project cost of at least \$17,500,000, if the project is
37 located in a municipality with a population greater than 200,000
38 according to the latest federal decennial census;

39 (2) have a total project cost of at least \$10,000,000 if the project is
40 located in a municipality with a population less than 200,000
41 according to the latest federal decennial census; or

42 (3) have a total project cost of at least \$5,000,000 if the project is
43 in a qualified incentive tract or government-restricted municipality.

44 d. In addition to the requirements set forth in subsections a. and c.
45 of this section, for a residential project consisting of newly-constructed
46 residential units to qualify for an incentive award, the developer shall
47 reserve at least 20 percent of the residential units constructed for
48 occupancy by low- and moderate-income households with

1 affordability controls as adopted by the authority, in consultation with
2 the agency, in accordance with paragraph (2) of subsection a. of
3 section 56 of P.L.2020, c.156 (C.34:1B-324), except that a residential
4 project receiving a federal historic rehabilitation tax credit pursuant to
5 section 47 of the federal Internal Revenue Code of 1986, 26 U.S.C.
6 s.47, or a tax credit pursuant to the "Historic Property Reinvestment
7 Act," sections 2 through 8 of P.L.2020, c.156 (C.34:1B-270 through
8 34:1B-276), shall be exempt from the affordability controls related to
9 bedroom distribution.

10 e. Prior to the board considering an application submitted by a
11 developer, the authority shall confirm with the Department of Labor
12 and Workforce Development, the Department of Environmental
13 Protection, and the Department of the Treasury whether the developer
14 is in substantial good standing with the respective department, or has
15 entered into an agreement with the respective department that includes
16 a practical corrective action plan for the developer. The developer
17 shall certify that any contractors or subcontractors that will perform
18 work at the redevelopment project: (1) are registered as required by
19 "The Public Works Contractor Registration Act," P.L.1999, c.238
20 (C.34:11-56.48 et seq.); (2) have not been debarred by the Department
21 of Labor and Workforce Development from engaging in or bidding on
22 Public Works Contracts in the State; and (3) possess a tax clearance
23 certificate issued by the Division of Taxation in the Department of the
24 Treasury. The authority may also contract with an independent third
25 party to perform a background check on the developer.

26 f. Beginning '1[on] after' the third year following the date of
27 issuance of a final certificate of occupancy for a commercial project,
28 and through the conclusion of the eligibility period, if the average
29 occupancy rate of the commercial project is less than 60 percent
30 during any applicable tax period, the developer and co-applicant shall
31 forfeit all credits otherwise allowed for the tax period and for each
32 subsequent tax period until the authority verifies documentation,
33 submitted by the developer or co-applicant, demonstrating that the
34 average occupancy rate has reached or surpassed 60 percent for the tax
35 period. The full amount of credit shall be allowed to a developer and
36 any co-applicant for the tax period in which the average occupancy
37 rate reaches or surpasses 60 percent. Occupancy for the tax period
38 shall be determined by the average of the monthly occupancy for the
39 applicable tax period. The occupancy requirement in this subsection
40 shall not apply to residential projects.

41 (cf: P.L.2023, c.98, s.3)

42
43 4. Section 60 of P.L.2020, c.156 (C.34:1B-328) is amended to
44 read as follows:

45 60. a. (1) Following approval and selection of an application
46 pursuant to sections 58 and 59 of P.L.2020, c.156 (C.34:1B-326 and
47 C.34:1B-327), the authority shall enter into an incentive award
48 agreement with the developer. The chief executive officer of the

1 authority shall negotiate the terms and conditions of the incentive
2 award agreement on behalf of the State.

3 (2) For a phased project, the incentive phase agreement shall set
4 forth, for each phase of the project and for the total project, the capital
5 investment requirements and the time periods in which each phase of
6 the project shall be commenced and completed. The awarding of tax
7 credits shall be conditioned on the developer's compliance with the
8 requirements of the agreement. A redevelopment project may be
9 completed in phases in accordance with rules adopted by the authority
10 if the redevelopment project has a total project cost in excess of
11 \$50,000,000.

12 b. An incentive award agreement shall specify the amount of the
13 incentive award the authority shall award to the developer and the
14 duration of the eligibility period. The duration of the eligibility period
15 ~~shall not exceed 15 years for a commercial or mixed-use project and~~
16 ~~shall not exceed 10 years for a commercial project, mixed-use project,~~
17 ~~or residential project, except that [to] the authority shall~~ ¹~~[consider~~
18 ~~reducing] reduce~~ ¹~~the eligibility period if a shorter period would~~
19 ~~reduce the total value of tax credits needed to reimburse a developer~~
20 ~~for all or part of the project financing gap of a redevelopment project,~~
21 ~~[the authority may, in its discretion, approve a duration for the~~
22 ~~eligibility period that is shorter than the applicable maximum periods]~~
23 ~~enhance access to tax credit monetization on cost effective terms, or~~
24 ~~otherwise enhance the effectiveness of the program.~~ The incentive
25 award agreement shall provide an estimated date of completion and
26 include a requirement for periodic progress reports, including the
27 submittal of executed financing commitments and documents that
28 evidence site control; provided however, that the developer may sell
29 one or more buildings during the eligibility period, provided that such
30 sale is: an arms-length transaction to an unrelated party, or for an
31 amount at least equal to fair market value based on an appraisal
32 conducted within one year; and subject to the purchaser's assumption
33 of all obligations relating to the buildings pursuant to sections 54
34 through 67 of P.L.2020, c.156 (C.34:1B-322 through C.34:1B-335). If
35 the authority does not receive periodic progress reports, or if the
36 progress reports demonstrate unsatisfactory progress, then the
37 authority may rescind the incentive award. If the authority rescinds an
38 incentive award in the same calendar year in which the authority
39 approved the incentive award, then the authority may assign the
40 incentive award to another applicant. The incentive award agreement
41 may also provide for a verification of the financing gap at the time the
42 developer provides executed financing commitments to the authority
43 and a verification of the developer's projected cash flow at the time of
44 certification that the project is completed.

45 c. To ensure the protection of taxpayer money, if the authority
46 determines at project certification that the actual capital financing
47 approach utilized by the project has resulted in a financing gap that is

1 smaller than the financing gap determined at board approval, the
2 authority shall reduce the amount of the tax credit or accept payment
3 from the developer on a pro rata basis. If there is no project financing
4 gap due to the actual capital financing approach utilized by the project,
5 then the developer shall forfeit the incentive award. At the end of the
6 seventh year of the eligibility period, the authority shall evaluate the
7 developer's rate of return on investment and compare that rate of return
8 on investment to the reasonable and appropriate rate of return at the
9 time of board approval. If the actual rate of return on investment
10 exceeds the reasonable and appropriate rate of return on investment at
11 the time of board approval by more than 15 percent, the authority shall
12 require the developer to pay up to 20 percent of the amount in excess
13 of the reasonable and appropriate rate of return on investment. The
14 authority shall require an escrow account to be held by the authority
15 until the end of the eligibility period. Following the final year of the
16 eligibility period, the authority shall determine if the developer's rate
17 of return exceeded the reasonable and appropriate rate of return
18 determined at board approval. If the final rate of return does not
19 exceed the reasonable and appropriate rate of return determined at
20 board approval, the authority shall release to the developer the
21 escrowed funds. If the project final rate of return exceeds the
22 reasonable and appropriate rate of return determined at board approval,
23 the authority shall require the developer to pay up to 20 percent of the
24 amount of the excess, which shall include the funds held in escrow,
25 and such funds shall be deposited in the State General Fund.

26 d. The incentive award agreement shall include a requirement that
27 the authority confirm with the Department of Environmental
28 Protection, the Department of Labor and Workforce Development, and
29 the Department of the Treasury that the developer is in substantial
30 good standing with the respective department, or the developer has
31 entered into an agreement with the respective department that includes
32 a practical corrective action for the developer, and the developer shall
33 confirm that each contractor or subcontractor performing work at the
34 redevelopment project: (1) is registered as required by "The Public
35 Works Contractor Registration Act," P.L.1999, c.238 (C.34:11-56.48
36 et seq.); (2) has not been debarred, suspended, or disqualified by the
37 Department of Labor and Workforce Development from engaging in
38 or bidding on Public Works Contracts in the State, or been debarred,
39 suspended, or disqualified by a federal agency from engaging in
40 federally-funded construction projects or bidding on federal
41 contracting opportunities; and (3) possesses a tax clearance certificate
42 issued by the Division of Taxation in the Department of the Treasury.
43 The incentive award agreement shall also include a provision that the
44 developer shall forfeit the incentive award in any year in which the
45 developer is neither in substantial good standing with each department
46 nor has entered into a practical corrective action. The incentive award
47 agreement shall also require a developer to engage in on-site

1 consultations with the Division of Workplace Safety and Health in the
2 Department of Health.

3 e. (1) Except as provided in paragraph (2) of this subsection, the
4 authority shall not enter into an incentive award agreement for a
5 redevelopment project that includes at least one retail establishment
6 which will have more than 10 employees, at least one distribution
7 center which will have more than 20 employees, or at least one
8 hospitality establishment which will have more than 10 employees,
9 unless the incentive award agreement includes a precondition that any
10 business that serves as the owner or operator of the retail
11 establishment, distribution center, or hospitality establishment enters
12 into a labor harmony agreement with a labor organization or
13 cooperating labor organizations which represent retail establishment,
14 hospitality establishment, or distribution center employees in the State.

15 (2) A labor harmony agreement shall be required only if the State
16 has a proprietary interest in the redevelopment project and shall remain
17 in effect for as long as the State acts as a market participant in the
18 redevelopment project. The authority may enter into an incentive
19 award agreement with a developer without the labor harmony
20 agreement required under paragraph (1) of this subsection if the
21 authority determines that the redevelopment project would not be able
22 to go forward if a labor harmony agreement is required. The authority
23 shall support the determination by a written finding, which provides
24 the specific basis for the determination.

25 (3) (Deleted by amendment, P.L.2023, c.98)

26 f. (1) Except for a residential project that is located in a
27 government-restricted municipality, and in which 100 percent of the
28 residential units constructed in the residential project are reserved for
29 occupancy by low- and moderate-income households, for a
30 redevelopment project whose ¹**total** project cost equals or exceeds
31 \$10 million, in addition to the incentive award agreement, a developer
32 shall enter into a community benefits agreement with the authority and
33 the county or municipality in which the redevelopment project is
34 located. The agreement may include, but shall not be limited to,
35 requirements for training, employment, and youth development and
36 free services to underserved communities in and around the
37 community in which the redevelopment project is located. Prior to
38 entering a community benefits agreement, the governing body of the
39 county or municipality in which the redevelopment project is located
40 shall hold at least one public hearing at which the governing body shall
41 hear testimony from residents, community groups, and other
42 stakeholders on the needs of the community that the agreement should
43 address.

44 (2) The community benefits agreement shall provide for the
45 creation of a community advisory committee to oversee the
46 implementation of the agreement, monitor successes, ensure
47 compliance with the terms of the agreement, and produce an annual
48 public report. The community advisory committee created pursuant to

1 this paragraph shall be comprised of representatives of diverse
2 community groups and residents of the county or municipality in
3 which the redevelopment project is located.

4 (3) At the time the developer submits the annual report required
5 pursuant to section 62 of P.L.2020, c.156 (C.34:1B-330) to the
6 authority, the developer shall certify, under the penalty of perjury, that
7 it is in compliance with the terms of the community benefits
8 agreement. If the developer fails to provide the certification required
9 pursuant to this paragraph or the authority determines that the
10 developer is not in compliance with the terms of the community
11 benefits agreement based on the reports submitted by the community
12 advisory committee pursuant to paragraph (2) of this subsection, then
13 the authority may rescind an award or recapture all or part of any tax
14 credits awarded.

15 (4) Notwithstanding any requirement of this subsection to the
16 contrary, 'because all redevelopment agreements require a certificate
17 of completion issued by the municipality to confirm the developer's
18 compliance with the redevelopment agreement,' a developer shall be
19 considered to have met the requirements of a community benefits
20 agreement 【pursuant to this subsection】, and the requirements of
21 paragraphs (2) and (3) of this subsection shall not apply, if the
22 developer submits to the authority:

23 (a) a copy of either the developer's approval letter from the
24 authority or a redevelopment agreement applicable to the qualified
25 business facility, provided that the approval letter is certified by the
26 municipality or the redevelopment agreement is 【certified】 adopted by
27 resolution at a public meeting by the municipality in which the
28 redevelopment project is located, and includes provisions that meet 【or
29 exceed】 the 【standards】 community benefit required 【for】 under a
30 community benefits agreement '【in】 pursuant to' this subsection 【, as
31 determined by the chief executive officer pursuant to rules adopted by
32 the authority~~】~~; or

33 (b) a resolution adopted by the governing body of the municipality
34 in which the redevelopment project is located, which resolution shall
35 be adopted after at least one public hearing at which the governing
36 body provides an opportunity for residents, community groups, and
37 other stakeholders to testify, and which resolution shall state that the
38 governing body has determined that the redevelopment project will
39 provide economic and social benefits to the community that fulfill the
40 purposes of this subsection, which benefits render a separate
41 community benefit agreement unnecessary, and explain the reasons
42 supporting the governing body's determination.

43 g. A developer shall submit, prior to the first disbursement of tax
44 credits under the incentive award agreement, but no later than six
45 months following project completion, satisfactory evidence of actual
46 project costs, as certified by a certified public accountant, evidence of
47 a temporary certificate of occupancy, or other event evidencing project

1 completion that begins the eligibility period indicated in the incentive
2 award agreement. The developer, or an authorized agent of the
3 developer, shall certify that the information provided pursuant to this
4 subsection is true under the penalty of perjury. Claims, records, or
5 statements submitted by a developer to the authority in order to receive
6 tax credits shall not be considered claims, records, or statements made
7 in connection with State tax laws.

8 h. The incentive award agreement shall include a provision
9 allowing the authority to extend, in individual cases, the deadline for
10 any annual reporting or certification requirement.

11 i. The incentive award agreement shall include one or more
12 provisions, as determined by the authority, concerning the terms and
13 conditions for default and the remedies for the developer of a
14 redevelopment project in the event of default. The incentive award
15 agreement shall not allow the authority to declare a cross-default when
16 the developer of a redevelopment project, including any business
17 affiliate of the developer or any other entity with common principals
18 as the developer, is in default with any other assistance program
19 administered by the authority.

20 (cf: P.L.2023, c.98, s.6)

21
22 5. Section 61 of P.L.2020, c.156 (C.34:1B-329) is amended to
23 read as follows:

24 61. a. Up to the limits established in subsection b. of this section
25 and in accordance with an incentive award agreement, beginning upon
26 the receipt of occupancy permits for any portion of the redevelopment
27 project, or upon any other event evidencing project completion as set
28 forth in the incentive award agreement, a developer shall be allowed a
29 total tax credit **that shall not exceed** as follows, subject to the
30 enhancements set forth in subsection c. of this section:

31 (1) 80 percent of the **total** eligible¹ project cost for a
32 redevelopment project that is located in a government-restricted
33 municipality or is a special mission non-profit project¹;

34 (2) 60 percent of the **total** eligible¹ project cost for a residential
35 project that receives a four-percent allocation from the federal Low
36 Income Housing Tax Credit Program administered by the agency, or a
37 redevelopment project that is located in a qualified incentive tract,
38 enhanced area, or a municipality with a Municipal Revitalization Index
39 score of at least 50; or

40 (3) 50 percent of the **total** eligible¹ project cost for any other
41 redevelopment project.

42 b. The value of all tax credits approved by the authority under the
43 program for a redevelopment project phase shall not exceed:

44 (1) \$120,000,000 per redevelopment project or phase for a
45 redevelopment project that is located in a government-restricted
46 municipality or is a special mission non-profit project¹;

1 (2) \$90,000,000 per redevelopment project or phase for a
2 redevelopment project that is allowed a tax credit under paragraph (2)
3 of subsection a. of this section; and

4 (3) \$60,000,000 for any other redevelopment project or phase.

5 c. Notwithstanding the limitations set forth in subsection a. of this
6 section, but subject to the limitations of subsections b. and d. of this
7 section and the demonstration of a financing gap, a developer shall be
8 eligible for each of the following enhancements to the total tax credit
9 award:

10 (1) for a redevelopment project that includes the redevelopment of
11 a stranded asset, an enhancement of up to 10 percent of the project cost
12 of the redevelopment project;

13 (2) for a residential project that meets the three-bedroom
14 distribution requirement under the Uniform Housing Affordability
15 Controls, an enhancement of up to five percent of the project cost of
16 the residential project; and

17 (3) for a redevelopment project that meets local first source hiring
18 requirements for residents in the municipality or county in which the
19 project is located and in surrounding municipalities, as appropriate, an
20 enhancement of up to three percent of the project cost of the
21 redevelopment project.

22 d. Except for a redevelopment project that is located in a
23 government restricted municipality:

24 (1) the total tax credits awarded for the redevelopment project,
25 together with all tax credits awarded under any other program
26 administered by the authority, shall not exceed 80 percent of the
27 project cost of the redevelopment project; and

28 (2) for a redevelopment project that receives tax credits under the
29 Federal Low-Income Housing Tax Credit Program, the total tax credits
30 awarded for the redevelopment project, together with all tax credits
31 awarded under any other program administered by the authority and
32 under the Federal Low-Income Housing Tax Credit Program, shall not
33 exceed 90 percent of the project cost.

34 (cf: P.L.2023, c.98, s.7)

35
36 6. Section 62 of P.L.2020, c.156 (C.34:1B-330) is amended to
37 read as follows:

38 62. a. A developer approved for an incentive award pursuant to
39 sections 58 and 59 of P.L.2020, c.156 (C.34:1B-326 and C.34:1B-327)
40 and that enters an incentive award agreement pursuant to section 60 of
41 P.L.2020, c.156 (C.34:1B-328) shall submit annually, commencing in
42 the year in which the incentive award is issued and for the remainder
43 of the eligibility period, a report indicating whether the developer is
44 aware of any condition, event, or act that would cause the developer
45 not to be in compliance with the incentive award agreement or the
46 provisions of sections 54 through 67 of P.L.2020, c.156 (C.34:1B-322
47 through C.34:1B-335) and any additional reporting requirements
48 contained in the incentive award agreement or tax credit certificate.

1 The developer, or an authorized agent of the developer, shall certify
2 that the information provided pursuant to this subsection is true under
3 the penalty of perjury.

4 b. (1) Upon receipt and review of each report submitted during
5 the eligibility period, the authority shall provide to the developer and
6 the director a certificate of compliance indicating the amount of tax
7 credits that the developer may apply against the developer's tax
8 liability. ¹The authority shall preliminarily determine whether the
9 annual report submitted by the developer is complete as early as
10 practicable after accepting each annual report. Within 90 days after the
11 authority preliminarily determines that an annual report is complete,
12 the authority shall either: (a) approve the annual report and notify the
13 director that the authority has approved the report and that the director
14 is to issue the tax credit certificate; or (b) request more information
15 from the developer to finalize the approval. If the authority fails to act
16 within 90 days from its preliminary determination that the annual
17 report is complete, the annual report shall be deemed approved by the
18 authority, and the developer shall be entitled to receive its tax credit
19 certificate.¹

20 (2) Upon receipt by the director of the certificate of compliance,
21 the director shall allow the developer a credit against the tax imposed
22 pursuant to section 5 of P.L.1945, c.162 (C.54:10A-5). A developer
23 shall apply the credit awarded against the developer's liability under
24 section 5 of P.L.1945, c.162 (C.54:10A-5), sections 2 and 3 of
25 P.L.1945, c.132 (C.54:18A-2 and C.54:18A-3), section 1 of P.L.1950,
26 c.231 (C.17:32-15), or N.J.S.17B:23-5 ¹**【for the privilege period**
27 **【during】** identified in the tax credit certificate which the director
28 **【allows】** issues to the developer 【a tax credit】 pursuant to this
29 subsection, or within the three successive tax periods immediately
30 following the tax period in which the tax credit certificate is received
31 by the developer】 in the tax period for which it was issued, in the tax
32 period in which it was issued, or in any successive tax period, as
33 authorized pursuant to this subsection, without the need to amend the
34 tax return for the tax period for which the credit was issued, subject to
35 the carry-forward provision in this section. Notwithstanding the
36 foregoing, no more than the amount of tax credits equal to the total
37 credit amount divided by the duration of the tax credit term, in years,
38 may be taken in any tax period¹. A developer may carry forward an
39 unused credit resulting from the limitations of paragraph (3) of this
40 subsection, if necessary, for use in the seven privilege periods next
41 following the privilege period for which the credits are **【awarded】**
42 applied. Credits granted to a partnership shall be passed through to the
43 partners, members, or owners, respectively, pro-rata, or pursuant to an
44 executed agreement among the partners, members, or owners
45 documenting an alternate distribution method provided to the director
46 accompanied by any additional information as the director may
47 prescribe.

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

(cf: P.L.2022, c.46, s.1)

7. Section 63 of P.L.2020, c.156 (C.34:1B-331) is amended to read as follows:

63. a. ¹(1)¹A developer may apply to the director and the chief executive officer of the authority for a tax credit transfer certificate, covering one or more years, in lieu of the developer being allowed any amount of the credit against the tax liability of the developer. ¹The authority shall preliminarily determine whether the application submitted by the developer is complete as early as practicable after accepting the application. Within 90 days after the authority preliminarily determines that an application is complete, the authority shall either: (a) approve the application and notify the director that the authority has approved the application and that the director is to issue the tax credit transfer certificate; or (b) request more information from the developer to finalize the approval. If the authority fails to act within 90 days from its preliminary determination that the application is complete, the application shall be deemed approved by the authority, and the developer shall be entitled to receive its tax credit transfer certificate.

(2)¹ The tax credit transfer certificate, upon receipt thereof by the developer from the director and the chief executive officer of the authority, may be sold or assigned, in full or in part in an amount not less than \$25,000, in the privilege period during which the developer receives the tax credit transfer certificate from the director, to another person, who may apply the credit against a tax liability pursuant to section 5 of P.L.1945, c.162 (C.54:10A-5), sections 2 and 3 of P.L.1945, c.132 (C.54:18A-2 and C.54:18A-3), section 1 of P.L.1950, c.231 (C.17:32-15), or N.J.S.17B:23-5. The certificate provided to the developer shall include a statement waiving the developer's right to claim the amount of the credit that the developer has elected to sell or assign against the developer's tax liability.

b. The developer shall not sell or assign, including a collateral assignment, a tax credit transfer certificate allowed under this section for consideration received by the developer of less than 85 percent of the transferred credit amount before considering any further discounting to present value which shall be permitted, except a developer of a residential project consisting of newly-constructed residential units may assign a tax credit transfer certificate for

1 consideration of less than 85 percent subject to the submission of a
2 plan to the authority and the agency to use the proceeds derived from
3 the assignment of tax credits to complete the residential project, except
4 a developer of a residential project consisting of newly-constructed
5 residential units that has received federal low income housing tax
6 credits under 26 U.S.C. s.42(b)(1)(B)(i) may assign a tax credit
7 transfer certificate for consideration of no less than 65 percent subject
8 to the submission of a plan to the authority and the New Jersey
9 Housing and Mortgage Finance Agency to use the proceeds derived
10 from the assignment of tax credits to complete the residential project.
11 The tax credit transfer certificate issued to a developer by the director
12 shall be subject to any limitations and conditions imposed on the
13 application of State tax credits pursuant to sections 54 through 67 of
14 P.L.2020, c.156 (C.34:1B-322 through 34:1B-335) and any other
15 terms and conditions that the director may prescribe; provided,
16 however, that the holder of a tax credit certificate may transfer all or
17 part of the tax credit amount, ¹["within the three successive tax periods
18 immediately following the tax period in which the tax credit certificate
19 is received by the developer"] at any time after the date of receipt of
20 the tax credit certificate¹, on or after the date of issuance of the tax
21 credit transfer certificate, for use by the transferee in the tax period for
22 which it was issued ¹["or within the three successive tax periods
23 immediately following the tax period in which the tax credit transfer
24 certificate is received by the transferee, and the transferee may carry
25 forward all or part of the tax credit amount in any of the next five
26 successive tax periods after the tax period for which it was used"] , in
27 the tax period in which it was issued, or in any successive tax period,
28 as authorized in this subsection, without the need to amend the tax
29 return for the tax period for which the credit was issued, subject to the
30 carry-forward provision in this section. A transferee may carry
31 forward an unused credit for use in any of the next five successive tax
32 periods, and the unused credit shall expire thereafter¹.
33 Notwithstanding any provision of this section to the contrary, the
34 amount of tax credits that may be claimed by the transferee in any tax
35 period shall not exceed the total tax credit amount divided by the
36 duration of the eligibility period in years.

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

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

- 43 (1) the name of the transferor;
- 44 (2) the name of the transferee;
- 45 (3) the value of the tax credit transfer certificate; and
- 46 (4) the consideration received by the transferor.

1 ¹【e. When a tax credit certificate is issued to a developer after the
2 tax period in which all or part of the tax credits may be used by the
3 developer or a holder of the credit transfer certificate, the developer or
4 transferee shall be allowed to use the tax credit for the same tax period
5 specified in the tax credit certificate, or within the three successive tax
6 periods immediately following the tax period in which the certificate is
7 received by the developer or transferee. In this circumstance, the
8 developer or transferee shall not be required to amend its tax return for
9 the tax period in which it applies the tax credit or for a tax period
10 preceding the tax period in which the tax credit is applied.】¹

11 (cf: P.L.2023, c.98, s.8)

12

13 8. Section 65 of P.L.2020, c.156 (C.34:1B-333) is amended to
14 read as follows:

15 65. a. As used in this section, "transformative project" means a
16 redevelopment project: that has a project financing gap; that has a total
17 project cost of at least \$150,000,000; that ¹【, subject to the provisions
18 of subsection h. of this section,】¹ includes 200,000 or more square feet
19 of new or substantially renovated industrial, commercial, or residential
20 space for a project located in a government-restricted municipality,
21 that includes 250,000 or more square feet of film studios, professional
22 stages, television studios, recording studios, screening rooms, or other
23 infrastructure for film production, that includes 300,000 or more
24 square feet of new or substantially renovated industrial, commercial,
25 or residential space for a project located in an enhanced area, or that
26 includes 500,000 or more square feet of new or substantially renovated
27 industrial, commercial, or residential space for any other project; and,
28 for a commercial project, that is of special economic importance as
29 measured by the level of new jobs, new capital investment,
30 opportunities to leverage leadership in a high-priority targeted
31 industry, or other state priorities as determined by the authority
32 pursuant to rules and regulations promulgated to implement this
33 section. Notwithstanding the provisions of subsection b. of section 14
34 of P.L.2023, c.98 (C.34:1B-335.1) to the contrary, for applications
35 submitted on and after the effective date of P.L.2023, c.98 (C.34:1B-
36 335.1 et al.), if the redevelopment project is located entirely on land
37 designated by the Department of Environmental Protection as a
38 brownfield development area pursuant to section 7 of P.L.2005, c.223
39 (C.58:10B-25.1), and the ¹total¹ project cost of the redevelopment
40 project includes at least \$15,000,000 in environmental remediation
41 costs, the redevelopment project shall constitute a project of special
42 economic importance. A transformative project may be completed in
43 phases, which phases may be determined by the authority based on
44 factors such as written architectural plans and specifications completed
45 before or during the physical work, certificates of occupancy, or
46 financial and operational plans. The criteria developed by the
47 authority shall include, but shall not be limited to:

(1) the extent to which the proposed transformative project would create modern facilities that enhance the State's competitiveness in attracting targeted industries;

(2) (a) for a residential project, the construction of 700 or more new residential units; or

(b) for a residential project containing ~~fewer~~ than 700 new residential units, the construction of 200 or more new residential units if the project is located in a government-restricted municipality, 300 or more ¹new residential units if the project is located in an enhanced area, or 400 or more ¹new residential units for all other mixed-use projects; or

(c) for a residential project ¹~~containing~~ , not located in a government-restricted municipality or an enhanced area, that contains ~~fewer~~ than 700 new residential units, the construction of ~~50,000~~ 20,000 square feet or more of commercial space, which commercial space may include retail space; and

(d) for a residential project, 20 percent of the new residential units shall be constructed for occupancy by low- and moderate-income households with affordability controls as adopted by the authority, in consultation with the agency, in accordance with paragraph (2) of subsection a. of section 56 of P.L.2020, c.156 (C.34:1B-324), except that a residential project receiving a federal historic rehabilitation tax credit pursuant to section 47 of the federal Internal Revenue Code of 1986, 26 U.S.C. s.47, or a tax credit pursuant to the "Historic Property Reinvestment Act," sections 2 through 8 of P.L.2020, c.156 (C.34:1B-270 through 34:1B-276), shall be exempt from the affordability controls related to bedroom distribution; and

(3) the extent to which the proposed project would leverage the competitive economic development advantages of the State's mass transit assets, higher education assets, and other economic development assets in attracting or retaining both employers and skilled workers generally or in targeted industries.

A "transformative project" shall not include a redevelopment project at which more than 50 percent of the premises is occupied by one or more businesses engaged in final point of sale retail.

b. (1) The authority may award incentive awards to transformative projects in accordance with the provisions of sections 55 through 67 of P.L.2020, c.156 (C.34:1B-323 through 34:1B-335).

(2) (a) For transformative projects completed in phases, the developer shall enter into a transformative phase agreement with the authority.

(b) As used in this subsection, "transformative phase agreement" shall mean a sub-agreement of the incentive award agreement that governs the timing, capital investment, and other applicable details of the respective phase of a phased project.

(3) Notwithstanding the provisions of section 57 of P.L.2020, c.156 (C.34:1B-325), or any other section of P.L.2020, c.156

1 (C.34:1B-269 et al.) to the contrary, a transformative project shall be
2 completed, and the developer shall be issued a certificate of occupancy
3 for the transformative project facilities by the applicable enforcing
4 agency, within five years of executing the incentive award agreement,
5 except that the authority may, in its discretion, extend this deadline by
6 up to one additional year. For transformative projects completed in
7 phases, the transformative project shall be completed, and the
8 developer shall be issued certificates of occupancy for all phases of the
9 transformative project facilities by the applicable enforcing agency,
10 within 10 years of executing either the incentive award agreement or
11 the first transformative phase agreement corresponding to the
12 transformative project.

13 (4) Notwithstanding the provisions of sections 55 and 60 of
14 P.L.2020, c.156 (C.34:1B-323 and C.34:1B-328), or any other section
15 of P.L.2020, c.156 (C.34:1B-269 et al.) to the contrary, each phase of a
16 transformative project completed in phases shall have a separate
17 eligibility period. After completing each phase, the developer shall
18 submit a certification that the phase is completed. If the authority
19 approves the certification, the tax credit allowed to the developer shall
20 be increased by the tax credit amount corresponding to that phase.
21 Notwithstanding the different eligibility periods for each phase, all
22 conditions and requirements applicable during an eligibility period
23 pursuant to sections 55 through 67 of P.L.2020, c.156 (C.34:1B-323
24 through 34:1B-335) shall apply to ¹**【the entire】** each phase of a¹
25 transformative project until the end of the eligibility period ¹**【for the**
26 **last】** of each completed¹ phase.

27 (5) Notwithstanding the provisions of section 60 of P.L.2020,
28 c.156 (C.34:1B-328), or any other section of P.L.2020, c.156
29 (C.34:1B-269 et al.) to the contrary, for a transformative project
30 completed in phases, a review of the project financing gap shall be
31 performed at the certification of completion of each phase, and the
32 authority shall re-evaluate the developer's rate of return in the seventh
33 year and at the end of the eligibility period for the last phase, provided
34 that the authority may also re-evaluate the developer's rate of return
35 during the fifth year of any earlier phase.

36 (6) A transformative project receiving an incentive award pursuant
37 to this section, other than a project that includes 250,000 or more
38 square feet of film studios, professional stages, television studios,
39 recording studios, screening rooms or other infrastructure for film
40 production, shall be located in an incentive area, a distressed
41 municipality, a government-restricted municipality, or an enhanced
42 area. A transformative project receiving an incentive award pursuant
43 to this section that includes 250,000 or more square feet of film
44 studios, professional stages, television studios, recording studios,
45 screening rooms or other infrastructure for film production may be
46 located anywhere in the State. The authority shall not consider an
47 application for a transformative project unless the applicant submits
48 with its application a letter evidencing support for the transformative

1 project from the governing body of the municipality in which the
2 transformative project is located.

3 c. The authority shall review the transformative project cost,
4 evaluate and validate the project financing gap estimated by the
5 developer, and conduct a State fiscal impact analysis to ensure that the
6 overall public assistance provided to the transformative project will
7 result in a net positive benefit to the State. In determining whether a
8 transformative project will result in a net positive benefit to the State,
9 the authority shall not consider the value of any taxes exempted,
10 abated, rebated, or retained under the "Five-Year Exemption and
11 Abatement Law," P.L.1991, c.441 (C.40A:21-1 et seq.), the "Long
12 Term Tax Exemption Law," P.L.1991, c.431 (C.40A:20-1 et al.), the
13 "New Jersey Urban Enterprise Zones Act," P.L.1983, c.303
14 (C.52:27H-60 et seq.), or any other law that has the effect of lowering
15 or eliminating the developer's State or local tax liability. The
16 determination made pursuant to this subsection shall be based on the
17 potential tax liability of the developer without regard for potential tax
18 losses if the developer were to locate in another state. The authority
19 shall assess the cost of these reviews to the applicant. A developer
20 shall pay to the authority the full amount of the direct costs of an
21 analysis concerning the developer's application for an incentive award
22 that a third party retained by the authority performs, if the authority
23 deems such retention to be necessary. The authority shall evaluate the
24 net economic benefits on a present value basis under which the
25 requested tax credit allocation amount is discounted to present value at
26 the same discount rate as the projected benefits from the
27 implementation of the proposed transformative project for which an
28 award of tax credits is being sought. Projects that are predominantly
29 residential shall be excluded from the calculation of the net benefit test
30 required pursuant to this subsection.

31 d. In determining net benefits for any business or person
32 considering locating in a transformative project and applying to
33 receive from the authority any other economic development incentive
34 subsequent to the award of transformative project tax credits pursuant
35 to section 65 of P.L.2020, c.156 (C.34:1B-333), the authority shall not
36 credit the business or person with any benefit that was previously
37 credited to the transformative project pursuant to section 65 of
38 P.L.2020, c.156 (C.34:1B-333).

39 e. The authority shall administer the credits awarded pursuant to
40 this section in accordance with the provisions of sections 62 and 63 of
41 P.L.2020, c.156 (C.34:1B-330 and C.34:1B-331).

42 f. Prior to allocating an incentive award to a developer, the
43 authority shall confirm with the Department of Labor and Workforce
44 Development, the Department of Environmental Protection, and the
45 Department of the Treasury that the developer is in substantial good
46 standing with the respective department, or the developer has entered
47 into an agreement with the respective department that includes a
48 practical corrective action plan, and the developer shall certify that

1 each contractor or subcontractor performing work at the transformative
2 project: (1) is registered as required by "The Public Works Contractor
3 Registration Act," P.L.1999, c.238 (C.34:11-56.48 et seq.); (2) has not
4 been debarred by the Department of Labor and Workforce
5 Development from engaging in or bidding on Public Works Contracts
6 in the State; and (3) possesses a tax clearance certificate issued by the
7 Division of Taxation in the Department of the Treasury. The authority
8 may also contract with an independent third party to perform a
9 background check on the developer.

10 g. Notwithstanding the limitation on incentive awards set forth in
11 subsection b. of section 61 and section 98 of P.L.2020, c.156
12 (C.34:1B-329 and C.34:1B-362) to the contrary, the authority may
13 allow a developer of a transformative project a tax credit in an amount
14 not to exceed the lesser of:

15 (1) (a) 80 percent of the ¹["total"] eligible¹ project cost for a
16 transformative project that is located in a government-restricted
17 municipality;

18 (b) 60 percent of the ¹["total"] eligible¹ project cost for a residential
19 transformative project that receives a four-percent allocation from the
20 federal Low Income Housing Tax Credit Program administered by the
21 agency or a transformative project that is located in a qualified
22 incentive tract, enhanced area, or a municipality with a Municipal
23 Revitalization Index score of at least 50; or

24 (c) 50 percent of the ¹["total"] eligible¹ project cost for any other
25 transformative project;

26 (2) the total value of the project financing gap; or

27 (3) \$400,000,000 except that for a transformative project that is
28 developed in phases, the \$400,000,000 limitation on incentive awards
29 set forth in this paragraph shall apply to the total aggregate award for
30 all phases of the transformative project.

31 h. Notwithstanding the limitations set forth in subsection g. of this
32 section, a developer of a transformative project shall be eligible for
33 each of the following enhancements to the total tax credit award ¹,
34 individually or in combination, subject to the demonstration of a
35 financing gap and need for support¹ :

36 (1) for a transformative project that includes the redevelopment of
37 a stranded asset, an enhancement of up to 10 percent of the project cost
38 of the transformative project;

39 (2) for a residential transformative project that meets the three-
40 bedroom distribution requirement under the Uniform Housing
41 Affordability Controls, an enhancement of up to five percent of the
42 project cost of the residential transformative project; and

43 (3) for a transformative project that meets local first source hiring
44 requirements for residents in the municipality or county in which the
45 project is located and in surrounding municipalities, as appropriate, an
46 enhancement of up to three percent of the project cost of the
47 transformative project.

1 ¹【i.(1) The parking component of a transformative project shall be
 2 included in the calculation of the total square footage of the project,
 3 provided that the parking component shall be constructed in
 4 conformity with local zoning, planning, or similar requirements, or up
 5 to the amount required by the Residential Site Improvement Standards,
 6 regardless of whether the Residential Site Improvement Standards
 7 apply to the parking component. Any portion of the parking
 8 component that exceeds the local parking requirements or the
 9 Residential Site Improvement Standards shall not be included in the
 10 calculation of the total square footage of the project.

11 (2) Notwithstanding any provision of paragraph (1) of this
 12 subsection to the contrary, the entire parking component of a project
 13 located in a government restricted municipality shall be included in the
 14 calculation of the total square footage of the project.】¹

15 (cf: P.L.2023, c.98, s.9)

16
 17 9. Section 14 of P.L.2023, c.98 (C.34:1B-335.1) is amended to
 18 read as follows:

19 14. a. (1) Except as otherwise provided in subsection b. of this
 20 section, all program applications **【completed after】** submitted to ¹or
 21 approved by¹ the authority ¹【on or】¹ after ¹【the date six months prior
 22 to the effective date of 【P.L.2023, c.98 (C.34:1B-335.1 et al.)】 P.L. ,
 23 c. (C.) (pending before the Legislature as this bill)】 January 1,
 24 2023¹ shall be subject to the "New Jersey Aspire Program Act,"
 25 sections 54 through 67 of P.L.2020, c.156 (C.34:1B-322 through
 26 34:1B-335), as amended as supplemented by P.L.2023, c.98 (C.34:1B-
 27 335.1 et al.), and as further amended and supplemented by P.L. , c.
 28 (C.) (pending before the Legislature as this bill), including the
 29 rules and regulations adopted pursuant to subsection b. of section 67 of
 30 P.L.2020, c.156 (C.34:1B-335), except that applications submitted to
 31 the authority prior to the effective date of P.L. , c. (C.)
 32 (pending before the Legislature as this bill) shall be subject to the rules
 33 and regulations concerning application fees that were in effect
 34 immediately before the effective date of P.L. , c. (C.)
 35 (pending before the Legislature as this bill).

36 (2) **【**Except as otherwise provided in subsection b. of this section,
 37 all program applications completed on or before the effective date of
 38 P.L.2023, c.98 (C.34:1B-335.1 et al.) shall be subject to the provisions
 39 of the "New Jersey Aspire Program Act," sections 54 through 67 of
 40 P.L.2020, c.156 (C.34:1B-322 through 34:1B-335), as such provisions
 41 remained in effect immediately before the effective date of P.L.2023,
 42 c.98 (C.34:1B-335.1 et al.), including the rules and regulations adopted
 43 pursuant to subsection a. of section 67 of P.L.2020, c.156 (C.34:1B-
 44 335).**】** (Deleted by amendment, P.L. , c. (C.) (pending before
 45 the Legislature as this bill)

46 b. Notwithstanding any provision of P.L.2020, c.156 (C.34:1B-
 47 269 et al.) to the contrary, if a completed application for a residential

project is submitted to the authority on or before the 121st calendar day next following effective date of P.L.2023, c.98 (C.34:1B-335.1 et al.), the applicant for the residential project has received all applicable approvals pursuant to the "Municipal Land Use Law," P.L.1975, c.291 (C.40:55D-1 et seq.) on or before the 121st calendar day next following the effective date of P.L.2023, c.98 (C.34:1B-335.1 et al.), and the applicant submits written notice to the authority, before the authority's approval or denial of the application, electing for the application to be governed under the provisions of this subsection, then the residential units constructed for occupancy by low- and moderate-income households within the residential project shall not be subject to the affordability controls adopted by the authority, in consultation with the agency, pursuant to paragraph (2) of subsection a. of section 56 of P.L.2020, c.156 (C.34:1B-324) and subsection b. of section 67 of P.L.2020, c.156 (C.34:1B-335). In this event, the application for the residential project shall be reviewed, approved, and administered in accordance with the provisions of the "New Jersey Aspire Program Act," sections 54 through 67 of P.L.2020, c.156 (C.34:1B-322 through 34:1B-335), as such provisions remained in effect immediately before the effective date of P.L.2023, c.98 (C.34:1B-335.1 et al.), including the rules and regulations adopted pursuant to subsection a. of section 67 of P.L.2020, c.156 (C.34:1B-335), except that the application shall be subject to:

(1) the determination of a reasonable and appropriate return on investment, as defined in section 55 of P.L.2020, c.156 (C.34:1B-323), as amended by P.L.2023, c.98 (C.34:1B-335.1 et al.); ¹**[and]**¹

(2) the limitation on tax credit awards set forth in subsection b. of section 61 of P.L.2020, c.156 (C.34:1B-329) and subsection g. of section 65 of P.L.2020, c.156 (C.34:1B-333), respectively, as amended by P.L.2023, c.98 (C.34:1B-335.1 et al.) ¹; and

(3) no proration of the tax credit for any year within the eligibility period¹.

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

10. (New section) The authority shall promulgate a schedule of application and other fees imposed under the program, which fees shall be limited to the coverage of actual direct costs of administering the program, the coverage of reasonable indirect costs of administering the program, and the maintenance of reasonable reserves for administering the program. Any application fee or other fee charged by the authority shall be proportional to the tax credit amount awarded for a redevelopment project under the program.

11. (New section) a. The authority shall establish, as part of the program, a "Redevelopment Project Bridge Financing Program" to facilitate the ability of a developer to secure financing for a redevelopment project until such time as tax credits are issued

1 pursuant to the “New Jersey Aspire Program Act,” sections 54 through
2 67 of P.L.2020, c.156 (C.34:1B-322 through C.34:1B-335), as
3 amended as supplemented. Through the program, the authority shall
4 provide full or partial loans or loan guarantees, at the authority’s
5 discretion, to the developers of redevelopment projects for the purpose
6 of ensuring the completion of the redevelopment projects. As
7 determined by the authority, the Redevelopment Project Bridge
8 Financing Program may consist of:

9 (1) the issuance of redevelopment project bridge financing loans,
10 subject to the provisions of subsection b. of this section; and

11 (2) the provision of redevelopment project loan guarantees, subject
12 to the provisions of subsection c. of this section.

13 b. (1) The authority may issue a redevelopment project bridge
14 financing loan to the developer of an approved redevelopment project,
15 upon application by the developer, provided that the authority
16 determines that:

17 (a) a project financing gap continues to exist after the award of tax
18 credits to the developer of the redevelopment project; and

19 (b) the redevelopment project bridge financing loan will enable the
20 completion of the redevelopment project.

21 (2) A developer who seeks a redevelopment project bridge
22 financing loan shall submit an application to the authority, which
23 application shall include:

24 (a) a proposed loan principle and interest amount;

25 (b) a proposed repayment schedule;

26 (c) an accounting of the remaining project financing gap; and

27 (d) any other information as the authority shall require.

28 (3) The authority may issue the redevelopment project bridge
29 financing loan in such amount as it deems appropriate, subject to such
30 terms, including, but not limited to, interest rates, collateral, and
31 repayment or release schedules, as the authority shall deem reasonable
32 and appropriate, except that each worker employed to perform
33 construction work on the redevelopment project shall be paid not less
34 than the prevailing wage rate for the worker’s craft or trade, as
35 determined by the Commissioner of Labor and Workforce
36 Development pursuant to P.L.1963, c.150 (C.34:11-56.25 et seq.) and
37 P.L.2005, c.379 (C.34:11-56.58 et seq.).

38 c. (1) The authority may provide a loan guarantee to the
39 developer of an approved redevelopment project, upon application by
40 the developer, provided that the authority determines that:

41 (a) a project financing gap continues to exist after the initial award
42 of tax credits to the developer of the redevelopment project; and

43 (b) the loan guarantee will enable the developer to access the
44 financing needed to complete the redevelopment project.

45 (2) A developer who seeks a loan guarantee shall submit an
46 application to the authority, which application shall include:

47 (a) a proposed loan guarantee amount and terms;

48 (b) an accounting of the remaining project financing gap; and

1 (c) any other information as the authority shall require.

2 (3) The authority may issue the loan guarantees in such amounts as
3 it deems appropriate, subject to such terms as the authority deems
4 reasonable and appropriate, except that each worker employed to
5 perform construction work on the redevelopment project shall be paid
6 not less than the prevailing wage rate for the worker's craft or trade, as
7 determined by the Commissioner of Labor and Workforce
8 Development pursuant to P.L.1963, c.150 (C.34:11-56.25 et seq.) and
9 P.L.2005, c.379 (C.34:11-56.58 et seq.).

10 d. (1) The authority shall establish a Redevelopment Project
11 Bridge Financing Revolving Fund from which the authority shall
12 provide all loans issued pursuant to subsection b. of this section and
13 provide all loan guarantees issued pursuant to subsection c. of this
14 section. All monies received from payments of the principle and
15 interest for loans issued pursuant to this section shall be deposited into
16 the Redevelopment Project Bridge Financing Revolving Fund, which
17 fund shall remain until the authority determines that there no longer
18 remains a need for bridge financing or until December 31, 2028,
19 whichever occurs first. After the fund is no longer needed, or upon its
20 expiration, all monies in the fund shall be deposited into the General
21 Fund.

22 (2) Within 90 days after the effective date of P.L. , c. (C.)
23 (pending before the Legislature as this bill), the authority shall submit
24 a recommendation to the Governor and to the Legislature, pursuant to
25 section 2 of P.L.1991, c.164 (C.52:14-19.1), for the amount of
26 appropriations needed to fund the Redevelopment Project Bridge
27 Financing Program.

28

29 12. (New section) a. To facilitate the efficient monetization of
30 tax credits awarded under the program, the Department of the Treasury
31 shall ¹["], at such times as the department deems necessary,¹ redeem
32 the tax credits ¹["awarded to"] surrendered for redemption by¹ a
33 developer for a redevelopment project at a discount from face value.
34 ¹["The tax credit redemptions shall be made at such discounts as the
35 State Treasurer deems appropriate, except that the discount shall not
36 exceed 10 percent of the face value of the tax credits."]¹

37 b. ¹To effectuate a redemption authorized pursuant to this section,
38 in lieu of applying any tax credit certificate or tax credit transfer
39 certificate against tax liability otherwise due pursuant to section 5 of
40 P.L.1945, c.162 (C.54:10A-5), sections 2 and 3 of P.L.1945, c.132
41 (C.54:18A-2 and C.54:18A-3), section 1 of P.L.1950, c.231 (C.17:32-
42 15), or N.J.S.17B:23-5, a taxpayer may surrender a tax credit
43 certificate or tax credit transfer certificate for redemption to the
44 director for a cash payment equal to 90 percent of the amount of tax
45 credits evidenced by the certificate, provided that the issuance date of
46 the tax credit certificate or tax credit transfer certificate to the taxpayer
47 surrendering such certificate occurred at least one year prior to the date

1 of surrender and that the certificate has not been sold or assigned
 2 previously.

3 c.¹ The tax credit redemptions shall be paid in the same manner as
 4 refunds of tax payable under section 5 of P.L.1945, c.162 (C.54:10A-
 5 5), sections 2 and 3 of P.L.1945, c.132 (C.54:18A-2 and C.54:18A-3),
 6 section 1 of P.L.1950, c.231 (C.17:32-15), or N.J.S.17B:23-5,
 7 notwithstanding that such tax is not applicable to the person or entity
 8 seeking the redemption. ¹**【The State Treasurer shall allow the**
 9 **proceeds of the tax credit redemption to be issued over one or more tax**
 10 **periods, but not to exceed the applicable eligibility period.】**¹
 11

12 13. Section 89 of P.L.2020, c.156 (C.52:18A-263) is amended to
 13 read as follows:

14 89. a. The Director of the Division of Taxation in the Department
 15 of the Treasury may purchase unused tax credits awarded under a
 16 program listed in subsection b. of this section, including tax credit
 17 transfer certificates issued by the director in lieu of a tax credit allowed
 18 under such programs. The director shall not pay consideration in
 19 excess of 75 percent of the credit amount to be purchased, except for a
 20 credit awarded under:

21 (1) the "Emerge Program Act," sections 68 through 81 of
 22 P.L.2020, c.156 (C.34:1B-336 et al.), which shall be subject to the
 23 provisions of paragraph (4) of subsection d. of section 77 of P.L.2020,
 24 c.156 (C.34:1B-345); or

25 (2) the "New Jersey Aspire Program Act," sections 54 through 67
 26 (¹**【C.34:1B-222】 C.34:1B-322**¹ through C.34:1B-335), as amended
 27 and supplemented, which shall be subject to the provisions of section
 28 12 of P.L. , c. (C.) (pending before the Legislature as this
 29 bill).

30 b. The Director of the Division of Taxation in the Department of
 31 the Treasury may purchase tax credits awarded under the following:

32 (1) the "Historic Property Reinvestment Act," sections ¹**【1】** ²1
 33 through 8 of P.L.2020, c.156 (¹**【C.34:1B-269】 C.34:1B-270**¹ through
 34 C.34:1B-276);

35 (2) the "Brownfield Redevelopment Incentive Program Act,"
 36 sections 9 through 19 of P.L.2020, c.156 (C.34:1B-277 through
 37 C.34:1B-287);

38 (3) the "New Jersey Innovation Evergreen Act," sections 20
 39 through 34 of P.L.2020, c.156 (C.34:1B-288 through C.34:1B-302);

40 (4) the "Food Desert Relief Act," sections 35 through 42 of
 41 P.L.2020, c.156 (C.34:1B-303 through C.34:1B-310);

42 (5) the "New Jersey Community-Anchored Development Act,"
 43 sections 43 through 53 of P.L.2020, c.156 (C.34:1B-311 through
 44 C.34:1B-321);

45 (6) the "New Jersey Aspire Program Act," sections 54 through 67
 46 of P.L.2020, c.156 (C.34:1B-322 through C.34:1B-335);

1 (7) the " Emerge Program Act," sections 68 through 81 of
2 P.L.2020, c.156 (C.34:1B-336 et al.);

3 (8) the Grow New Jersey Assistance Program established pursuant
4 to section 3 of P.L.2011, c.149 (C.34:1B-244);

5 (9) section 6 of P.L.2010, c.57 (C.34:1B-209.4);

6 (10) the State Economic Redevelopment and Growth Grant
7 program established pursuant to section 5 of P.L.2009, c.90
8 (C.52:27D-489e);

9 (11) section 1 of P.L.2018, c.56 (C.54:10A-5.39b); and

10 (12) section 2 of P.L.2018, c.56 (C.54A:4-12b).

11 (cf: P.L.2020, c.156, s.89)

12
13 14. Section 4 of P.L.1945, c.162 (C.54:10A-4) is amended to read
14 as follows:

15 4. For the purposes of this act, unless the context requires a
16 different meaning:

17 (a) "Commissioner" or "director" shall mean the Director of the
18 Division of Taxation of the State Department of the Treasury.

19 (b) "Allocation factor" shall mean the proportionate part of a
20 taxpayer's net worth or entire net income used to determine a measure
21 of its tax under this act.

22 (c) "Corporation" shall mean any corporation, joint-stock company
23 or association and any business conducted by a trustee or trustees
24 wherein interest or ownership is evidenced by a certificate of interest
25 or ownership or similar written instrument, any other entity classified
26 as a corporation for federal income tax purposes, and any state or
27 federally chartered building and loan association or savings and loan
28 association.

29 (d) "Net worth" shall mean the aggregate of the values disclosed
30 by the books of the corporation for (1) issued and outstanding capital
31 stock, (2) paid-in or capital surplus, (3) earned surplus and undivided
32 profits, and (4) surplus reserves which can reasonably be expected to
33 accrue to holders or owners of equitable shares, not including
34 reasonable valuation reserves, such as reserves for depreciation or
35 obsolescence or depletion. Notwithstanding the foregoing, net worth
36 shall not include any deduction for the amount of the excess
37 depreciation described in paragraph (2) (F) of subsection (k) of this
38 section. The foregoing aggregate of values shall be reduced by 50% of
39 the amount disclosed by the books of the corporation for investment in
40 the capital stock of one or more subsidiaries, which investment is
41 defined as ownership (1) of at least 80% of the total combined voting
42 power of all classes of stock of the subsidiary entitled to vote and (2)
43 of at least 80% of the total number of shares of all other classes of
44 stock except nonvoting stock which is limited and preferred as to
45 dividends. In the case of investment in an entity organized under the
46 laws of a foreign country, the foregoing requisite degree of ownership
47 shall effect a like reduction of such investment from the net worth of
48 the taxpayer, if the foreign entity is considered a corporation for any

1 purpose under the United States federal income tax laws, such as (but
2 not by way of sole examples) for the purpose of supplying deemed
3 paid foreign tax credits or for the purpose of status as a controlled
4 foreign corporation. In calculating the net worth of a taxpayer entitled
5 to reduction for investment in subsidiaries, the amount of liabilities of
6 the taxpayer shall be reduced by such proportion of the liabilities as
7 corresponds to the ratio which the excluded portion of the subsidiary
8 values bears to the total assets of the taxpayer.

9 In the case of banking corporations which have international
10 banking facilities as defined in subsection (n), the foregoing aggregate
11 of values shall also be reduced by retained earnings of the international
12 banking facility. Retained earnings means the earnings accumulated
13 over the life of such facility and shall not include the distributive share
14 of dividends paid and federal income taxes paid or payable during the
15 tax year.

16 If in the opinion of the director, the corporation's books do not
17 disclose fair valuations the director may make a reasonable
18 determination of the net worth which, in his opinion, would reflect the
19 fair value of the assets, exclusive of subsidiary investments as defined
20 aforesaid, carried on the books of the corporation, in accordance with
21 sound accounting principles, and such determination shall be used as
22 net worth for the purpose of this act.

23 (e) (Deleted by amendment, P.L.1998, c.114.)

24 (f) "Investment company" shall mean any corporation whose
25 business during the period covered by its report consisted, to the extent
26 of at least 90 percent thereof of holding, investing and reinvesting in
27 stocks, bonds, notes, mortgages, debentures, patents, patent rights and
28 other securities for its own account, but this shall not include any
29 corporation which: (1) is a merchant or a dealer of stocks, bonds and
30 other securities, regularly engaged in buying the same and selling the
31 same to customers; or (2) had less than 90 percent of its average gross
32 assets in New Jersey, at cost, invested in stocks, bonds, debentures,
33 mortgages, notes, patents, patent rights or other securities or consisting
34 of cash on deposit during the period covered by its report; or (3) is a
35 banking corporation, a savings institution, or a financial business
36 corporation as defined in the Corporation Business Tax Act.

37 (g) "Regulated investment company" shall mean any corporation
38 which for a period covered by its report, is registered and regulated
39 under the Investment Company Act of 1940 (¹54 Stat. 789] 15
40 U.S.C. ss.80a-1 et seq.¹), as amended.

41 (h) "Taxpayer" shall mean any corporation, any combined group
42 filing a mandatory or elective New Jersey combined return, and any
43 partnership required, or consenting, to report or to pay taxes, interest
44 or penalties under this act. "Taxpayer" shall not include a partnership
45 that is listed on a United States national stock exchange.

46 (i) "Fiscal year" shall mean an accounting period ending on any
47 day other than the last day of December on the basis of which the
48 taxpayer is required to report for federal income tax purposes.

1 (j) Except as herein provided, "privilege period" shall mean the
2 calendar or fiscal accounting period for which a tax is payable under
3 this act.

4 (k) "Entire net income" shall mean total net income from all
5 sources, whether within or without the United States, and shall include
6 the gain derived from the employment of capital or labor, or from both
7 combined, as well as profit gained through a sale or conversion of
8 capital assets.

9 For the purpose of this act, the amount of a taxpayer's entire net
10 income shall be deemed prima facie to be equal in amount to the
11 taxable income, before net operating loss deduction and special
12 deductions, which the taxpayer is required to report, or, if the taxpayer
13 is classified as a partnership for federal tax purposes, would otherwise
14 be required to report, to the United States Treasury Department for the
15 purpose of computing its federal income tax, provided however, that in
16 the determination of such entire net income,

17 (1) Entire net income shall exclude for the periods set forth in
18 paragraph (2)(F)(i) of this subsection, any amount, except with respect
19 to qualified mass commuting vehicles as described in section
20 168(f)(8)(D)(v) of the Internal Revenue Code as in effect immediately
21 prior to January 1, 1984, which is included in a taxpayer's federal
22 taxable income solely as a result of an election made pursuant to the
23 provisions of paragraph (8) of that section.

24 (2) Entire net income shall be determined without the exclusion,
25 deduction or credit of:

26 (A) The amount of any exemption or credit allowed in any law of
27 the United States imposing any tax on or measured by the income of
28 corporations.

29 (B) Any part of any income from dividends or interest on any kind
30 of stock, securities or indebtedness, except as provided in paragraph
31 (5) of subsection (k) of this section.

32 (C) Taxes paid or accrued to the United States, a possession or
33 territory of the United States, a state, a political subdivision thereof, or
34 the District of Columbia, or to any foreign country, state, province,
35 territory or subdivision thereof, on or measured by profits or income,
36 or business presence or business activity, or the tax imposed by this
37 act, or any tax paid or accrued with respect to subsidiary dividends
38 excluded from entire net income as provided in paragraph (5) of
39 subsection (k) of this section.

40 (D) (Deleted by amendment, P.L.1985, c.143.)

41 (E) (Deleted by amendment, P.L.1995, c.418.)

42 (F) (i) The amount by which depreciation reported to the United
43 States Treasury Department for property placed in service on and after
44 January 1, 1981, but prior to taxpayer fiscal or calendar accounting
45 years beginning on and after the effective date of P.L.1993, c.172, for
46 purposes of computing federal taxable income in accordance with
47 section 168 of the Internal Revenue Code in effect after December 31,
48 1980, exceeds the amount of depreciation determined in accordance

1 with the Internal Revenue Code provisions in effect prior to January 1,
2 1981, but only with respect to a taxpayer's accounting period ending
3 after December 31, 1981; provided, however, that where a taxpayer's
4 accounting period begins in 1981 and ends in 1982, no modification
5 shall be required with respect to this paragraph (F) for the report filed
6 for such period with respect to property placed in service during that
7 part of the accounting period which occurs in 1981. The provisions of
8 this subparagraph shall not apply to assets placed in service prior to
9 January 1, 1998 of a gas, gas and electric, and electric public utility
10 that was subject to the provisions of P.L.1940, c.5 (C.54:30A-49 et
11 seq.) prior to 1998.

12 (ii) For the periods set forth in subparagraph (F)(i) of paragraph (2)
13 of this subsection, any amount, except with respect to qualified mass
14 commuting vehicles as described in section 168(f)(8)(D)(v) of the
15 Internal Revenue Code as in effect immediately prior to January 1,
16 1984, which the taxpayer claimed as a deduction in computing federal
17 income tax pursuant to a qualified lease agreement under paragraph (8)
18 of that section.

19 The director shall promulgate rules and regulations necessary to
20 carry out the provisions of this section, which rules shall provide,
21 among others, the manner in which the remaining life of property shall
22 be reported.

23 (G)(i) The amount of any civil, civil administrative, or criminal
24 penalty or fine, including a penalty or fine under an administrative
25 consent order, assessed and collected for a violation of a State or
26 federal environmental law, an administrative consent order, or an
27 environmental ordinance or resolution of a local governmental entity,
28 and any interest earned on the penalty or fine, and any economic
29 benefits having accrued to the violator as a result of a violation, which
30 benefits are assessed and recovered in a civil, civil administrative, or
31 criminal action, or pursuant to an administrative consent order. The
32 provisions of this paragraph shall not apply to a penalty or fine
33 assessed or collected for a violation of a State or federal environmental
34 law, or local environmental ordinance or resolution, if the penalty or
35 fine was for a violation that resulted from fire, riot, sabotage, flood,
36 storm event, natural cause, or other act of God beyond the reasonable
37 control of the violator, or caused by an act or omission of a person
38 who was outside the reasonable control of the violator.

39 (ii) The amount of treble damages paid to the Department of
40 Environmental Protection pursuant to subsection a. of section 7 of
41 P.L.1976, c.141 (C.58:10-23.11f), for costs incurred by the department
42 in removing, or arranging for the removal of, an unauthorized
43 discharge upon failure of the discharger to comply with a directive
44 from the department to remove, or arrange for the removal of, the
45 discharge.

46 (H) The amount of any sales and use tax paid by a utility vendor
47 pursuant to section 71 of P.L.1997, c.162.

1 (I) With respect to privilege periods ending before July 31, 2023,
2 interest paid, accrued or incurred for the privilege period to a related
3 member, as defined in section 5 of P.L.2002, c.40 (C.54:10A-4.4),
4 except that a deduction shall be permitted to the extent that the
5 taxpayer establishes by clear and convincing evidence, as determined
6 by the director, that: (i) a principal purpose of the transaction giving
7 rise to the payment of the interest was not to avoid taxes otherwise due
8 under Title 54 of the Revised Statutes or Title 54A of the New Jersey
9 Statutes, (ii) the interest is paid pursuant to arm's length contracts at an
10 arm's length rate of interest, and (iii)(aa) the related member was
11 subject to a tax on its net income or receipts in this State or another
12 state or possession of the United States or in a foreign nation, (bb) a
13 measure of the tax includes the interest received from the related
14 member, and (cc) the rate of tax applied to the interest received by the
15 related member is equal to or greater than a rate three percentage
16 points less than the rate of tax applied to taxable interest by this State
17 pursuant to section 5 of P.L.1945, c.162 (C.54:10A-5).

18 With respect to privilege periods ending before July 31, 2023, a
19 deduction shall also be permitted if the taxpayer establishes by clear
20 and convincing evidence, as determined by the director, that the
21 disallowance of a deduction is unreasonable, or the taxpayer and the
22 director agree in writing to the application or use of an alternative
23 method of apportionment under section 8 of P.L.1945, c.162
24 (C.54:10A-8); nothing in this subsection shall be construed to limit or
25 negate the director's authority to otherwise enter into agreements and
26 compromises otherwise allowed by law.

27 With respect to privilege periods ending before July 31, 2023, a
28 deduction shall also be permitted to the extent that the taxpayer
29 establishes by a preponderance of the evidence, as determined by the
30 director, that the interest is directly or indirectly paid, accrued or
31 incurred to (i) a related member in a foreign nation which has in force
32 a comprehensive income tax treaty with the United States and the
33 related member (aa) was subject to tax in the foreign nation on a tax
34 base that included the payment paid, accrued, or incurred; and (bb)
35 under which the related member's income received from the
36 transaction was taxed at an effective tax rate equal to or greater than a
37 rate of three percentage points less than the rate of tax applied to
38 taxable interest by the State of New Jersey pursuant to section 5 of
39 P.L.1945, c.162 (C.54:10A-5), provided however that the taxpayer
40 shall disclose on its return for the privilege period the name of the
41 related member, the amount of the interest, the relevant foreign nation,
42 and such other information as the director may prescribe or (ii) to an
43 independent lender and the taxpayer guarantees the debt on which the
44 interest is required. The adjustments required by this subparagraph
45 shall not apply to transactions between related members included in a
46 combined group reported on a New Jersey combined return.

47 (J) (i) Amounts deducted for federal tax purposes pursuant to
48 section 199 of the federal Internal Revenue Code of 1986, 26 U.S.C.

1 s.199, except that this exclusion shall not apply to amounts deducted
2 pursuant to that section that are exclusively based upon domestic
3 production gross receipts of the taxpayer which are derived only from
4 any lease, rental, license, sale, exchange, or other disposition of
5 qualifying production property which the taxpayer demonstrates to the
6 satisfaction of the director was manufactured or produced by the
7 taxpayer in whole or in significant part within the United States but not
8 qualified production property that was grown or extracted by the
9 taxpayer. "Manufactured or produced" as used in this paragraph shall
10 be limited to performance of an operation or series of operations the
11 object of which is to place items of tangible personal property in a
12 form, composition, or character different from that in which they were
13 acquired. The change in form, composition, or character shall be a
14 substantial change, and result in a transformation of property into a
15 different or substantially more usable product.

16 (ii) For privilege periods beginning after December 31, 2017,
17 notwithstanding the provisions of P.L.1945, c.162 (C.54:10A-1 et seq.)
18 or any other law to the contrary, for the purposes of determining the
19 amount of income pursuant to P.L.1945, c.162 (C.54:10A-1 et seq.)
20 that is net of expenses, no amounts shall be taken as a deduction
21 pursuant to section 199A of the Internal Revenue Code (26 U.S.C.
22 s.199A).

23 (K)(i) For privilege periods beginning after December 31, 2017
24 and ending before July 31, 2022, the interest deduction limitation in
25 subsection (j) of section 163 of the Internal Revenue Code (26 U.S.C.
26 s.163), shall apply on a pro-rata basis to interest paid to both related
27 and unrelated parties, regardless of whether the related parties are
28 subject to the add-back provision of either subparagraph (I) of
29 paragraph (2) of this subsection or in section 5 of P.L.2002, c.40
30 (C.54:10A-4.4).

31 (ii) For privilege periods beginning after December 31, 2017 and
32 ending on and after July 31, 2022, the interest deduction limitation in
33 subsection (j) of section 163 of the Internal Revenue Code (26 U.S.C.
34 s.163), shall apply to a combined group as though the combined group
35 filed a federal consolidated return; provided, however, for the purposes
36 of applying the limitation in subsection (j) of section 163 of the
37 Internal Revenue Code (26 U.S.C. s.163), with regard to affiliates that
38 were members of the federal consolidated return but were not
39 members of the combined group included on the New Jersey combined
40 return, the combined group and the affiliates will also be treated as
41 having filed one federal consolidated return.

42 (3) The director may, whenever necessary to properly reflect the
43 entire net income of any taxpayer, determine the year or period in
44 which any item of income or deduction shall be included, without
45 being limited to the method of accounting employed by the taxpayer.

46 (4) There shall be allowed as a deduction from entire net income
47 of a banking corporation, to the extent not deductible in determining

1 federal taxable income, the eligible net income of an international
2 banking facility determined as follows:

3 (A) The eligible net income of an international banking facility
4 shall be the amount remaining after subtracting from the eligible gross
5 income the applicable expenses;

6 (B) Eligible gross income shall be the gross income derived by an
7 international banking facility, which shall include, but not be limited
8 to, gross income derived from:

9 (i) Making, arranging for, placing or carrying loans to foreign
10 persons, provided, however, that in the case of a foreign person which
11 is an individual, or which is a foreign branch of a domestic corporation
12 (other than a bank), or which is a foreign corporation or foreign
13 partnership which is controlled by one or more domestic corporations
14 (other than banks), domestic partnerships or resident individuals, all
15 the proceeds of the loan are for use outside of the United States;

16 (ii) Making or placing deposits with foreign persons which are
17 banks or foreign branches of banks (including foreign subsidiaries) or
18 foreign branches of the taxpayers or with other international banking
19 facilities;

20 (iii) Entering into foreign exchange trading or hedging transactions
21 related to any of the transactions described in this paragraph; or

22 (iv) Such other activities as an international banking facility may,
23 from time to time, be authorized to engage in;

24 (C) Applicable expenses shall be any expense or other deductions
25 attributable, directly or indirectly, to the eligible gross income
26 described in subparagraph (B) of this paragraph.

27 (5) (A) (i) Entire net income shall exclude 100% of dividends
28 which were included in computing such taxable income for federal
29 income tax purposes, paid to the taxpayer by one or more subsidiaries
30 owned by the taxpayer to the extent of the 80% or more ownership of
31 investment described in subsection (d) of this section for privilege
32 periods beginning on or before December 31, 2016.

33 (ii) For privilege periods beginning after December 31, 2016 and
34 before January 1, 2019, entire net income shall exclude 95% of
35 dividends which were included in computing such taxable income for
36 federal income tax purposes, paid or deemed paid, to the taxpayer by
37 one or more subsidiaries owned by the taxpayer to the extent of the
38 80% or more ownership of investment described in subsection (d) of
39 this section. For the purposes of calculating the tax liability owed for
40 the paid or deemed paid dividends included in entire net income by
41 this subsubparagraph (ii), the taxpayer shall use either their three-year
42 average allocation factor for the taxpayer's 2014 through 2016 tax
43 years reported on the taxpayer's tax returns or 3.5 percent, whichever
44 is lower.

45 (iii) For privilege periods beginning on and after January 1, 2019
46 and ending before July 31, 2023, entire net income shall exclude 95%
47 of dividends which were included in computing such taxable income
48 for federal income tax purposes, paid or deemed paid to the taxpayer

1 by one or more subsidiaries owned by the taxpayer to the extent of the
2 80% or more ownership of investment described in subsection (d) of
3 this section.

4 (iv) For privilege periods ending on and after July 31, 2023, entire
5 net income shall exclude 100 percent of dividends and deemed
6 dividends that were included in computing such taxable income for
7 federal income tax purposes, paid or deemed paid to the taxpayer by
8 one or more subsidiaries owned by the taxpayer to the extent of the 80
9 percent or more ownership of investment described in subsection (d)
10 of this section.

11 (B) Entire net income shall exclude 50% of dividends which were
12 included in computing such taxable income for federal income tax
13 purposes, paid or deemed paid to the taxpayer by one or more
14 subsidiaries owned by the taxpayer to the extent of 50% or more
15 ownership of investment, such ownership of investment calculated in
16 the same manner as the 80% or more of ownership of investment is
17 calculated as described in subsection (d) of this section.

18 (C) To the extent a subsidiary received dividends from other
19 subsidiaries and included those dividends in its entire net income for
20 the purposes of determining its tax liability pursuant to section 5 of
21 P.L.1945, c.162 (C.54:10A-5) and paid tax on those dividends, the
22 taxpayer receiving those same dividends from the subsidiary shall
23 exclude those dividends from its entire net income based on the
24 subsidiary's allocation factor used by the subsidiary in determining its
25 tax liability pursuant to section 5 of P.L.1945, c.162 (C.54:10A-5).
26 This subparagraph (C) shall not apply to privilege periods ending on
27 and after July 31, 2019.

28 (D) For privilege periods ending on and after July 31, 2019 but
29 before July 31, 2020, to the extent a subsidiary received dividends
30 from other subsidiaries and included those dividends in its entire net
31 income for the purposes of determining its tax liability pursuant to
32 section 5 of P.L.1945, c.162 (C.54:10A-5) and paid tax on those
33 dividends, the taxpayer receiving those same dividends from the
34 subsidiary shall exclude those dividends from its entire net income.

35 (E) For privilege periods ending on and after July 31, 2020, for
36 purposes of this paragraph (5), the members of a combined group
37 filing a New Jersey combined return shall be treated as one taxpayer
38 with regard to dividends and deemed dividends that were received as
39 part of the unitary business of the combined group.

40 (F) For privilege periods ending on and after July 31, 2023:

41 (i) The exclusion provided by this paragraph (5) shall be deducted
42 from entire net income after the State modifications that increase
43 federal entire net income but before the other State modifications that
44 reduce entire net income and before the allocation of entire net income
45 to this State.

46 (ii) In computing the total amount of the dividends and deemed
47 dividends excluded by this paragraph (5) for privilege periods ending
48 on and after July 31, 2023, the amount of dividends and deemed

1 dividends excluded shall be reduced by the amount of the expenses
2 and deductions that are attributable to those dividends and deemed
3 dividends. For purposes of this paragraph (5), expenses and
4 deductions related to dividends shall equal five percent of all dividends
5 and deemed dividends received by a taxpayer during an income year.

6 (G) For privilege periods ending on and after July 31, 2023, for the
7 purposes of this paragraph (5) and for subsection d. of section 18 of
8 P.L.2018, c.48 (C.54:10A-4.6), the income amounts required to be
9 included in federal taxable income pursuant to 26 U.S.C. s.951A, shall
10 be considered a dividend.

11 (6) (A) Net operating loss deduction. For privilege periods ending
12 before July 31, 2019, there shall be allowed as a deduction for the
13 privilege period the net operating loss carryover to that period.

14 (B) Net operating loss carryover. A net operating loss for any
15 privilege period ending after June 30, 1984 shall be a net operating
16 loss carryover to each of the seven privilege periods following the
17 period of the loss and a net operating loss for any privilege period
18 ending after June 30, 2009 shall be a net operating loss carryover to
19 each of the twenty privilege periods following the period of the loss.
20 The entire amount of the net operating loss for any privilege period
21 (the "loss period") shall be carried to the earliest of the privilege
22 periods to which the loss may be carried. The portion of the loss which
23 shall be carried to each of the other privilege periods shall be the
24 excess, if any, of the amount of the loss over the sum of the entire net
25 income, computed without the exclusions permitted in paragraphs (4)
26 and (5) of this subsection or the net operating loss deduction provided
27 by subparagraph (A) of this paragraph, for each of the prior privilege
28 periods to which the loss may be carried.

29 (C) Net operating loss. For purposes of this paragraph the term "net
30 operating loss" means the excess of the deductions over the gross
31 income used in computing entire net income without the net operating
32 loss deduction provided for in subparagraph (A) of this paragraph and
33 the exclusions in paragraphs (4) and (5) of this subsection.

34 (D) Change in ownership. Where there is a change in 50% or more
35 of the ownership of a corporation because of redemption or sale of
36 stock and the corporation changes the trade or business giving rise to
37 the loss, no net operating loss sustained before the changes may be
38 carried over to be deducted from income earned after such changes. In
39 addition where the facts support the premise that the corporation was
40 acquired under any circumstances for the primary purpose of the use
41 of its net operating loss carryover, the director may disallow the
42 carryover.

43 (E) Notwithstanding the provisions of this paragraph (6) of
44 subsection (k) of this section to the contrary, for privilege periods
45 beginning during calendar year 2002 and calendar year 2003, no
46 deduction for any net operating loss carryover shall be allowed and for
47 privilege periods beginning during calendar year 2004 and calendar
48 year 2005, there shall be allowed as a deduction for the privilege

1 period so much of the net operating loss carryover as reduces entire net
2 income otherwise calculated by 50%. If and only to the extent that any
3 net operating loss carryover deduction is disallowed by reason of this
4 subparagraph (E), the date on which the amount of the disallowed net
5 operating loss carryover deduction would otherwise expire shall be
6 extended by a period equal to the period for which application of the
7 net operating loss was disallowed by this subparagraph.

8 Provided, that this subparagraph (E) shall not restrict the surrender
9 or acquisition of corporation business tax benefit certificates pursuant
10 to section 1 of P.L.1997, c.334 (C.34:1B-7.42a) and shall not restrict
11 the application of corporation business tax benefit certificates pursuant
12 to section 2 of P.L.1997, c.334 (C.54:10A-4.2).

13 (F) Reduction for discharge of indebtedness. A net operating loss
14 for any privilege period ending after June 30, 2014, and any net
15 operating loss carryover to such privilege period, shall be reduced by
16 the amount excluded from federal taxable income under subparagraph
17 (A), (B), or (C) of paragraph (1) of subsection (a) of section 108 of the
18 federal Internal Revenue Code (26 U.S.C. s.108), for the privilege
19 period of the discharge of indebtedness.

20 (7) The entire net income of gas, electric and gas and electric
21 public utilities that were subject to, or would have been subject to tax
22 if doing business in this State, the provisions of P.L.1940, c.5
23 (C.54:30A-49 et seq.) prior to 1998, shall be adjusted by substituting
24 the New Jersey depreciation allowance for federal tax depreciation
25 with respect to assets placed in service prior to January 1, 1998. For
26 gas, electric, and gas and electric public utilities that were subject to,
27 or would have been subject to tax if doing business in this State, the
28 provisions of P.L.1940, c.5 (C.54:30A-49 et seq.) prior to 1998, the
29 New Jersey depreciation allowance shall be computed as follows: All
30 depreciable assets placed in service prior to January 1, 1998 shall be
31 considered a single asset account. The New Jersey tax basis of this
32 depreciable asset account shall be an amount equal to the carryover
33 adjusted basis for federal income tax purposes on December 31, 1997
34 of all depreciable assets in service on December 31, 1997, increased
35 by the excess, of the "net carrying value," defined to be adjusted book
36 basis of all assets and liabilities, excluding deferred income taxes,
37 recorded on the public utility's books of account on December 31,
38 1997, over the carryover adjusted basis for federal income tax
39 purposes on December 31, 1997 of all assets and liabilities owned by
40 the gas, electric, or gas and electric public utility as of December 31,
41 1997. "Books of account" for gas, gas and electric, and electric public
42 utilities means the uniform system of accounts as promulgated by the
43 Federal Energy Regulatory Commission and adopted by the Board of
44 Public Utilities. The following adjustments to entire net income shall
45 be made pursuant to this section:

46 (A) Depreciation for property placed in service prior to January 1,
47 1998 shall be adjusted as follows:

1 (i) Depreciation for federal income tax purposes shall be
2 disallowed in full.

3 (ii) A deduction shall be allowed for the New Jersey depreciation
4 allowance. The New Jersey depreciation allowance shall be computed
5 for the single asset account described above based on the New Jersey
6 tax basis as adjusted above as if all assets in the single asset account
7 were first placed in service on January 1, 1998. Depreciation shall be
8 computed using the straight line method over a thirty-year life. A full
9 year's depreciation shall be allowed in the initial tax year. No half-year
10 convention shall apply. The depreciable basis of the single account
11 shall be reduced by the adjusted federal tax basis of assets sold, retired,
12 or otherwise disposed of during any year on which gain or loss is
13 recognized for federal income tax purposes as described in
14 subparagraph (B) of this paragraph.

15 (B) Gains and losses on sales, retirements and other dispositions of
16 assets placed in service prior to January 1, 1998 shall be recognized
17 and reported on the same basis as for federal income tax purposes.

18 (C) The Director of the Division of Taxation shall promulgate
19 regulations describing the methodology for allocating the single asset
20 account in the event that a portion of the utility's operations are
21 separated, spun-off, transferred to a separate company or otherwise
22 desegregated.

23 (8) In the case of taxpayers that are gas, electric, gas and electric,
24 or telecommunications public utilities as defined pursuant to
25 subsection (q) of this section, the director shall have authority to
26 promulgate rules and issue guidance correcting distortions and
27 adjusting timing differences resulting from the adoption of P.L.1997,
28 c.162 (C.54:10A-5.25 et al.).

29 (9) Notwithstanding paragraph (1) of this subsection, entire net
30 income shall not include the income derived by a corporation
31 organized in a foreign country from the international operation of a
32 ship or ships, or from the international operation of aircraft, if such
33 income is exempt from federal taxation pursuant to section 883 of the
34 federal Internal Revenue Code of 1986, 26 U.S.C. s.883.

35 (10) Entire net income shall exclude all income of an alien
36 corporation the activities of which are limited in this State to investing
37 or trading in stocks and securities for its own account, investing or
38 trading in commodities for its own account, or any combination of
39 those activities, within the meaning of section 864 of the federal
40 Internal Revenue Code of 1986, 26 U.S.C. s.864, as in effect on
41 December 31, 1998. Notwithstanding the previous sentence, if an alien
42 corporation undertakes one or more infrequent, extraordinary or non-
43 recurring activities, including but not limited to the sale of tangible
44 property, only the income from such infrequent, extraordinary or non-
45 recurring activity shall be subject to the tax imposed pursuant to
46 P.L.1945, c.162 (C.54:10A-1 et seq.), and that amount of income
47 subject to tax shall be determined without regard to the allocation to
48 that specific transaction of any general business expense of the

1 taxpayer and shall be specifically assigned to this State for taxation by
2 this State without regard to section 6 of P.L.1945, c.162 (C.54:10A-6).
3 For the purposes of this paragraph, "alien corporation" means a
4 corporation organized under the laws of a jurisdiction other than the
5 United States or its political subdivisions.

6 (11) No deduction shall be allowed for research and
7 experimental expenditures, to the extent that those research and
8 experimental expenditures are qualified research expenses or basic
9 research payments for which an amount of credit is claimed pursuant
10 to section 1 of P.L.1993, c.175 (C.54:10A-5.24) unless those research
11 and experimental expenditures are also used to compute a federal
12 credit claimed pursuant to section 41 of the federal Internal Revenue
13 Code of 1986, 26 U.S.C. s.41; provided, however, for privilege periods
14 beginning on and after January 1, 2022, a deduction for research and
15 experimental expenditures shall be allowed during the same privilege
16 period for which a credit is claimed pursuant to section 1 of P.L.1993,
17 c.175 (C.54:10A-5.24), notwithstanding the timing schedule required
18 by the federal Internal Revenue Code of 1986, 26 U.S.C. s.174, for the
19 deduction of specified research and experimental expenditures.

20 (12) (A) Notwithstanding the provisions of subsection (k) of
21 section 168 of the federal Internal Revenue Code of 1986, 26 U.S.C.
22 s.168, subsection (b) of section 1400L of the federal Internal Revenue
23 Code of 1986, 26 U.S.C. s.1400L, or any other federal law, for
24 property acquired after September 10, 2001, the depreciation
25 deduction otherwise allowed pursuant to section 167 of the federal
26 Internal Revenue Code of 1986, 26 U.S.C. s.167, shall be determined
27 pursuant to the provisions of the federal Internal Revenue Code of
28 1986 (26 U.S.C. s.1 et seq.) in effect on December 31, 2001.

29 (B) The director shall prescribe the rules and regulations necessary
30 to carry out the provisions of this paragraph, including, among others,
31 those for determining the adjusted basis of the acquired property for
32 the purposes of the Corporation Business Tax Act (1945), P.L.1945,
33 c.162 ¹(C.54:10A-1 et seq.)¹.

34 (13) (A) Notwithstanding the provisions of section 179 of the
35 federal Internal Revenue Code of 1986, 26 U.S.C. s.179, for property
36 placed in service on or after January 1, 2004, the costs that a taxpayer
37 may otherwise elect to treat as an expense which is not chargeable to a
38 capital account shall be determined pursuant to the provisions of the
39 federal Internal Revenue Code of 1986 (26 U.S.C. s.1 et seq.) in effect
40 on December 31, 2002.

41 (B) The director shall prescribe the rules and regulations necessary
42 to carry out the provisions of this paragraph, including, among others,
43 those for determining the adjusted basis of the acquired property for
44 the purposes of the Corporation Business Tax Act (1945), P.L.1945,
45 c.162 ¹(C.54:10A-1 et seq.)¹.

46 (14) Notwithstanding the provisions of subsection (i) of section
47 108 of the federal Internal Revenue Code of 1986 (26 U.S.C. s.108),
48 for privilege periods beginning after December 31, 2008 and before

1 January 1, 2011, entire net income shall include the amount of
2 discharge of indebtedness income excluded for federal income tax
3 purposes pursuant to subsection (i) of section 108 of the federal
4 Internal Revenue Code of 1986 (26 U.S.C. s.108), and for privilege
5 periods beginning on or after January 1, 2014 and before January 1,
6 2019, entire net income shall exclude the amount of discharge of
7 indebtedness income included for federal income tax purposes,
8 pursuant to subsection (i) of section 108 of the federal Internal
9 Revenue Code of 1986 (26 U.S.C. s.108).

10 (15) Entire net income shall exclude the gain or income derived
11 from the sale or assignment of a tax credit transfer certificate pursuant
12 to section 7 of P.L.2011, c.149 (C.34:1B-248) **and**, section 10 of
13 P.L.2014, c.63 (C.34:1B-251), or the "New Jersey Economic Recovery
14 Act of 2020," P.L.2020, c.156 (C.34:1B-269 et al.), as amended and
15 supplemented.

16 (16) (A) There shall be allowed as a deduction an amount
17 computed in accordance with this paragraph.

18 (B) For purposes of this paragraph, "net deferred tax liability"
19 means deferred tax liabilities that exceed the deferred tax assets of the
20 combined group, as computed in accordance with generally accepted
21 accounting principles, and "net deferred tax asset" means that deferred
22 tax assets exceed the deferred tax liabilities of the combined group, as
23 computed in accordance with generally accepted accounting
24 principles.

25 (C) Only publicly traded companies, including affiliated
26 corporations participating in the filing of a publicly traded company's
27 financial statements prepared in accordance with generally accepted
28 accounting principles, as of the effective date of this paragraph, shall
29 be eligible for this deduction.

30 (D) If the provisions of sections 18 through 23 of P.L.2018, c.48
31 (C.54:10A-4.6 to C.54:10A-4.11) result in an aggregate increase to the
32 members' net deferred tax liability or an aggregate decrease to the
33 members' net deferred tax asset, or an aggregate change from a net
34 deferred tax asset to a net deferred tax liability, the combined group
35 shall be entitled to a deduction, as determined in this paragraph.

36 (E) (i) Beginning with the combined group's first privilege period
37 on or after January 1 of the fifth year after the effective date of
38 P.L.2018, c.48 (C.54:10A-5.41 et al.), a combined group shall be
39 entitled to a deduction from combined group entire net income equal
40 to one-tenth of the amount necessary to offset the increase in the net
41 deferred tax liability or decrease in the net deferred tax asset, or
42 aggregate change from a net deferred tax asset to a net deferred tax
43 liability, according to the schedule provided by subsubparagraphs (ii)
44 and (iii) of this subparagraph (E). Such increase in the net deferred tax
45 liability or decrease in the net deferred tax asset or the aggregate
46 change from a net deferred tax asset to a net deferred tax liability shall
47 be computed based on the change that would result from the
48 imposition of the unitary reporting requirements under sections 1 and

1 18 through 23 of P.L.2018, c.48 (C.54:10A-5.41 and C.54:10A-4.6 to
2 C.54:10A-4.11) but for the deduction provided under this paragraph as
3 of the effective date of this paragraph.

4 (ii) For group privilege periods beginning on and after January 1,
5 2023, but before January 1, 2030, the combined group may deduct one
6 percent of the amount necessary to offset the increase in the net
7 deferred tax liability or decrease in the net deferred tax asset, or
8 aggregate change from a net deferred tax asset to a net deferred tax
9 liability, during a group privilege period. Such increase in the net
10 deferred tax liability or decrease in the net deferred tax asset or the
11 aggregate change from a net deferred tax asset to a net deferred tax
12 liability shall be computed based on the change that would result from
13 the imposition of the unitary reporting requirements under sections 1
14 and 18 through 23 of P.L.2018, c.48 (C.54:10A-5.41 and C.54:10A-
15 4.6 to C.54:10A-4.11) but for the deduction provided under this
16 paragraph as of the effective date of this paragraph.

17 (iii) For group privilege periods beginning on and after January 1,
18 2030, the combined group may deduct up to five percent of any
19 remaining unused amount of the deduction during the group privilege
20 period, until the group privilege period in which the total deduction
21 amount has been fully utilized. Such increase in the net deferred tax
22 liability or decrease in the net deferred tax asset or the aggregate
23 change from a net deferred tax asset to a net deferred tax liability shall
24 be computed based on the change that would result from the
25 imposition of the unitary reporting requirements under sections 1 and
26 18 through 23 of P.L.2018, c.48 (C.54:10A-5.41 and C.54:10A-4.6 to
27 C.54:10A-4.11) but for the deduction provided under this paragraph as
28 of the effective date of this paragraph.

29 (F) The deferred tax impact determined in subparagraph (E) of this
30 paragraph must be converted to the annual Deferred Tax Deduction
31 amount, as follows:

32 (i) the deferred tax impact determined in subparagraph (E) of this
33 paragraph shall be divided by the rate determined under section 5 of
34 P.L.1945, c.162 (C.54:10A-5) at the effective date of P.L.2018, c.48
35 (C.54:10A-5.41 et al.);

36 (ii) the resulting amount shall be further divided by the New Jersey
37 unitary business allocation factor that was used by the combined group
38 in the calculation of the deferred tax assets and deferred tax liabilities
39 as described in subparagraph (E) of this paragraph;

40 (iii) the resulting amount represents the total net Deferred Tax
41 Deduction available over the period as described in subparagraph (E)
42 of this paragraph.

43 (G) The deduction calculated under this paragraph shall not be
44 adjusted as a result of any events happening subsequent to such
45 calculation, including, but not limited to, any disposition or
46 abandonment of assets. Such deduction shall be calculated without
47 regard to the federal tax effect and shall not alter the tax basis of any
48 asset. If the deduction under this section is greater than combined

1 group entire net income, any excess deduction shall be carried forward
2 and applied as a deduction to combined group entire net income in
3 future privilege periods until fully utilized.

4 (H) Any combined group intending to claim a deduction under this
5 paragraph shall file a statement with the director on or before July 1 of
6 the year subsequent to the first privilege period for which a combined
7 return is required. Such statement shall specify the total amount of the
8 deduction which the combined group claims on such form and in such
9 manner as prescribed by the director. No deduction shall be allowed
10 under this paragraph for any privilege period except to the extent
11 claimed on such timely filed statement in accordance with this
12 paragraph.

13 (17) (A) In the case of a taxpayer that is a cannabis licensee,
14 there shall be allowed as a deduction an amount equal to any
15 expenditure that is eligible to be claimed as a federal income tax
16 deduction but is disallowed because cannabis is a controlled substance
17 under federal law, and income shall be determined without regard to
18 section 280E of the Internal Revenue Code (26 U.S.C. s.280E) for
19 cannabis licensees.

20 (B) In the case of a taxpayer that is a cannabis licensee, there shall
21 be allowed as a deduction an amount equal to any expenditure that
22 would qualify as a specified research or experimental expenditure
23 pursuant to section 174 of the Internal Revenue Code but is disallowed
24 as a deduction for federal tax purposes because cannabis is a
25 controlled substance under federal law. Any expenditure that is
26 claimed as a deduction pursuant to this subparagraph may also be
27 claimed as a qualified research expense for purposes of the credit
28 allowed pursuant to section 1 of P.L.1993, c.175 (C.54:10A-5.24).

29 (C) For purposes of this paragraph, "licensee" means the same as
30 that term is defined in section 3 of P.L.2021, c.16 (C.24:6I-33).

31 (18) For privilege periods ending on and after July 31, 2022:

32 (A) Notwithstanding subparagraph (A) of paragraph (2) of this
33 subsection or any other law or treaty to the contrary, for a corporation
34 that is incorporated or formed in a foreign nation with a
35 comprehensive tax treaty with the United States, and that is not a
36 member of a world-wide group combined return filed pursuant to
37 subsection b. of section 23 of P.L.2018, c.48 (C.54:10A-4.11), entire
38 net income shall not include an item of income or loss excluded or
39 exempted from federal taxable income under the terms of the treaty,
40 and no other deduction, exclusion, or elimination shall be permitted for
41 an item of income or loss excluded by this paragraph.

42 (B) For a non-U.S. corporation that files a federal tax return and is
43 not a member of a combined group filing a New Jersey combined
44 return on a world-wide basis pursuant to subsection b. of section 23 of
45 P.L.2018, c.48 (C.54:10A-4.11), the non-U.S. corporation shall only
46 include its income or loss included in federal taxable income, which
47 shall be limited to only the non-U.S. corporation's effectively
48 connected income or loss, as modified by the provisions of the

1 Corporation Business Tax Act (1945), P.L.1945, c.162 (C.54:10A-1 et
2 seq.), and the items of expense and the allocation factor receipts
3 attributable to such items of income or loss.

4 (l) "Real estate investment trust" shall mean any corporation, trust
5 or association qualifying and electing to be taxed as a real estate
6 investment trust under federal law.

7 (m) "Financial business corporation" shall mean any corporate
8 enterprise which is (1) in substantial competition with the business of
9 national banks and which (2) employs moneyed capital with the object
10 of making profit by its use as money, through discounting and
11 negotiating promissory notes, drafts, bills of exchange and other
12 evidences of debt; buying and selling exchange; making of or dealing
13 in secured or unsecured loans and discounts; dealing in securities and
14 shares of corporate stock by purchasing and selling such securities and
15 stock without recourse, solely upon the order and for the account of
16 customers; or investing and reinvesting in marketable obligations
17 evidencing indebtedness of any person, copartnership, association or
18 corporation in the form of bonds, notes or debentures commonly
19 known as investment securities; or dealing in or underwriting
20 obligations of the United States, any state or any political subdivision
21 thereof, or of a corporate instrumentality of any of them. This shall
22 include, without limitation of the foregoing, business commonly
23 known as industrial banks, dealers in commercial paper and
24 acceptances, sales finance, personal finance, small loan and mortgage
25 financing businesses, as well as any other enterprise employing
26 moneyed capital coming into competition with the business of national
27 banks; provided that the holding of bonds, notes, or other evidences of
28 indebtedness by individual persons not employed or engaged in the
29 banking or investment business and representing merely personal
30 investments not made in competition with the business of national
31 banks, shall not be deemed financial business. Nor shall "financial
32 business" include national banks, production credit associations
33 organized under the Farm Credit Act of 1933 or the Farm Credit Act
34 of 1971, Pub.L.92-181 (12 U.S.C. s.2091 et seq.), stock and mutual
35 insurance companies duly authorized to transact business in this State,
36 security brokers or dealers or investment companies or bankers not
37 employing moneyed capital coming into competition with the business
38 of national banks, real estate investment trusts, or any of the following
39 entities organized under the laws of this State: credit unions, savings
40 banks, savings and loan and building and loan associations,
41 pawnbrokers, and State banks and trust companies.

42 (n) "International banking facility" shall mean a set of asset and
43 liability accounts segregated on the books and records of a depository
44 institution, United States branch or agency of a foreign bank, or an
45 Edge or Agreement Corporation that includes only international
46 banking facility time deposits and international banking facility
47 extensions of credit as such terms are defined in section 204.8(a)(2)
48 and section 204.8(a)(3) of Regulation D of the board of governors of

1 the Federal Reserve System, 12 CFR Part 204, effective December 3,
2 1981. In the event that the United States enacts a law, or the board of
3 governors of the Federal Reserve System adopts a regulation which
4 amends the present definition of international banking facility or of
5 such facilities' time deposits or extensions of credit, the Commissioner
6 of Banking and Insurance shall forthwith adopt regulations defining
7 such terms in the same manner as such terms are set forth in the laws
8 of the United States or the regulations of the board of governors of the
9 Federal Reserve System. The regulations of the Commissioner of
10 Banking and Insurance shall thereafter provide the applicable
11 definitions.

12 (o) "S corporation" means a corporation that has elected to be an
13 "S corporation" pursuant to section 1361 of the federal Internal
14 Revenue Code of 1986, 26 U.S.C. s.1361, for the taxable year.

15 (p) "New Jersey S corporation" means a taxpayer that has made a
16 valid election to be an S corporation for federal tax purposes, and that
17 has not made a valid election pursuant to subsection d. of section
18 ¹[20] ³ of ¹[P.L.2022, c.133] P.L.1993, c.173¹ (C.54:10A-5.22).

19 (q) "Public Utility" means "public utility" as defined in R.S.48:2-
20 13.

21 (r) "Qualified investment partnership" means a partnership under
22 this act that has more than 10 members or partners with no member or
23 partner owning more than a 50% interest in the entity and that derives
24 at least 90% of its gross income from dividends, interest, payments
25 with respect to securities loans, and gains from the sale or other
26 disposition of stocks or securities or foreign currencies or commodities
27 or other similar income (including but not limited to gains from swaps,
28 options, futures or forward contracts) derived with respect to its
29 business of investing or trading in those stocks, securities, currencies
30 or commodities, but "investment partnership" shall not include a
31 "dealer in securities" within the meaning of section 1236 of the federal
32 Internal Revenue Code of 1986, 26 U.S.C. s.1236.

33 (s) "Savings institution" means a state or federally chartered
34 building and loan association, savings and loan association, or savings
35 bank.

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

38 (u) "Prior net operating loss conversion carryover" means a net
39 operating loss incurred in a privilege period ending prior to July 31,
40 2019 and converted from a pre-allocation net operating loss to a post-
41 allocation net operating loss as follows:

42 (1) As used in this subsection:

43 "Base year" means the last privilege period ending prior to July 31,
44 2019.

45 "Base year BAF" means the taxpayer's business allocation factor as
46 provided in sections 6 through 10 of P.L.1945, c.162 (C.54:10A-6
47 through C.54:10A-10) for purposes of calculating entire net income for

1 the base year, as such section was in effect for the last privilege period
2 ending prior to July 31, 2019.

3 "UNOL" means the unabsorbed portion of net operating loss as
4 calculated under paragraph (6) of subsection (k) of this section as such
5 paragraph was in effect for the last privilege period ending prior to
6 July 31, 2019, that was not deductible in previous privilege periods
7 and was eligible for carryover on the last day of the base year subject
8 to the limitations for deduction under such subsection, including any
9 net operating loss sustained by the taxpayer during the base year.

10 (2) The prior net operating loss conversion carryover shall be
11 calculated as follows:

12 (A) The taxpayer shall first calculate the tax value of its UNOL for
13 the base year and for each preceding privilege period for which there is
14 a UNOL. The value of the UNOL for each privilege period is equal to
15 the product of (I) the amount of the taxpayer's UNOL for a privilege
16 period, and (II) the taxpayer's base year BAF. This result shall equal
17 the taxpayer's prior net operating loss conversion carryover.

18 (B) The taxpayer shall continue to carry over its prior net operating
19 loss conversion carryover to offset its allocated entire net income as
20 provided in sections 6 through 10 of P.L.1945, c.162 (C.54:10A-6
21 through C.54:10A-10) for privilege periods ending on and after July
22 31, 2019. Such carryover periods shall not exceed the twenty privilege
23 periods following the privilege period of the initial loss. The entire
24 amount of the prior net operating loss conversion carryover for any
25 privilege period shall be carried to the earliest of the privilege periods
26 to which the loss may be carried. The portion of the prior net operating
27 loss conversion carryover which shall be carried to each of the other
28 privilege periods shall be the excess, if any, of the amount of the prior
29 net operating loss conversion carryover over the sum of the entire net
30 income, computed without the exclusions permitted in paragraphs (4)
31 and (5) of subsection (k) of this section allocated to this State. For
32 privilege periods ending on and after July 31, 2023, for the purpose of
33 computing taxable net income for a current privilege period, the
34 amount of the prior net operating loss conversion carryover shall be
35 subtracted from entire net income allocated to this State, after the
36 application of paragraphs (4) and (5) of subsection (k) of this section
37 against current privilege period income when the entire net income
38 allocated to this State for the privilege period is greater than zero.

39 (C) The prior net operating loss conversion carryover computed
40 under this subsection shall be applied against the entire net income
41 allocated to this State before the net operating loss carryover computed
42 under subsection (v) of this section.

43 (v) "Net operating loss deduction" means the amount allowed as a
44 deduction for the net operating loss carryover to the privilege period,
45 calculated as follows:

46 (1) Net operating loss carryover. A net operating loss for any
47 privilege period ending on or after July 31, 2019, shall be a net
48 operating loss carryover to each of the twenty privilege periods

1 following the period of the loss. The entire amount of the net
2 operating loss for any privilege period shall be carried to the earliest of
3 the privilege periods to which the loss may be carried. For privilege
4 periods ending before July 31, 2023, the portion of the loss which shall
5 be carried to each of the other privilege periods shall be the excess, if
6 any, of the amount of the loss over the sum of the entire net income,
7 computed without the exclusions permitted in paragraphs (4) and (5)
8 of subsection (k) of this section allocated to this State. For privilege
9 periods ending on and after July 31, 2023, the portion of the loss that
10 shall be carried to each of the other privilege periods shall be the
11 excess, if any, of the amount of the loss over the sum of the entire net
12 income, after the application of paragraphs (4) and (5) of subsection
13 (k) of this section allocated to this State; provided, however, for the
14 purpose of computing taxable net income for the privilege period, the
15 net operating loss carryover shall only be subtracted from entire net
16 income allocated to this State when the entire net income allocated to
17 this State is greater than zero.

18 (2) Net operating loss. For purposes of this paragraph the term "net
19 operating loss" means the excess of the deductions over the gross
20 income used in computing entire net income, without regard to any net
21 operating loss carryover, and for privilege periods ending before July
22 31, 2023, computed without the exclusions in paragraphs (4) and (5) of
23 subsection (k) of this section, and for privilege periods ending on and
24 after July 31, 2023, computed after the application of paragraphs (4)
25 and (5) of subsection (k) of this section, allocated to this State pursuant
26 to sections 6 through 10 of P.L.1945, c.162 (C.54:10A-6 through
27 C.54:10A-10).

28 (3) Reduction for discharge of indebtedness. A net operating loss
29 for any privilege period ending on or after July 31, 2019, and any net
30 operating loss carryover to such privilege period, shall be reduced by
31 the amount excluded from federal taxable income under subparagraph
32 (A), (B), or (C) of paragraph (1) of subsection (a) of section 108 of the
33 federal Internal Revenue Code, 26 U.S.C. s.108, for the privilege
34 period of the discharge of indebtedness.

35 (4) A net operating loss carryover shall not include any net
36 operating loss incurred during any privilege period ending prior to July
37 31, 2019.

38 (5) Change in ownership. Where there is a change in 50% or more
39 of the ownership of a corporation because of redemption or sale of
40 stock and the corporation changes the trade or business giving rise to
41 the loss, no net operating loss sustained before the changes may be
42 carried over to be deducted from income earned after such changes. In
43 addition, where the facts support the premise that the corporation was
44 acquired under any circumstances for the primary purpose of the use
45 of its net operating loss carryover, the director may disallow the
46 carryover; provided, however, this paragraph shall not apply between
47 members of a combined group reported on a New Jersey combined
48 return.

(w) "Taxable net income" means entire net income allocated to this State as calculated pursuant to sections 6 through 8 of P.L.1945, c.162 (C.54:10A-6 through 54:10A-8) as modified by subtracting any prior net operating loss conversion carryforward calculated pursuant to subsection (u) of this section, and any net operating loss calculated pursuant to subsection (v) of this section; provided, however, for privilege periods ending on and after July 31, 2023, when subtracting any net operating losses calculated pursuant to subsection (v) of this section or the combined group net operating losses calculated pursuant to subsection h. of section 18 of P.L.2018, c.48 (C.54:10A-4.6), the limitation set forth in paragraph (2) of subsection (a) of Internal Revenue Code Section 172 (26 U.S.C. s.172(a)(2)) shall apply, except that August 1, 2023 is substituted for the reference to January 1, 2018 in subparagraph (A) of paragraph (2) of subsection a. of Internal Revenue Code Section 172 (26 U.S.C. s.172), and July 31, 2023 is substituted for the reference to December 31, 2017 in subparagraph (B) of paragraph (2) of subsection (a) of Internal Revenue Code Section 172 (26 U.S.C. s.172). For privilege periods ending on and after July 31, 2023, for a combined group, before subtracting the prior net operating loss conversion carryforwards and subtracting the net operating losses of the combined group when computing the total taxable net income, the combined group shall first add together the allocated entire net income from the unitary business of the combined group and the portion of allocated entire net income of members with activities independent of the group, and then subtract the prior net operating loss conversion carryforwards and then the net operating losses.

(x) "Affiliated group" means, for purposes of section 23 of P.L.2018, c.48 (C.54:10A-4.11), an affiliated group as defined in section 1504 of the federal Internal Revenue Code, 26 U.S.C. s.1504, except such affiliated group shall include all U.S. domestic corporations that are commonly owned, directly or indirectly, by any member of such affiliated group, without regard to whether the affiliated group includes (1) corporations included in more than one federal consolidated return, (2) corporations engaged in one or more unitary businesses, or (3) corporations that are not engaged in a unitary business with any other member of the affiliated group.

For purposes of this subsection:

"U.S. domestic corporations" means: (1) business entities wherever incorporated or formed that are U.S. domestic corporations, are deemed to be, or are treated as U.S. domestic corporations under the provisions of the federal Internal Revenue Code; or (2) any entities incorporated or formed under the laws of a foreign nation that are required to file federal tax returns if such entities have effectively connected income within the meaning of the federal Internal Revenue Code; and

"Commonly owned" means that more than 50 percent of the voting control of each member of an affiliated group is directly or indirectly

1 owned by a common owner or owners, either corporate or non-
2 corporate, whether or not the owner or owners are members of the
3 affiliated group. Whether voting control is indirectly owned shall be
4 determined in accordance with section 318 of the federal Internal
5 Revenue Code (26 U.S.C. s.318).

6 (y) "Combinable captive insurance company" means an entity that
7 is treated as an association taxable as a corporation under the federal
8 Internal Revenue Code:

9 (1) more than 50% of the voting stock of which is owned or
10 controlled, directly or indirectly, by a single entity that is treated as an
11 association taxable as a corporation under the federal Internal Revenue
12 Code, and not exempt from federal income tax;

13 (2) that is licensed as a captive insurance company under the laws
14 of this State or another jurisdiction;

15 (3) whose business includes providing, directly and indirectly,
16 insurance or reinsurance covering the risks of its parent, members of
17 its affiliated group, or both; and

18 (4) 50% or less of whose gross receipts for the privilege period
19 consist of premiums from arrangements that constitute insurance for
20 federal income tax purposes.

21 A combinable captive insurance company shall not be exempt
22 under section 3 of P.L.1945, c.162 (C.54:10A-3). A captive insurance
23 company that does not meet the definition of combinable captive
24 insurance company shall be excluded as provided in subsection k. of
25 section 18 of P.L.2018, c.48 (C.54:10A-4.6) and shall be exempt under
26 section 3 of P.L.1945, c.162 (C.54:10A-3).

27 For purposes of this definition:

28 "Affiliated group" shall have the same meaning as that term is
29 given by section 1504 of the federal Internal Revenue Code, 26 U.S.C.
30 s.1504, except that the term "common parent corporation" as used in
31 section 1504 of the federal Internal Revenue Code, 26 U.S.C. s.1504,
32 shall mean any person, as defined in section 7701 of the federal
33 Internal Revenue Code, 26 U.S.C. s.7701, and references to "at least
34 80%" in section 1504 of the federal Internal Revenue Code, 26 U.S.C.
35 s.1504, shall be read as "50% or more." Section 1504 of the federal
36 Internal Revenue Code, 26 U.S.C. s.1504, shall be read without regard
37 to the exclusions provided for in subsection (b) of that section.

38 "Gross receipts" includes the amounts included in gross receipts
39 for purposes of paragraph (15) of subsection (c) of section 501 of the
40 federal Internal Revenue Code, 26 U.S.C. s.501, except that those
41 amounts also include all premiums.

42 "Premiums" includes consideration for annuity contracts and
43 excludes any part of the consideration for insurance, reinsurance, or
44 annuity contracts that do not provide bona fide insurance, reinsurance,
45 or annuity benefits.

46 (z) "Combined group" means the group of all companies that have
47 common ownership and are engaged in a unitary business, where at
48 least one company is subject to tax under this chapter, and shall

1 include all business entities, except as provided for under any section
2 of the Corporation Business Tax Act (1945), P.L.1945, c.162
3 (C.54:10A-1 et seq.).

4 A combined group shall be treated, for privilege periods ending on
5 and after July 31, 2020, as one taxpayer for purposes of paragraph (1)
6 of subsection (c) of section 5 of P.L.1945, c.162 (C.54:10A-5) and
7 section 1 of P.L.2018, c.48 (C.54:10A-5.41) for the income derived
8 from the unitary business; provided however, with regard to the surtax
9 imposed pursuant to section 1 of P.L.2018, c.48 (C.54:10A-5.41) and
10 for that purpose only, the portion of income that is attributable to a
11 member which is a public utility exempt from the surtax shall not be
12 included when computing the surtax due.

13 (aa) "Common ownership" means that more than 50% of the
14 voting control of each member of a combined group is directly or
15 indirectly owned by a common owner or owners, either corporate or
16 non-corporate, whether or not the owner or owners are members of the
17 combined group. Whether voting control is indirectly owned shall be
18 determined in accordance with section 318 of the federal Internal
19 Revenue Code, 26 U.S.C. s.318.

20 (bb) "Group privilege period" means, if two or more
21 members in the combined group file in the same federal consolidated
22 tax return, the same income year as that used on the federal
23 consolidated tax return and, in all other cases, the privilege period of
24 the managerial member.

25 (cc) "Managerial member" means if the combined group has
26 a common parent corporation and that common parent corporation is a
27 taxable member, the managerial member shall be the common parent
28 corporation. In other cases, the combined group shall select a taxable
29 member as its managerial member or, in the discretion of the director
30 or upon failure of the combined group to select its managerial member,
31 the director shall designate a taxable member of the combined group
32 as managerial member.

33 (dd) "Member" means a business entity that is a part of a
34 combined group.

35 A corporation exempt pursuant to section 3 of P.L.1945, c.162
36 (C.54:10A-3) from the tax imposed by P.L.1945, c.162 (C.54:10A-1 et
37 seq.) shall not be a member of a combined group.

38 (ee) "Nontaxable member" means a member that is: (i) not
39 subject to tax pursuant to the Corporation Business Tax Act (1945),
40 P.L.1945, c.162 (C.54:10A-1 et seq.); or (ii) (deleted by amendment,
41 P.L.2020, c.118 (C.54:10A-5.46 et al.).

42 (ff) "Taxable member" means a member that is subject to tax
43 pursuant to the Corporation Business Tax Act (1945), P.L.1945, c.162
44 (C.54:10A-1 et seq.).

45 A New Jersey S corporation shall only be included as a taxable
46 member of a combined group filing a New Jersey combined return if
47 the New Jersey S Corporation elects to be included as a member and
48 taxed at the same rate as the other members of the combined group. A

1 New Jersey S corporation that does not elect to be included shall be
2 excluded as a member of the combined return and shall file a separate
3 return.

4 (gg) "Unitary business" means, for privilege periods ending
5 before July 31, 2023, a single economic enterprise that is made up
6 either of separate parts of a single business entity or of a group of
7 business entities under common ownership that are sufficiently
8 interdependent, integrated, and interrelated through their activities so
9 as to provide a synergy and mutual benefit that produces a sharing or
10 exchange of value among them and a significant flow of value among
11 the separate parts. For privilege periods ending on and after July 31,
12 2023, "unitary business" means a single economic enterprise that is
13 made up either of separate parts of a single business entity or of a
14 group of business entities under common ownership that are
15 sufficiently interdependent, integrated, or interrelated through their
16 activities so as to provide a synergy and mutual benefit that produces a
17 sharing or exchange of value among them and a significant flow of
18 value among the separate parts. "Unitary business" shall be construed
19 to the broadest extent permitted under the Constitution of the United
20 States. A business conducted by a partnership which is in a unitary
21 business with the combined group shall be treated as the business of
22 the partners that are members of the combined group, whether the
23 partnership interest is held directly or indirectly through a series of
24 partnerships, to the extent of a partner's distributive share of
25 partnership income. The amount of partnership income to be included
26 in the partner's entire net income shall be determined in accordance
27 with subsection a. of section 3 of P.L.2001, c.136 (C.54:10A-15.6) or
28 subsection a. of section 4 of P.L.2001, c.136 (C.54:10A-15.7), as
29 applicable. A business conducted directly or indirectly by one
30 corporation is unitary with that portion of a business conducted by
31 another corporation through its direct or indirect interest in a
32 partnership.

33 (hh) "Captive investment company" shall mean, for
34 privilege periods ending on and after July 31, 2023, an investment
35 company that is not regularly traded on an established securities
36 market and of which more than 50 percent of the voting stock is
37 owned or controlled, directly or indirectly, by a single corporation,
38 other than an investment company, that is not exempt from federal
39 income tax. For purposes of this subsection, a captive investment
40 company shall not include any captive investment company of which
41 at least 50 percent of the shares, by vote or value, is owned or
42 controlled, directly or indirectly, by a state or federally chartered bank,
43 savings bank, or savings and loan association with assets that do not
44 exceed \$15 billion.

45 For privilege periods ending on and after July 31, 2023, any voting
46 stock in an investment company that is held in a segregated asset
47 account of a life insurance corporation, as described in section 817 of
48 the Internal Revenue Code, shall not be taken into account for

1 purposes of determining whether an investment company is a captive
2 regulated investment company.

3 For privilege periods ending on and after July 31, 2023, a captive
4 investment company shall be taxed in the same manner as a C
5 corporation, and subsection d. of section 5 of P.L. 1945, c. 162 (C.
6 54:10A-5) shall not apply. A captive investment company shall not be
7 permitted to claim any deductions or expenses that were permitted for
8 federal purposes, solely as a result of the entity being an investment
9 company, when computing federal taxable net income. A captive
10 investment company shall be a member of a combined group and shall
11 be included as a member on the combined return.

12 (ii) "Captive real estate investment trust" shall mean, for privilege
13 periods ending on and after July 31, 2023, a real estate investment trust
14 that is not regularly traded on an established securities market and of
15 which more than 50 percent of the voting stock is owned or controlled,
16 directly or indirectly, by a single entity that is treated as an association
17 taxable as a corporation under the Internal Revenue Code, is not
18 exempt from federal income tax, and is not a real estate investment
19 trust. For purposes of this subsection, a captive real estate investment
20 trust shall not include any captive real estate investment trust of which
21 at least 50 percent of the shares, by vote or value, is owned or
22 controlled, directly or indirectly, by a state or federally chartered bank,
23 savings bank, or savings and loan association with assets that do not
24 exceed \$15 billion.

25 For privilege periods ending on and after July 23, 2023, any voting
26 stock in a real estate investment trust that is held in a segregated asset
27 account of a life insurance corporation, as described in section 817 of
28 the Internal Revenue Code (26 U.S.C. s.817), shall not be taken into
29 account for purposes of determining whether a real estate investment
30 trust is a captive real estate investment trust. For purposes of this
31 subsection, an association taxable as a corporation shall not include
32 any listed Australian property trust or any qualified foreign entity.

33 For privilege periods ending on and after July 31, 2023, a captive
34 real estate investment trust shall be taxed in the same manner as a C
35 corporation, and subsection d. of section 5 of P.L.1945, c.162
36 (C.54:10A-5) shall not apply. A captive real estate investment trust
37 shall not be permitted to claim any deductions or expenses that were
38 permitted for federal purposes, solely as a result of the entity being a
39 real estate investment trust, when computing federal taxable net
40 income. A captive real estate investment trust shall be a member of a
41 combined group and shall be included as a member on the combined
42 return.

43 As used in this subsection:

44 "Australian property trust" means an Australian unit trust that is
45 registered as a managed investment scheme under the Australian
46 Corporations Act, and in which the principal class of units is listed on
47 a recognized stock exchange in Australia and is regularly traded on an
48 established securities market; or an entity organized as a trust,

1 provided that a listed Australian property trust owns or controls,
2 directly or indirectly, 75 percent or more of the voting power or value
3 of the beneficial interests of shares of the trust.

4 "Qualified foreign entity" means a corporation, trust, association,
5 or partnership that is organized outside the laws of the United States
6 and that satisfies the following criteria:

7 (1) At least 75 percent of the entity's total asset value at the close
8 of its taxable year is represented by real estate assets, as defined at
9 subparagraph (B) of paragraph (5) of subsection (c) of section 856 of
10 the Internal Revenue Code (26 U.S.C. s.856), including shares or
11 certificates of beneficial interest in any real estate investment trust,
12 cash and cash equivalents, and United States Government securities;

13 (2) The entity is not subject to tax on amounts distributed to its
14 beneficial owners, or is exempt from entity-level taxation;

15 (3) The entity distributes, on an annual basis, at least 85 percent of
16 its taxable income, as computed in the jurisdiction in which it is
17 organized, to the holders of its shares or certificates of beneficial
18 interest;

19 (4) No more than 10 percent of the voting power or value in the
20 entity is held directly, indirectly, or constructively by a single entity or
21 individual, or the shares or certificates of beneficial interests of the
22 entity are regularly traded on an established securities market; and

23 (5) The entity is organized in a country that has a tax treaty with
24 the United States.

25 (jj) "Captive regulated investment company" shall mean, for
26 privilege periods ending on and after July 31, 2023, a regulated
27 investment company that is not regularly traded on an established
28 securities market, and of which more than 50 percent of the voting
29 stock is owned or controlled, directly or indirectly, by a single
30 corporation, other than a regulated investment company, that is not
31 exempt from federal income tax. For purposes of this subsection, a
32 captive regulated investment company shall not include any captive
33 regulated investment company of which at least 50 percent of the
34 shares, by vote or value, is owned or controlled, directly or indirectly,
35 by a state or federally chartered bank, savings bank, or savings and
36 loan association with assets that do not exceed \$15 billion.

37 For privilege periods ending on and after July 31, 2023, any voting
38 stock in a regulated investment company that is held in a segregated
39 asset account of a life insurance corporation, as described in section
40 817 of the Internal Revenue Code (26 U.S.C. s.817), shall not be taken
41 into account for purposes of determining whether a regulated
42 investment company is a captive regulated investment company.

43 For privilege periods ending on and after July 31, 2023, a captive
44 regulated investment company shall be taxed in the same manner as a
45 C corporation and subsection d. of section 5 of P.L.1945, c.162
46 (C.54:10A-5) shall not apply. A captive real estate investment
47 company shall not be permitted to claim any deductions or expenses
48 that were permitted for federal purposes, solely as a result of the entity

1 being a regulated investment company, when computing federal
2 taxable net income. A captive regulated investment company shall be
3 a member of a combined group and shall be included as a member on
4 the combined return.

5 (kk) "World-wide basis" and "world-wide group" shall
6 mean, for privilege periods ending on and after July 31, 2022, for the
7 purposes of sections 18 through 23 of P.L.2018, c.48 (C.54:10A-4.6
8 through C.54:10A-4.11) and for the purposes of combined reporting in
9 general under the Corporation Business Tax Act (1945), P.L.1945,
10 c.162 (C.54:10A-1 et seq.), that the combined group shall include all
11 of the members of the combined group, wherever located or formed.
12 For privilege periods ending on and after July 31, 2022, the combined
13 group shall include all of the income and attributes of those members
14 regardless of how or whether those members file federal returns or
15 report or include their income in federal taxable income for federal
16 purposes, and without regard to any exemption or exclusion from
17 federal taxable income under the terms of a tax treaty; provided,
18 however, any deductions that are allowed under the federal Internal
19 Revenue Code that are also allowable under the Corporation Business
20 Tax Act (1945), P.L.1945, c.162 (C.54:10A-1 et seq.), that would
21 apply to a U.S. corporation, but that a non-U.S. corporation is
22 prohibited from claiming for federal corporation income tax purposes
23 because the corporation's income was not included in federal taxable
24 income for any reason or because the corporation is a non-U.S.
25 corporation, shall be allowed for the non-U.S. corporation members of
26 the combined group for New Jersey corporation business tax purposes
27 as though those non-U.S. corporation members were U.S.
28 corporations.

29 (cf: P.L.2023, c.96, s.1)

30
31 15. N.J.S.54A:5-1 is amended to read as follows:

32 54A:5-1. New Jersey Gross Income Defined. New Jersey gross
33 income shall consist of the following categories of income:

34 a. Salaries, wages, tips, fees, commissions, bonuses, and other
35 remuneration received for services rendered whether in cash or in
36 property, and amounts paid or distributed, or deemed paid or
37 distributed, out of a medical savings account that are not excluded
38 from gross income pursuant to section 5 of P.L.1997, c.414
39 (C.54A:6-27).

40 b. Net profits from business. The net income from the
41 operation of a business, profession or other activity after provision
42 for all costs and expenses incurred in the conduct thereof,
43 determined either on a cash or accrual basis in accordance with the
44 method of accounting allowed for federal income tax purposes but
45 without deduction of the amount of:

46 (1) taxes based on income;

47 (2) a civil, civil administrative, or criminal penalty or fine,
48 including a penalty or fine under an administrative consent order,

1 assessed and collected for a violation of a State or federal
2 environmental law, an administrative consent order, or an
3 environmental ordinance or resolution of a local governmental
4 entity, and any interest earned on the penalty or fine, and any
5 economic benefits having accrued to the violator as a result of a
6 violation, which benefits are assessed and recovered in a civil, civil
7 administrative, or criminal action, or pursuant to an administrative
8 consent order. The provisions of this paragraph shall not apply to a
9 penalty or fine assessed or collected for a violation of a State or
10 federal environmental law, or local environmental ordinance or
11 resolution, if the penalty or fine was for a violation that resulted
12 from fire, riot, sabotage, flood, storm event, natural cause, or other
13 act of God beyond the reasonable control of the violator, or caused
14 by an act or omission of a person who was outside the reasonable
15 control of the violator; and

16 (3) treble damages paid to the Department of Environmental
17 Protection pursuant to subsection a. of section 7 of P.L.1976, c.141
18 (C.58:10-23.11f) for costs incurred by the department in removing,
19 or arranging for the removal of, an unauthorized discharge upon the
20 failure of the discharger to comply with a directive from the
21 department to remove, or arrange for the removal of, a discharge.

22 c. Net gains or income from disposition of property. Net gains
23 or net income, less net losses, derived from the sale, exchange or
24 other disposition of property, including real or personal, whether
25 tangible or intangible as determined in accordance with the method
26 of accounting allowed for federal income tax purposes. For the
27 purpose of determining gain or loss, the basis of property shall be
28 the adjusted basis used for federal income tax purposes, except as
29 expressly provided for under this act, but without a deduction for
30 penalties, fines, or economic benefits excepted pursuant to
31 paragraph (2), or for treble damages excepted pursuant to paragraph
32 (3) of subsection b. of this section.

33 A taxpayer's net gain or loss on the sale, exchange or other
34 disposition of a share of an S corporation shall be calculated by
35 increasing the adjusted basis of the share by an amount equal to the
36 shareholder's net losses and deductions in respect of the share
37 allowed and deducted from income for federal income tax purposes,
38 not including any personal net operating loss deductions, to the
39 extent that such net losses were not offset by the taxpayer's pro rata
40 share of S corporation income otherwise subject to taxation
41 pursuant to subsection p. of this section in respect of another S
42 corporation, subject to rules of priority and assignment determined
43 by the director.

44 For the tax year 1976, any taxpayer with a tax liability under this
45 subsection, or under the "Tax on Capital Gains and Other Unearned
46 Income Act," P.L.1975, c.172 (C.54:8B-1 et seq.), shall not be
47 subject to payment of an amount greater than the amount he would
48 have paid if either return had covered all capital transactions during

1 the full tax year 1976; provided, however, that the rate which shall
2 apply to any capital gain shall be that in effect on the date of the
3 transaction. To the extent that any loss is used to offset any gain
4 under P.L.1975, c.172, it shall not be used to offset any gain under
5 the "New Jersey Gross Income Tax Act," N.J.S.54A:1-1 et seq.

6 The term "net gains or income" shall not include gains or income
7 derived from obligations which are referred to in clause (1) or (2) of
8 N.J.S.54A:6-14 of this act or from securities which evidence
9 ownership in a qualified investment fund as defined in section 2 of
10 P.L.1987, c.310 (C.54A:6-14.1). The term "net gains or income"
11 shall not include gains or income derived from the sale or
12 assignment of a tax credit transfer certificate pursuant to section 7
13 of P.L.2011, c.149 (C.34:1B-248) **[and]**, section 10 of P.L.2014,
14 c.63 (C.34:1B-251), or the "New Jersey Economic Recovery Act of
15 2020," P.L.2020, c.156 (C.34:1B-269 et al.), as amended and
16 supplemented, from any sale or assignment of a tax credit issued
17 pursuant to an award of tax credits approved by the New Jersey
18 Economic Development Authority **[prior to July 1, 2018]**,
19 regardless of when such sale or assignment occurs. The term "net
20 gains or net income" shall not include gains or income from
21 transactions to the extent to which nonrecognition is allowed for
22 federal income tax purposes. The term "sale, exchange or other
23 disposition" shall not include the exchange of stock or securities in
24 a corporation a party to a reorganization in pursuance of a plan of
25 reorganization, solely for stock or securities in such corporation or
26 in another corporation a party to the reorganization and the transfer
27 of property to a corporation by one or more persons solely in
28 exchange for stock or securities in such corporation if immediately
29 after the exchange such person or persons are in control of the
30 corporation. For purposes of this clause, stock or securities issued
31 for services shall not be considered as issued in return for property.

32 For purposes of this clause, the term "reorganization" means**[--]**:

33 (i) A statutory merger or consolidation;

34 (ii) The acquisition by one corporation, in exchange solely for
35 all or part of its voting stock (or in exchange solely for all or a part
36 of the voting stock of a corporation which is in control of the
37 acquiring corporation) of stock of another corporation if,
38 immediately after the acquisition, the acquiring corporation has
39 control of such other corporation (whether or not such acquiring
40 corporation had control immediately before the acquisition);

41 (iii) The acquisition by one corporation, in exchange solely for
42 all or part of its voting stock (or in exchange solely for all or a part
43 of the voting stock of a corporation which is in control of the
44 acquiring corporation), of substantially all of the properties of
45 another corporation, but in determining whether the exchange is
46 solely for stock the assumption by the acquiring corporation of a
47 liability of the other, or the fact that property acquired is subject to
48 a liability, shall be disregarded;

1 (iv) A transfer by a corporation of all or a part of its assets to
2 another corporation if immediately after the transfer the transferor,
3 or one or more of its shareholders (including persons who were
4 shareholders immediately before the transfer), or any combination
5 thereof, is in control of the corporation to which the assets are
6 transferred;

7 (v) A recapitalization;

8 (vi) A mere change in identity, form, or place of organization
9 however effected; or

10 (vii) The acquisition by one corporation, in exchange for stock of
11 a corporation (referred to in this subclause as "controlling
12 corporation") which is in control of the acquiring corporation, of
13 substantially all of the properties of another corporation which in
14 the transaction is merged into the acquiring corporation shall not
15 disqualify a transaction under subclause (i) if such transaction
16 would have qualified under subclause (i) if the merger had been into
17 the controlling corporation, and no stock of the acquiring
18 corporation is used in the transaction;

19 (viii) A transaction otherwise qualifying under subclause (i) shall
20 not be disqualified by reason of the fact that stock of a corporation
21 (referred to in this subclause as the "controlling corporation") which
22 before the merger was in control of the merged corporation is used
23 in the transaction, if after the transaction, the corporation surviving
24 the merger holds substantially all of its properties and of the
25 properties of the merged corporation (other than stock of the
26 controlling corporation distributed in the transaction); and in the
27 transaction, former shareholders of the surviving corporation
28 exchanged, for an amount of voting stock of the controlling
29 corporation, an amount of stock in the surviving corporation which
30 constitutes control of such corporation.

31 For purposes of this clause, the term "control" means the
32 ownership of stock possessing at least 80% of the total combined
33 voting power of all classes of stock entitled to vote and at least 80%
34 of the total number of shares of all other classes of stock of the
35 corporation.

36 For purposes of this clause, the term "a party to a reorganization"
37 includes a corporation resulting from a reorganization, and both
38 corporations, in the case of a reorganization resulting from the
39 acquisition by one corporation of stock or properties of another. In
40 the case of a reorganization qualifying under subclause (i) by reason
41 of subclause (vii) the term "a party to a reorganization" includes the
42 controlling corporation referred to in such subclause (vii).

43 Notwithstanding any provisions hereof, upon every such
44 exchange or conversion, the taxpayer's basis for the stock or
45 securities received shall be the same as the taxpayer's actual or
46 attributed basis for the stock, securities or property surrendered in
47 exchange therefor.

- 1 d. Net gains or net income derived from or in the form of rents,
2 royalties, patents, and copyrights.
- 3 e. Interest, except interest referred to in clause (1) or (2) of
4 N.J.S.54A:6-14, or distributions paid by a qualified investment fund
5 as defined in section 2 of P.L.1987, c.310 (C.54A:6-14.1), to the
6 extent provided in that section.
- 7 f. Dividends. "Dividends" means any distribution in cash or
8 property made by a corporation, association or business trust that is
9 not an S corporation, (1) out of accumulated earnings and profits, or
10 (2) out of earnings and profits of the year in which such dividend is
11 paid and any distribution in cash or property made by an S
12 corporation, as specifically determined pursuant to section 16 of
13 P.L.1993, c.173 (C.54A:5-14).
- 14 The term "dividends" shall not include distributions paid by a
15 qualified investment fund as defined in section 2 of P.L.1987, c.310
16 (C.54A:6-14.1), to the extent provided in that section.
- 17 g. Gambling winnings.
- 18 h. Net gains or income derived through estates or trusts.
- 19 i. Income in respect of a decedent.
- 20 j. Amounts distributed or withdrawn from an employee trust
21 attributable to contributions to the trust which were excluded from
22 gross income under the provisions of chapter 6 of Title 54A of the
23 New Jersey Statutes, amounts rolled over from an IRA, as defined
24 pursuant to subsection (a) of section 408 of the federal Internal
25 Revenue Code of 1986, 26 U.S.C. s.408, that is not a Roth IRA, as
26 defined pursuant to subsection b. of section 2 of P.L.1998,c.57
27 (C.54A:6-28) to an IRA that is a Roth IRA, and pensions and
28 annuities except to the extent of exclusions in N.J.S.54A:6-10
29 hereunder, notwithstanding the provisions of N.J.S.18A:66-51,
30 P.L.1973, c.140, s.41 (C.43:6A-41), P.L.1954, c.84, s.53
31 (C.43:15A-53), P.L.1944, c.255, s.17 (C.43:16A-17), P.L.1965,
32 c.89, s.45 (C.53:5A-45), R.S.43:10-14, P.L.1943, c.160, s.22
33 (C.43:10-18.22), P.L.1948, c.310, s.22 (C.43:10-18.71), P.L.1954,
34 c.218, s.32 (C.43:13-22.34), P.L.1964, c.275, s.11 (C.43:13-22.60),
35 R.S.43:10-57, P.L.1938, c.330, s.13 (C.43:10-105), R.S.43:13-44,
36 and P.L.1943, c.189, s.5 (C.43:13-37.5).
- 37 k. Distributive share of partnership income, excluding the gain
38 or income derived from the sale or assignment of a tax credit
39 transfer certificate pursuant to section 7 of P.L.2011, c.149
40 (C.34:1B-248) **[and]**, section 10 of P.L.2014, c.63 (C.34:1B-251),
41 or the "New Jersey Economic Recovery Act of 2020," P.L.2020,
42 c.156 (C.34:1B-269 et al.), as amended and supplemented, from any
43 sale or assignment of a tax credit issued pursuant to an award of tax
44 credits approved by the New Jersey Economic Development
45 Authority **[prior to July 1, 2018]**, regardless of when such sale or
46 assignment occurs.
- 47 l. Amounts received as prizes and awards, except as provided
48 in N.J.S.54A:6-8 and N.J.S.54A:6-11 hereunder.

1 m. Rental value of a residence furnished by an employer or a
2 rental allowance paid by an employer to provide a home.

3 n. Alimony and separate maintenance payments to the extent
4 that such payments are required to be made under a decree of
5 divorce or separate maintenance but not including payments for
6 support of minor children.

7 o. Income, gain or profit derived from acts or omissions
8 defined as crimes or offenses under the laws of this State or any
9 other jurisdiction.

10 p. Net pro rata share of S corporation income, excluding the
11 gain or income derived from the sale or assignment of a tax credit
12 transfer certificate pursuant to section 7 of P.L.2011, c.149
13 (C.34:1B-248) **and**, section 10 P.L.2014, c.63 (C.34:1B-251), or
14 the "New Jersey Economic Recovery Act of 2020," P.L.2020, c.156
15 (C.34:1B-269 et al.), as amended and supplemented, from any sale
16 or assignment of a tax credit issued pursuant to an award of tax
17 credits approved by the New Jersey Economic Development
18 Authority **[prior to July 1, 2018]**, regardless of when such sale or
19 assignment occurs.

20 (cf: P.L.2018, c.131, s.8)

21
22 16. Section 1 of P.L.1979, c.303 (C.34:1B-5.1) is amended to read
23 as follows:

24 1. a. The New Jersey Economic Development Authority shall
25 adopt rules and regulations requiring that not less than the prevailing
26 wage rate be paid to workers employed in the performance of any
27 construction contract, including contracts for millwork fabrication,
28 undertaken in connection with authority financial assistance or any of
29 its projects, those projects which it undertakes pursuant to P.L.2002,
30 c.43 (C.52:27BBB-1 et al.), or undertaken to fulfill any condition of
31 receiving authority financial assistance, including the performance of
32 any contract to construct, renovate or otherwise prepare a facility for
33 operations which are necessary for the receipt of authority financial
34 assistance, unless the work performed under the contract is performed
35 on a facility owned by a landlord of the entity receiving the assistance
36 and less than 35 percent of the facility is leased by the entity at the
37 time of the contract and under any agreement to subsequently lease the
38 facility. The prevailing wage rate shall be the rate determined by the
39 Commissioner of Labor and Workforce Development pursuant to the
40 provisions of P.L.1963, c.150 (C.34:11-56.25 et seq.). For the
41 purposes of this section, "authority financial assistance" means any
42 loan, loan guarantee, grant, incentive, tax exemption or other financial
43 assistance that is approved, funded, authorized, administered or
44 provided by the authority to any entity and is provided before, during
45 or after completion of a project, including but not limited to, all
46 authority financial assistance received by the entity pursuant to the
47 "Business Employment Incentive Program Act," P.L.1996, c.26
48 (C.34:1B-124 et al.) that enables the entity to engage in a construction

1 contract, but this section shall not be construed as requiring the
 2 payment of the prevailing wage for construction commencing more
 3 than two years after an entity has executed with the authority a
 4 commitment letter regarding authority financial assistance and the first
 5 payment or other provision of the assistance is received.

6 b. The New Jersey Economic Development Authority shall adopt
 7 rules and regulations requiring that not less than the prevailing wage
 8 rate be paid to workers employed in the performance of any contract,
 9 for construction, demolition, remediation, removal of hazardous
 10 substances, alteration, custom fabrication, repair work, or maintenance
 11 work, including painting and decorating, or excavation, grading, pile
 12 driving, concrete form, or other types of foundation work in
 13 connection with the "New Jersey Community-Anchored Development
 14 Act," sections 43 through 53 of P.L.2020, c.156 (C.34:1B-311 through
 15 34:1B-321), the "New Jersey Aspire Program Act," sections 54
 16 through 67 of P.L.2020, c.156 (C.34:1B-322 through C.34:1B-335),
 17 and the "**1**[New Jersey]**1** Emerge Program Act," sections 68 through
 18 81 of P.L.2020, c.156 (C.34:1B-336 et al.). The requirements of this
 19 subsection shall apply to any site preparation work performed 24
 20 months prior to and during the incentive eligibility period of any
 21 project receiving tax credits under the "New Jersey Community-
 22 Anchored Development Act," sections 43 through 53 of P.L.2020,
 23 c.156 (C.34:1B-311 through C.34:1B-321), the "New Jersey Aspire
 24 Program Act," sections 54 through 67 of P.L.2020, c.156 (C.34:1B-
 25 322 through C.34:1B-335), and the "**1**[New Jersey]**1** Emerge Program
 26 Act," sections 68 through 81 of P.L.2020, c.156 (C.34:1B-336 et al.),
 27 and to projects receiving financial assistance under the
 28 "Redevelopment Project Bridge Financing Program," established
 29 pursuant to section 11 of P.L. , c. (C.) (pending before the
 30 Legislature as this bill), in which there is a continuity of ownership in
 31 the site of the redevelopment project, including work undertaken to
 32 fulfill any condition of receiving tax credits under the programs. Work
 33 that is subject to the requirements of this subsection shall include the
 34 performance of any contract for construction, demolition, remediation,
 35 removal of hazardous substances, alteration, custom fabrication, repair
 36 work, or maintenance work, including painting and decorating, or
 37 excavation, grading, pile driving, concrete form, or other types of
 38 foundation work undertaken on a facility for operations which are
 39 necessary for the receipt of tax credits under the "New Jersey
 40 Community-Anchored Development Act," sections 43 through 53 of
 41 P.L.2020, c.156 (C.34:1B-311 through C.34:1B-321), the "New Jersey
 42 Aspire Program Act," sections 54 through 67 of P.L.2020, c.156
 43 (C.34:1B-322 through C.34:1B-335), and the "**1**[New Jersey]**1**
 44 Emerge Program Act," sections 68 through 81 of P.L.2020, c.156
 45 (C.34:1B-336 et al.), or the receipt of financial assistance under the
 46 "Redevelopment Project Bridge Financing Program," established
 47 pursuant to section 11 of P.L. , c. (C.) (pending before the
 48 Legislature as this bill), unless the work performed under the contract

1 is performed on a facility owned by a landlord of the entity receiving
2 the tax credit and less than 35 percent of the facility is leased by the
3 entity at the time of the contract and under any agreement to
4 subsequently lease the facility. The prevailing wage rate shall be the
5 rate determined by the Commissioner of Labor and Workforce
6 Development pursuant to the provisions of P.L.1963, c.150 (C.34:11-
7 56.25 et seq.), and all contractors and subcontractors subject to the
8 prevailing wage requirement set forth in this section shall be registered
9 with the Department of Labor and Workforce Development pursuant
10 to the provisions of section 5 of P.L.1999, c.238 (C.34:11-56.52). An
11 applicant for tax credits under the "New Jersey Community-Anchored
12 Development Act," sections 43 through 53 of P.L.2020, c.156
13 (C.34:1B-311 through C.34:1B-321), the "New Jersey Aspire Program
14 Act," sections 54 through 67 of P.L.2020, c.156 (C.34:1B-322 through
15 C.34:1B-335), and the "'**1**[New Jersey]**1**' Emerge Program Act,"
16 sections 68 through 81 of P.L.2020, c.156 (C.34:1B-336 et al.), shall
17 certify under penalty of perjury as part of its application that all
18 construction contracts undertaken on any project in connection with an
19 award under the programs comply with the prevailing wage
20 requirements of this subsection. If at any time the authority
21 determines that the developer made a material misrepresentation
22 regarding compliance with the provisions of this subsection on the
23 developer's application, the developer shall forfeit 35 percent of the tax
24 credits allowed under the programs, and pay to the affected workers
25 back wages in an amount that compensates the workers at the
26 prevailing wage rate for the work performed.
27 (cf: P.L.2020, c.156, s.112)

28

29 17. This act shall take effect immediately.

[Second Reprint]

SENATE, No. 1323

STATE OF NEW JERSEY

221st LEGISLATURE

PRE-FILED FOR INTRODUCTION IN THE 2024 SESSION

Sponsored by:

Senator NELLIE POU

District 35 (Bergen and Passaic)

Senator PAUL A. SARLO

District 36 (Bergen and Passaic)

Assemblywoman ELIANA PINTOR MARIN

District 29 (Essex and Hudson)

Assemblywoman ELLEN J. PARK

District 37 (Bergen)

Assemblyman BENJIE E. WIMBERLY

District 35 (Bergen and Passaic)

Co-Sponsored by:

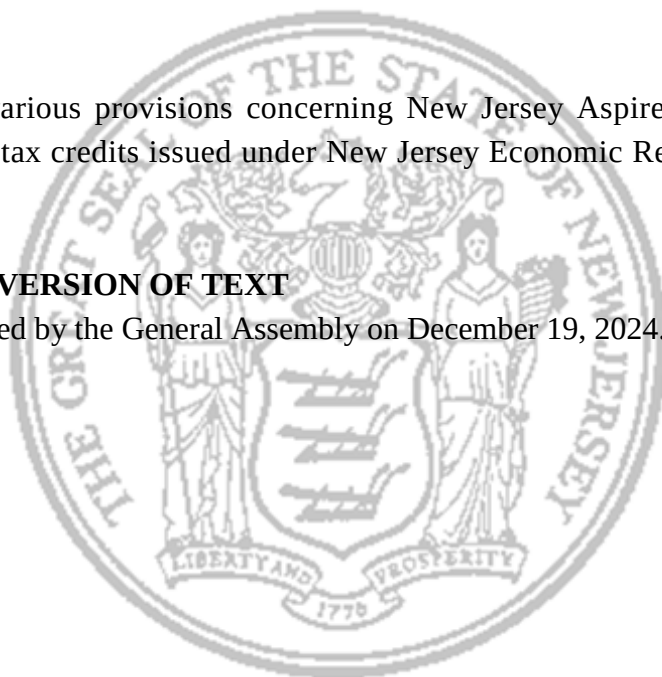
Assemblywomen Reynolds-Jackson and Speight

SYNOPSIS

Revises various provisions concerning New Jersey Aspire Program and surrender of tax credits issued under New Jersey Economic Recovery Act of 2020.

CURRENT VERSION OF TEXT

As amended by the General Assembly on December 19, 2024.



(Sponsorship Updated As Of: 12/19/2024)

1 AN ACT concerning the New Jersey Aspire Program, amending
 2 ²**[various parts of the statutory law]** P.L.2020, c.156 and
 3 P.L.2023, c.98², and supplementing P.L.2020, c.156.

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

7
 8 1. Section 55 of P.L.2020, c.156 (C.34:1B-323) is amended to
 9 read as follows:

10 55. As used in sections 54 through 67 of P.L.2020, c.156
 11 (C.34:1B-322 through 34:1B-335):

12 "Agency" means the New Jersey Housing and Mortgage Finance
 13 Agency established pursuant to P.L.1983, c.530 (C.55:14K-1 et
 14 seq.).

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

17 "Aviation district" means all areas within the boundaries of the
 18 Atlantic City International Airport, established pursuant to section
 19 24 of P.L.1991, c.252 (C.27:25A-24), and the Federal Aviation
 20 Administration William J. Hughes Technical Center and the area
 21 within a one-mile radius of the outermost boundary of the Atlantic
 22 City International Airport and the Federal Aviation Administration
 23 William J. Hughes Technical Center ¹, and the Trenton-Mercer
 24 Airport, established pursuant to R.S.40:8-2 and the area within a
 25 one-mile radius of the outermost boundary of the ²**[terminal located**
 26 at 1100 Terminal Circle Drive, Ewing Township¹] Trenton-Mercer
 27 Airport².

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

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

41 "Cash flow" means the profit or loss that an investment property
 42 earns from rent, deposits, and other fees after financial obligations,

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:

¹Senate SBA committee amendments adopted June 26, 2024.

²Assembly floor amendments adopted December 19, 2024.

1 such as debt, maintenance, government payments, and other
2 expenses, have been paid.

3 "Collaborative workspace" means coworking, accelerator,
4 incubator, or other shared working environments that promote
5 collaboration, interaction, socialization, and coordination among
6 tenants through the clustering of multiple businesses or individuals.
7 For this purpose, the collaborative workspace shall be the greater
8 of: 2,500 of dedicated square feet or 10 percent of the total property
9 on which the redevelopment project is situated. The collaborative
10 workspace shall include a community manager, be focused on
11 collaboration among the community members, and include
12 regularly scheduled education events for the community members.
13 The collaborative workspace shall also include a physical open
14 space that supports the engagement of its community members.

15 "Commercial project" means a redevelopment project, which is
16 predominantly commercial and, if located in a government-
17 restricted municipality, contains 25,000 or more square feet, or if
18 located in any other municipality, contains 50,000 or more square
19 feet of office and retail space, industrial space ¹including, but not
20 limited to, any industrial space that is predominantly used for
21 warehouse distribution or fulfillment centers and has at least \$10
22 million in environmental remediation costs¹, or film studios,
23 professional stages, television studios, recording studios, screening
24 rooms, or other infrastructure for film production, and may include
25 a parking component. The term "commercial project" includes a
26 redevelopment project comprised solely of a health care or health
27 services center, which contains not less than 10,000 square feet
28 devoted to health care or health services, and which may include a
29 parking component. ²The term "commercial project" also includes
30 an industrial space that is predominantly used for warehouse
31 distribution or fulfillment centers if the eligible project cost
32 includes at least \$10,000,000 in environmental remediation costs.²

33 "Developer" means a person who enters or proposes to enter into
34 an incentive award agreement pursuant to the provisions of section
35 60 of P.L.2020, c.156 (C.34:1B-328), including, but not limited, to
36 a lender that completes a redevelopment project, operates a
37 redevelopment project, or completes and operates a redevelopment
38 project.

39 "Director" means the Director of the Division of Taxation in the
40 Department of the Treasury.

41 "Distressed municipality" means a municipality that is qualified
42 to receive assistance under P.L.1978, c.14 (C.52:27D-178 et seq.), a
43 municipality under the supervision of the Local Finance Board
44 pursuant to the provisions of the "Local Government Supervision
45 Act (1947)," P.L.1947, c.151 (C.52:27BB-1 et seq.), a municipality
46 identified by the Director of the Division of Local Government
47 Services in the Department of Community Affairs to be facing

1 serious fiscal distress, a SDA municipality, or a municipality in
2 which a major rail station is located.

3 "Economic development incentive" means a financial incentive,
4 awarded by the authority, or agreed to between the authority and a
5 business or person, for the purpose of stimulating economic
6 development or redevelopment in New Jersey, including, but not
7 limited to, a bond, grant, loan, loan guarantee, matching fund, tax
8 credit, or other tax expenditure.

9 "Eligibility period" means the period not to exceed ²~~[15]~~ 10²
10 years ²~~[for a commercial or mixed-use project or the period not to~~
11 ~~exceed 10 years for a residential project]~~ , as² specified in an
12 incentive award agreement during which a developer may claim a
13 tax credit under the program, as such period shall be determined by
14 the authority pursuant to subsection b. of section 60 of P.L.2020,
15 c.156 (C.34:1B-328) ², provided that a developer may elect a period
16 not to exceed five years for a project located in a government-
17 restricted municipality or for a special mission non-profit project².

18 "Enhanced area" means (1) a municipality that contains an urban
19 transit hub, as defined in section 2 of P.L.2007, c.346 (C.34:1B-
20 208); (2) the five municipalities with the highest poverty rates
21 according to the 2017 Municipal Revitalization Index; and (3) the
22 three municipalities with the highest percentage of SNAP recipients
23 according to the 2017 Municipal Revitalization Index.

24 "Environmental remediation costs" means any costs incurred by
25 a developer in the completion of any actions necessary to
26 investigate, clean up, or respond to a known, suspected, or
27 threatened discharge of contaminants, including, as necessary, the
28 preliminary assessment, site investigation, remedial investigation,
29 and remedial action, pursuant to sections 23 through 43 and section
30 45 of P.L.1993, c.139 (C.58:10B-1 et seq.).

31 "Food delivery source" means access to nutritious foods, such as
32 fresh fruits and vegetables, through grocery operators, including,
33 but not limited to a full-service supermarket or grocery store, and
34 other healthy food retailers of at least 16,000 square feet, including,
35 but not limited to, a prepared food establishment selling primarily
36 nutritious ready-to-serve meals.

37 "Food desert community" means a physically contiguous area in
38 the State in which residents have limited access to nutritious foods,
39 such as fresh fruits and vegetables, and that has been designated as
40 a food desert community pursuant to subsection b. of section 38 of
41 P.L.2020, c.156 (C.34:1B-306).

42 "Government-restricted municipality" means a municipality in
43 this State with a municipal revitalization index distress score of at
44 least 75, that met the criteria for designation as an urban aid
45 municipality in the 2019 State fiscal year, and that, on the effective
46 date of P.L.2020, c.156 (C.34:1B-269 et al.), is subject to financial
47 restrictions imposed pursuant to the "Municipal Stabilization and

1 Recovery Act," P.L.2016, c.4 (C.52:27BBBB-1 et seq.), or is
 2 restricted in its ability to levy property taxes on property in that
 3 municipality as a result of the State of New Jersey owning or
 4 controlling property representing at least 25 percent of the total land
 5 area of the municipality or as a result of the federal government of
 6 the United States owning or controlling at least 50 acres of the total
 7 land area of the municipality, which is dedicated as a national
 8 natural landmark. ²The term "government-restricted municipality"
 9 also includes any municipality that: has a population greater than
 10 50,000 and less than 60,000 according to the latest federal decennial
 11 census, is designated as the county seat of a county of the second
 12 class with a population greater than 800,000 according to the latest
 13 federal decennial census, and has an MRI distress score of 62.1; has
 14 a population greater than 70,000 and less than 100,000 according to
 15 the latest federal decennial census, is designated as the county seat
 16 of a county of the second class with a population greater than
 17 515,000 and less than 525,000 according to the latest federal
 18 decennial census, and has an MRI distress score of 100; or contains
 19 the intersection of Interstate 280 and the Garden State Parkway, and
 20 corresponding land areas occupied by such highways under the
 21 ownership or control of the federal government of the United States
 22 or of this State within its municipal boundary, and has an MRI
 23 distress score of 55.5.²

24 "Health care or health services center" means an establishment
 25 that consists of not less than 10,000 square feet devoted to health
 26 care or health services, where patients are admitted for or seek
 27 examination and treatment by one or more physicians, dentists,
 28 psychologists, or other medical practitioners, and which is located
 29 in a municipality with a ²【Municipal Revitalization Index】 MRI²
 30 distress score of at least 50, a distressed municipality, or a qualified
 31 incentive tract.

32 "Hospitality establishment" means a hotel, motel, or any
 33 business, however organized, that sells food, beverages, or both for
 34 consumption by patrons on the premises.

35 "Incentive area" means an aviation district; a port district; an
 36 area designated pursuant to the "State Planning Act," P.L.1985,
 37 c.398 (C.52:18A-196 et seq.), as Planning Area 1 (Metropolitan),
 38 Planning Area 2 (Suburban), 【or】 ²or² a Designated Center ²【,】²
 39 【provided an area designated as Planning Area 2 (Suburban) or a
 40 Designated Center shall be located within a one-half mile radius of
 41 the mid-point, with bicycle and pedestrian connectivity, of a New
 42 Jersey Transit Corporation, Port Authority Transit Corporation, or
 43 Port Authority Trans-Hudson Corporation rail, bus, or ferry station,
 44 including all light rail stations, or a high-frequency bus stop as
 45 certified by the New Jersey Transit Corporation】 ²【or an Endorsed
 46 Plan】 under the State Development and Redevelopment Plan²; an
 47 area designated as a brownfield site pursuant to the "Brownfield and

1 Contaminated Site Remediation Act," sections 23 through 43 and
2 section 45 of P.L.1993, c.139 (C.58:10B-1 et seq.); and an area of
3 not less than 100 acres for which a licensed site remediation
4 professional has certified environmental remediation costs, as
5 defined in this section and in accordance with the "Site Remediation
6 Reform Act," sections 1 through 29 of P.L.2009, c.60 (C.58:10C-1
7 et seq.), in an amount not less than \$10,000,000, provided that any
8 portion of such area is located in an area that otherwise qualifies as
9 an incentive area.

10 "Incentive award" means an award of tax credits to reimburse a
11 developer for all or a portion of the project financing gap of a
12 redevelopment project pursuant to the provisions of sections 54
13 through 67 of P.L.2020, c.156 (C.34:1B-322 through 34:1B-335).

14 "Incentive award agreement" means the contract executed
15 between a developer and the authority pursuant to section 60 of
16 P.L.2020, c.156 (C.34:1B-328), which sets forth the terms and
17 conditions under which the developer may receive the incentive
18 awards authorized pursuant to the provisions of sections 54 through
19 67 of P.L.2020, c.156 (C.34:1B-322 through 34:1B-335).

20 "Incubator facility" means a commercial property, which
21 contains 5,000 or more square feet of office, laboratory, or
22 industrial space, which is located near, and presents opportunities
23 for collaboration with, a research institution, teaching hospital,
24 college, or university, and within which at least 75 percent of the
25 gross leasable area is restricted for use by one or more technology
26 startup companies.

27 "Individuals with special needs" means individuals with mental
28 illness, individuals with physical or developmental disabilities, and
29 individuals in other emerging special needs groups identified by the
30 authority, based on guidelines established for the administration of
31 the Special Needs Housing Trust Fund established pursuant to
32 section 1 of P.L.2005, c.163 (C.34:1B-21.25a) or developed in
33 consultation with other State agencies.

34 "Labor harmony agreement" means an agreement between a
35 business that serves as the owner or operator of a retail
36 establishment, hospitality establishment, or distribution center and
37 one or more labor organizations, which requires, for the duration of
38 the agreement: that any participating labor organization and its
39 members agree to refrain from picketing, work stoppages, boycotts,
40 or other economic interference against the business; and that the
41 business agrees to maintain a neutral posture with respect to efforts
42 of any participating labor organization to represent employees at an
43 establishment or other unit in the retail establishment, hospitality
44 establishment, or distribution center, agrees to permit the labor
45 organization to have access to the employees, and agrees to
46 guarantee to the labor organization the right to obtain recognition as
47 the exclusive collective bargaining representatives of the employees
48 in an establishment or unit at the retail establishment, hospitality

1 establishment, or distribution center by demonstrating to the New
2 Jersey State Board of Mediation, Division of Private Employment
3 Dispute Settlement, or a mutually agreed-upon, neutral, third party
4 that a majority of workers in the unit have shown their preference
5 for the labor organization to be their representative by signing
6 authorization cards indicating that preference. The labor
7 organization or organizations shall be from a list of labor
8 organizations which have requested to be on the list and which the
9 Commissioner of Labor and Workforce Development has
10 determined represent substantial numbers of retail establishment,
11 hospitality establishment, or distribution center employees in the
12 State.

13 "Low-income housing" means housing affordable according to
14 federal Department of Housing and Urban Development or other
15 recognized standards for home ownership and rental costs and
16 occupied or reserved for occupancy by households with a gross
17 household income equal to 50 percent or less of the median gross
18 household income for households of the same size within the
19 housing region in which the housing is located.

20 "Major cultural institution" means a public or nonprofit
21 institution, not including an institution of higher education, within
22 this State that engages in the cultural, intellectual, scientific,
23 environmental, educational, or artistic enrichment of the people of
24 this State, and which institution is designated by the board as a
25 major cultural institution.

26 "Major rail station" means a railroad station that is located within
27 a qualified incentive area and that provides to the public access to a
28 minimum of six rail passenger service lines operated by the New
29 Jersey Transit Corporation.

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

37 ²["Mixed-use project" means a redevelopment project that
38 includes both a residential component and a nonresidential
39 component.]²

40 "Moderate-income housing" means housing affordable according
41 to federal Department of Housing and Urban Development or other
42 recognized standards for home ownership and rental costs and
43 occupied or reserved for occupancy by households with a gross
44 household income equal to more than 50 percent, but less than 80
45 percent, of the median gross household income for households of
46 the same size within the housing region in which the housing is
47 located.

1 ²"MRI distress score" means a municipal revitalization index
 2 distress score, as documented in the 2023 Municipal Revitalization
 3 Index developed by the Department of Community Affairs.²

4 "Municipal Revitalization Index" means the index by the
 5 Department of Community Affairs ranking New Jersey's
 6 municipalities according to eight separate indicators that measure
 7 diverse aspects of social, economic, physical, and fiscal conditions
 8 in each locality.

9 "Port district" means the portions of a qualified incentive area
 10 that are located within:

11 a. the "Port of New York District" of the Port Authority of
 12 New York and New Jersey, as defined in Article II of the Compact
 13 Between the States of New York and New Jersey of 1921; or

14 b. a 15-mile radius of the outermost boundary of each marine
 15 terminal facility established, acquired, constructed, rehabilitated, or
 16 improved by the South Jersey Port District established pursuant to
 17 "The South Jersey Port Corporation Act," P.L.1968, c.60
 18 (C.12:11A-1 et seq.).

19 "Program" means the New Jersey Aspire Program established by
 20 section 56 of P.L.2020, c.156 (C.34:1B-324).

21 "Project cost" or "¹~~total~~ eligible¹ project cost" means the costs
 22 incurred in connection with a redevelopment project by a developer
 23 until the issuance of a permanent certificate of occupancy, or until
 24 such other time specified by the authority, for a specific investment
 25 or improvement, including the costs relating to lands, except the
 26 cost of acquiring such lands, buildings, improvements, real or
 27 personal property, or any interest therein, including leases
 28 discounted to present value, including lands under water, riparian
 29 rights, space rights, and air rights acquired, owned, developed or
 30 redeveloped, constructed, reconstructed, rehabilitated, or improved,
 31 any environmental remediation costs, plus costs not directly related
 32 to construction, including capitalized interest paid to third parties,
 33 of an amount not to exceed 20 percent of the total costs and the cost
 34 of infrastructure improvements, including ancillary infrastructure
 35 projects. When 100 percent of the residential units constructed in a
 36 residential project are reserved for occupancy by low- and
 37 moderate-income households, the term "project cost" shall also
 38 include the developer fees paid before acquiring permanent
 39 financing, as well as the deferred developer fees approved pursuant
 40 to the rules established by the agency. In addition to the foregoing,
 41 the term "project cost" shall include ²~~the following costs when~~
 42 ~~incurred by a developer~~ ², ²for a redevelopment project located in a
 43 ²~~government restricted~~ government-restricted² municipality ²~~:~~
 44 ~~any development, redevelopment, and relocation costs, including,~~
 45 ~~but not limited to~~ ², land ¹~~and~~ costs ²~~], which land costs shall be~~
 46 ~~capped at no more than~~ ² in an amount not to exceed² 20 percent of
 47 ~~the~~ ²~~total~~ eligible² project cost ²~~];~~¹ building acquisition costs;

1 ¹carrying costs and interest expenses on construction loans and
2 other financing up to project completion;¹ any soft costs, including
3 engineering, legal, accounting, and other professional services
4 required for the completion of the project; any environmental
5 remediation costs; and any infrastructure improvement for the
6 project area, including, but not limited to, costs of on- and off-site
7 utility, road, pier, wharf, bulkhead, or sidewalk construction or
8 repair². The fees associated with the application or administration
9 of a grant under sections 54 through 67 of P.L.2020, c.156
10 (C.34:1B-322 through 34:1B-335) shall not constitute a project cost
11 ²[, regardless of the location of the redevelopment project]².

12 "Project financing gap" means the part of the total project cost,
13 including reasonable and appropriate return on investment, that
14 remains to be financed after all other sources of capital have been
15 accounted for, including, but not limited to developer contributed
16 capital, which shall not be less than 20 percent of the ¹**[total]**¹
17 ²total² project cost, and investor or financial entity capital or loans
18 for which the developer, after making all good faith efforts to raise
19 additional capital, certifies that additional capital cannot be raised
20 from other sources on a non-recourse basis; provided, however, that
21 for a redevelopment project located in a government-restricted
22 municipality, the developer contributed capital shall not be less than
23 10 percent of the ¹**[total]**¹ ²total² project cost. Developer
24 contributed capital may consist of cash, deferred development fees,
25 costs for project feasibility incurred within the 12 months prior to
26 application, property value less any mortgages when the developer
27 owns the project site, and any other investment by the developer in
28 the project deemed acceptable by the authority, as provided by
29 regulations promulgated by the authority. Property value shall be
30 valued at the lesser of: (i) the purchase price, provided the property
31 was purchased pursuant to an arm's length transaction within 12
32 months of application; or (ii) the value as determined by a current
33 appraisal.

34 "Project labor agreement" means a form of pre-hire collective
35 bargaining agreement covering terms and conditions of a specific
36 project that satisfies the requirements set forth in section 5 of
37 P.L.2002, c.44 (C.52:38-5).

38 "Qualified incentive tract" means (i) a population census tract
39 having a poverty rate of 20 percent or more; or (ii) a census tract in
40 which the median family income for the census tract does not
41 exceed 80 percent of the greater of the Statewide median family
42 income or the median family income of the metropolitan statistical
43 area in which the census tract is situated.

44 "Quality childcare facility" is a child care center licensed by the
45 Department of Children and Families or a registered family child
46 care home with the Department of Human Services, operating
47 continuously, which has not been subject to an enforcement action,

1 and which has and maintains a licensed capacity for children age 13
2 years or younger who attend for less than 24 hours a day.

3 "Reasonable and appropriate return on investment" means the
4 discount rate at which the present value of the future cash flows of
5 an investment equals the cost of the investment. In determining the
6 "reasonable and appropriate return on investment," an investment
7 shall not include any federal, State, or local tax credits. For a
8 residential project that utilizes federal low-income housing tax
9 credits awarded by the agency, the "reasonable and appropriate
10 return on investment" shall be based on the approval of deferred
11 developer fees pursuant to the rules established by the agency. In
12 the event that a residential project, which utilizes federal low-
13 income housing tax credits awarded by the agency, generates
14 returns on equity other than federal or local grants or proceeds from
15 the sale of federal or local tax credits, the "reasonable and
16 appropriate return on investment" shall be based on both the
17 discount rate at which the present value of the future cash flows of
18 an investment equal the cost of the investment for the entire project,
19 and when evaluating only the units financed with federal low-
20 income housing tax credits awarded by the agency, the approval of
21 deferred developer fees pursuant to the rules established by the
22 agency.

23 "Redevelopment project" means a specific construction project
24 or improvement or phase of a project or improvement undertaken
25 by a developer, owner or tenant, or both, and any ancillary
26 infrastructure project. A redevelopment project may involve
27 construction or improvement upon lands, buildings, improvements,
28 or real and personal property, or any interest therein, including
29 lands under water, riparian rights, space rights, and air rights,
30 acquired, owned, developed or redeveloped, constructed,
31 reconstructed, rehabilitated, or improved.

32 "Residential project" means a redevelopment project that is
33 predominantly residential, intended for multi-family residency, and
34 may include a parking component.

35 "SDA district" means an SDA district as defined in section 3 of
36 P.L.2000, c.72 (C.18A:7G-3).

37 "SDA municipality" means a municipality in which an SDA
38 district is situated.

39 ¹"Special mission non-profit project" means a project located in
40 a government-restricted municipality or in an enhanced area that:
41 serves a special mission, as determined by the authority, to
42 accomplish the public purpose of a non-profit that is a developer of
43 or is affiliated with the project; and includes no more than 100 units
44 of 100 percent ²[affordable] supportive² housing units ²for tenants
45 requiring special needs or social services, which social services may
46 include licensed social workers,² and no more than ²[10,000]
47 25,000² square feet of commercial space ²for the provision of on-
48 site social service programs that require a license from the

1 Department of Children and Families as a licensed child care center.
2 Special mission non-profit projects shall be exempt from the net
3 benefit test requirement, affordable housing requirements, and the
4 requirement to provide a market study as part of its application to
5 the authority².¹

6 ²["Stranded asset" means any building previously used for
7 commercial, retail, office space, manufacturing, or industrial
8 purposes, which building is no longer used for such purposes, and
9 which has been abandoned, experienced significant vacancies for at
10 least two consecutive years, or has fallen into such disrepair as to be
11 untenable. ¹"Stranded asset" includes vacant land that has been
12 left fallow for at least two consecutive years because of
13 environmental contamination.

14 "Targeted industry" means any industry identified from time to
15 time by the authority, which industry shall initially include
16 advanced transportation and logistics, advanced manufacturing,
17 aviation, autonomous vehicle and zero-emission vehicle research or
18 development, clean energy, life sciences, hemp processing,
19 information and high technology, finance and insurance,
20 professional services, film and digital media, non-retail food and
21 beverage businesses including food innovation, and other
22 innovative industries that disrupt current technologies or business
23 models.¹²

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

33 "Total [project] ¹[development] project¹ cost" ¹[or "total
34 redevelopment cost"]¹ means the costs incurred in connection with
35 the redevelopment project by the developer until the issuance of a
36 permanent certificate of occupancy, or upon such other event
37 evidencing project completion as set forth in the incentive grant
38 agreement, for a specific investment or improvement.

39 "Tourism destination project" means a non-gaming business
40 facility that will be among the most visited privately owned or
41 operated tourism or recreation sites in the State, and which has been
42 determined by the authority to be in an area appropriate for
43 development and in need of economic development incentive
44 assistance, including a non-gaming business within an established
45 Tourism District with a significant impact on the economic viability
46 of that district.

1 "Transit hub" means an urban transit hub, as defined in section 2
2 of P.L.2007, c.346 (C.34:1B-208), that is located within an eligible
3 municipality, as defined in section 2 of P.L.2007, c.346 (C.34:1B-
4 208) and is located within a qualified incentive area.

5 "Transit hub municipality" means a Transit Village or a
6 municipality: a. which qualifies for State aid pursuant to P.L.1978,
7 c.14 (C.52:27D-178 et seq.), or which has continued to be a
8 qualified municipality thereunder pursuant to P.L.2007, c.111; and
9 b. in which 30 percent or more of the value of real property was
10 exempt from local property taxation during tax year 2006. The
11 percentage of exempt property shall be calculated by dividing the
12 total exempt value by the sum of the net valuation which is taxable
13 and that which is tax exempt.

14 "Transit Village" means a municipality that has been designated
15 as a transit village by the Commissioner of Transportation and the
16 Transit Village Task Force ¹【established pursuant to P.L.1985,
17 c.398 (C.27:1A-5)】¹.
18 (cf: P.L.2023, c.98, s.1)

19
20 2. Section 56 of P.L.2020, c.156 (C.34:1B-324) is amended to
21 read as follows:

22 56. a. (1) The New Jersey Aspire Program is hereby established
23 as a program under the jurisdiction of the New Jersey Economic
24 Development Authority. The authority shall administer the
25 program to encourage redevelopment projects through the provision
26 of incentive awards to reimburse developers for certain project
27 financing gap costs. The board may approve the award of an
28 incentive award to a developer upon application to the authority
29 pursuant to sections 58 and 59 of P.L.2020, c.156 (C.34:1B-326 and
30 C.34:1B-327). The value of all tax credits approved by the
31 authority pursuant to sections 54 through 67 of P.L.2020, c.156
32 (C.34:1B-322 through 34:1B-335) shall be subject to the limitations
33 set forth in section 98 of P.L.2020, c.156 (C.34:1B-362).

34 (2) The authority, in consultation with the agency, shall adopt
35 rules and regulations, pursuant to subsection b. of section 67 of
36 P.L.2020, c.156 (C.34:1B-335), concerning the establishment and
37 administration of the affordability controls that shall apply to the
38 residential units constructed for occupancy by low- and moderate-
39 income households under the program, including, but not limited to,
40 residential units within residential projects that utilize federal low-
41 income housing tax credits awarded by the agency.
42 Notwithstanding any provision of law or regulation to the contrary,
43 the affordability controls shall, at a minimum, be consistent with the
44 affordability controls established in the rules and regulations
45 adopted pursuant to the "Fair Housing Act," P.L.1985, c.222
46 (C.52:27D-301 et al.), as in effect immediately prior to the effective
47 date of P.L.2023, c.98 (C.34:1B-335.1 et al.), including, but not
48 limited to, any requirements concerning the 【bedroom

1 distributions,] ²bedroom distributions,² affordability averages,
 2 affirmative marketing, and long-term deed restrictions of residential
 3 units constructed for occupancy by low- and moderate-income
 4 households ²], except not including the bedroom distribution
 5 requirements for three-bedroom housing units.]².

6 b. The chief executive officer of the authority shall designate
 7 one staff member per government-restricted municipality in order to
 8 keep the municipality informed on activities within the municipality
 9 and to coordinate economic development initiatives.

10 (cf: P.L.2023, c.98, s.2)

11

12 3. Section 57 of P.L.2020, c.156 (C.34:1B-325) is amended to
 13 read as follows:

14 57. a. Prior to March 1, 2029, a developer shall be eligible to
 15 receive an incentive award for a redevelopment project only if the
 16 developer demonstrates to the authority at the time of application
 17 that:

18 (1) without the incentive award, the redevelopment project is
 19 not economically feasible;

20 (2) a project financing gap exists, or the authority determines
 21 that the redevelopment project will generate a below market rate of
 22 return;

23 (3) the redevelopment project, except a film studio, professional
 24 stage, television studio, recording studio, screening room, or other
 25 infrastructure used for film production, ²or a special mission non-
 26 profit project,² is located in the incentive area;

27 (4) ²[(a)]² except for demolition and site remediation activities,
 28 the developer has not commenced any construction at the site of the
 29 redevelopment project prior to submitting an application, unless the
 30 authority determines that the redevelopment project would not be
 31 completed otherwise or, in the event the redevelopment project is to
 32 be undertaken in phases, the requested incentive award is limited to
 33 only phases for which construction has not yet commenced;

34 ²[(b) if the developer has commenced demolition and site
 35 remediation activities at the site of the redevelopment project prior
 36 to submitting an application ¹that includes those demolition and site
 37 remediation costs as part of the eligible project cost¹ , all
 38 construction workers employed to undertake demolition and site
 39 remediation activities at the site were paid not less than the
 40 prevailing wage rate for the worker's craft or trade, as determined
 41 by the Commissioner of Labor and Workforce Development
 42 pursuant to P.L.1963, c.150 (C.34:11-56.25 et seq.) and P.L.2005,
 43 c.379 (C.34:11-56.58 et seq.);]²

44 (5) the redevelopment project shall comply with minimum
 45 environmental and sustainability standards;

1 (6) the redevelopment project shall comply with the authority's
2 affirmative action requirements, adopted pursuant to section 4 of
3 P.L.1979, c.303 (C.34:1B-5.4);

4 (7) (a) during the eligibility period, each worker employed to
5 perform construction work at the redevelopment project shall be
6 paid not less than the prevailing wage rate for the worker's craft or
7 trade, as determined by the Commissioner of Labor and Workforce
8 Development pursuant to P.L.1963, c.150 (C.34:11-56.25 et seq.)
9 and P.L.2005, c.379 (C.34:11-56.58 et seq.);

10 (b) during the eligibility period, each worker employed to
11 perform building services work at the redevelopment project,
12 whether pursuant to contract by the developer or a commercial
13 tenant, commercial subtenant, or other commercial occupant, shall
14 be paid not less than the prevailing wage rate for the worker's craft
15 or trade, as determined by the Commissioner of Labor and
16 Workforce Development pursuant to P.L.1963, c.150 (C.34:11-
17 56.25 et seq.) and P.L.2005, c.379 (C.34:11-56.58 et seq.), except
18 that this requirement shall not apply to workers employed to
19 perform building services work by **[a]** ²[any residential tenant or
20 any] ^a commercial tenant, commercial subtenant, or other
21 commercial occupant that has a leasehold interest or other
22 occupancy right in a redevelopment project, which leasehold
23 interest or other occupancy right encompasses less than 5,000
24 square feet of space within the project. The developer shall include
25 in all commercial leases or other commercial occupancy
26 agreements, and shall require that all subleases or other commercial
27 occupancy agreements applicable to the redevelopment project
28 include, a provision setting forth the requirements of this
29 subparagraph, which provision shall be in a form acceptable to the
30 authority. Notwithstanding any provisions of law to the contrary, if
31 a commercial tenant, commercial subtenant, or other commercial
32 occupant violates this provision due to the underpayment of the
33 required prevailing wage rate, then the issuance of tax credits to the
34 developer and any co-applicant shall be delayed until such time as
35 documentation demonstrating compliance has been provided to the
36 Commissioner of Labor and Workforce Development, subsequently
37 reviewed and approved by the Commissioner of Labor and
38 Workforce Development, and verified by the authority, which
39 reviews and verification shall be completed. If a violation is not
40 cured, or is not capable of being cured, within one year of receipt of
41 notice of the violation, then the developer and any co-applicant
42 shall forfeit 50 percent of the tax credits otherwise authorized for
43 the tax period in which the notice of violation was issued. If the
44 violation is not cured on or before the conclusion of that tax period,
45 the developer and any co-applicant shall forfeit up to 100 percent of
46 the tax credits otherwise authorized, as determined by the authority,
47 in each subsequent tax period until the first tax period for which
48 documentation demonstrating compliance has been provided to the

1 Commissioner of Labor and Workforce Development, subsequently
2 reviewed and approved by the Commissioner of Labor and
3 Workforce Development, and verified by the authority, which
4 reviews and verifications shall be completed. In this event, the
5 developer and any co-applicant shall be allowed the full tax credit
6 amount beginning in the tax period in which documentation of
7 compliance was reviewed and approved by the Commissioner of
8 Labor and Workforce Development and verified by the authority,
9 including each subsequent tax period in which the tax credits are
10 otherwise authorized ². The requirement of this subparagraph shall
11 not apply to the residential tenants or residential subtenants of a
12 redevelopment project²;

13 (c) in the event a redevelopment project, or any portion thereof,
14 is undertaken by a tenant pursuant to a contract and the tenant has a
15 leasehold of more than 55 percent of space in the building owned or
16 controlled by the developer, the requirement that each worker
17 employed to perform building service work at the building be paid
18 not less than the prevailing wage shall apply to the entire building,
19 except as otherwise provided in subparagraph (b) of this paragraph
20 for ²all residential tenants and all² commercial tenants,
21 commercial subtenants, or other commercial occupants with a
22 leasehold interest or other occupancy right encompassing less than
23 5,000 square feet ². The requirement of this subparagraph shall not
24 apply to the residential tenants or residential subtenants of a
25 redevelopment project²;

26 (8) (a) the redevelopment project shall be completed, and the
27 developer shall be issued a certificate of occupancy for the
28 redevelopment project facilities by the applicable enforcing agency,
29 within four years of executing the incentive award agreement, or in
30 the case of a redevelopment project with a ²total¹² project cost
31 in excess of \$50,000,000, the incentive phase agreement
32 corresponding to the redevelopment project; or

33 (b) in the discretion of the authority, a redevelopment project
34 with a ²total¹² project cost in excess of \$50,000,000, and that is
35 authorized to be completed in phases, may be allowed no more than
36 six years from the date on which the incentive award agreement is
37 executed to be issued a certificate of occupancy by the applicable
38 enforcement agency;

39 (9) the developer has complied with all requirements for filing
40 tax and information returns and for paying or remitting required
41 State taxes and fees by submitting, as a part of the application, a tax
42 clearance certificate, as described in section 1 of P.L.2007, c.101
43 (C.54:50-39); and

44 (10) the developer is not more than 24 months in arrears at the
45 time of application.

46 b. In addition to the requirements set forth in subsection a. of
47 this section, for a commercial project to qualify for an incentive

1 award the developer shall demonstrate that the developer shall
2 contribute capital of at least 20 percent of the ¹~~total~~²total²
3 project cost, except that if a redevelopment project is located in a
4 government-restricted municipality, the developer shall contribute
5 capital of at least 10 percent of the ¹~~total~~²total² project cost.

6 c. In addition to the requirements set forth in subsection a. of
7 this section, for a residential project or a commercial project
8 comprised solely of a health care or health service center to qualify
9 for an incentive award, the residential project or health care or
10 health service center shall:

11 (1) have a total project cost of at least \$17,500,000, if the project
12 is located in a municipality with a population greater than 200,000
13 according to the latest federal decennial census;

14 (2) have a total project cost of at least \$10,000,000 if the project
15 is located in a municipality with a population less than 200,000
16 according to the latest federal decennial census; or

17 (3) have a total project cost of at least \$5,000,000 if the project is
18 in a qualified incentive tract or government-restricted municipality.

19 d. In addition to the requirements set forth in subsections a. and
20 c. of this section, for a residential project consisting of newly-
21 constructed residential units to qualify for an incentive award, the
22 developer shall reserve at least 20 percent of the residential units
23 constructed for occupancy by low- and moderate-income
24 households with affordability controls as adopted by the authority,
25 in consultation with the agency, in accordance with paragraph (2) of
26 subsection a. of section 56 of P.L.2020, c.156 (C.34:1B-324),
27 except that a residential project receiving a federal historic
28 rehabilitation tax credit pursuant to section 47 of the federal
29 Internal Revenue Code of 1986, 26 U.S.C. s.47, or a tax credit
30 pursuant to the "Historic Property Reinvestment Act," sections 2
31 through 8 of P.L.2020, c.156 (C.34:1B-270 through 34:1B-276),
32 shall be exempt from the affordability controls related to bedroom
33 distribution.

34 e. Prior to the board considering an application submitted by a
35 developer, the authority shall confirm with the Department of Labor
36 and Workforce Development, the Department of Environmental
37 Protection, and the Department of the Treasury whether the
38 developer is in substantial good standing with the respective
39 department, or has entered into an agreement with the respective
40 department that includes a practical corrective action plan for the
41 developer. The developer shall certify that any contractors or
42 subcontractors that will perform work at the redevelopment project:
43 (1) are registered as required by "The Public Works Contractor
44 Registration Act," P.L.1999, c.238 (C.34:11-56.48 et seq.); (2) have
45 not been debarred by the Department of Labor and Workforce
46 Development from engaging in or bidding on Public Works
47 Contracts in the State; and (3) possess a tax clearance certificate
48 issued by the Division of Taxation in the Department of the

Treasury. The authority may also contract with an independent third party to perform a background check on the developer.

f. Beginning ¹~~on~~ ²~~after~~¹ on² the ²~~third~~ fourth² year ²~~following the date of issuance of a final certificate of occupancy~~ of the eligibility period² for a commercial project, and through the conclusion of the eligibility period, if the average occupancy rate of the commercial project is less than 60 percent during any applicable tax period, the developer and co-applicant shall forfeit all credits otherwise allowed for the tax period and for each subsequent tax period until the authority verifies documentation, submitted by the developer or co-applicant, demonstrating that the average occupancy rate has reached or surpassed 60 percent for the tax period. The full amount of credit shall be allowed to a developer and any co-applicant for the tax period in which the average occupancy rate reaches or surpasses 60 percent. Occupancy for the tax period shall be determined by the average of the monthly occupancy for the applicable tax period. The occupancy requirement in this subsection shall not apply to residential projects. (cf: P.L.2023, c.98, s.3)

4. Section 60 of P.L.2020, c.156 (C.34:1B-328) is amended to read as follows:

60. a. (1) Following approval and selection of an application pursuant to sections 58 and 59 of P.L.2020, c.156 (C.34:1B-326 and C.34:1B-327), the authority shall enter into an incentive award agreement with the developer. The chief executive officer of the authority shall negotiate the terms and conditions of the incentive award agreement on behalf of the State.

(2) For a phased project, the incentive phase agreement shall set forth, for each phase of the project and for the total project, the capital investment requirements and the time periods in which each phase of the project shall be commenced and completed. The awarding of tax credits shall be conditioned on the developer's compliance with the requirements of the agreement. A redevelopment project may be completed in phases in accordance with rules adopted by the authority if the redevelopment project has ²~~a total~~ an eligible² project cost in excess of \$50,000,000.

b. An incentive award agreement shall specify the amount of the incentive award the authority shall award to the developer and the duration of the eligibility period. The duration of the eligibility period ~~shall not exceed 15 years for a commercial or mixed-use project and~~ shall not exceed 10 years for a commercial project, mixed-use project, or residential project, except that ~~to~~ ²~~the authority shall~~² ¹~~consider reducing~~ ²~~reduce~~¹ the eligibility period if a shorter period would ~~to~~² reduce the total value of tax credits needed to reimburse a developer for all or part of the project financing gap of a redevelopment project, ~~the authority may, in its~~

1 discretion, approve a duration for the eligibility period that is
2 shorter than the applicable maximum periods² enhance access to
3 tax credit monetization on cost effective terms, or otherwise
4 enhance the effectiveness of the program the authority may, in its
5 discretion, approve a duration for the eligibility period that is
6 shorter than the applicable maximum periods². The incentive award
7 agreement shall provide an estimated date of completion and
8 include a requirement for periodic progress reports, including the
9 submittal of executed financing commitments and documents that
10 evidence site control; provided however, that the developer may sell
11 one or more buildings during the eligibility period, ²provided that
12 such sale is: an arms-length transaction to an unrelated party, or for
13 an amount at least equal to fair market value based on an appraisal
14 conducted within one year; and subject to the purchaser's
15 assumption of all obligations relating to the buildings pursuant to
16 sections 54 through 67 of P.L.2020, c.156 (C.34:1B-322 through
17 C.34:1B-335)] subject to such rules and regulations as may be
18 adopted by the authority². If the authority does not receive periodic
19 progress reports, or if the progress reports demonstrate
20 unsatisfactory progress, then the authority may rescind the incentive
21 award. If the authority rescinds an incentive award in the same
22 calendar year in which the authority approved the incentive award,
23 then the authority may assign the incentive award to another
24 applicant. The incentive award agreement may also provide for a
25 verification of the financing gap at the time the developer provides
26 executed financing commitments to the authority and a verification
27 of the developer's projected cash flow at the time of certification
28 that the project is completed ², provided that the authority shall not
29 resize or reduce the tax credit based on the executed financing
30 commitments or the updated projected cash flow but that the
31 authority shall use the commitments and cash flow to calculate the
32 return on investment required pursuant to subsection c. of this
33 section².

34 c. To ensure the protection of taxpayer money, ²if the
35 authority determines at project certification that the actual capital
36 financing approach utilized by the project has resulted in a
37 financing gap that is smaller than the financing gap determined at
38 board approval, the authority shall reduce the amount of the tax
39 credit or accept payment from the developer on a pro rata basis. If
40 there is no project financing gap due to the actual capital financing
41 approach utilized by the project, then the developer shall forfeit the
42 incentive award. At ²at project certification and at the end of the
43 seventh year of the eligibility period, the authority shall evaluate the
44 developer's rate of return on investment and compare that rate of
45 return on investment to the reasonable and appropriate rate of return
46 at the time of board approval. If the actual rate of return on
47 investment exceeds the reasonable and appropriate rate of return on

1 investment at the time of board approval by more than 15 percent,
2 the authority shall require the developer to pay up to 20 percent of
3 the amount in excess of the reasonable and appropriate rate of
4 return on investment. ²For any year during the eligibility period in
5 which the director purchases a tax credit certificate or tax credit
6 transfer certificate issued for a redevelopment project pursuant to
7 section 89 of P.L.2020, c.156 (C.52:18A-263), if the actual rate of
8 return on investment exceeds the reasonable and appropriate rate of
9 return on investment at the time of board approval by more than 10
10 percent, the authority shall require the developer to pay up to 20
11 percent of the amount in excess of the reasonable and appropriate
12 rate of return on investment, except as otherwise provided in
13 paragraph (2) of subsection a. of section 89 of P.L.2020, c.156
14 (C.52:18A-263).² The authority shall require an escrow account to
15 be held by the authority ²for any payment received pursuant to this
16 subsection² until the end of the eligibility period. ²For any payment
17 amount calculated at project certification, the developer shall make
18 equal annual payments, which in aggregate shall equal the
19 calculated payment amount, with each annual report for the first
20 seven years of the eligibility period. At the end of the seventh year
21 of the eligibility period, the developer shall pay the authority any
22 additional amount required. For projects that have an eligibility
23 period of fewer than 10 years, the authority may adjust the year of
24 the eligibility period in which the evaluation of the rate of return
25 and contribution to the escrow account, as may be appropriate, are
26 required. The authority shall not reduce or recapture any tax credits
27 at project certification or at the end of the seventh year of the
28 eligibility period solely due to an increase to the return on
29 investment.² Following the final year of the eligibility period, the
30 authority shall determine if the developer's rate of return exceeded
31 the reasonable and appropriate rate of return determined at board
32 approval. If the final rate of return does not exceed the reasonable
33 and appropriate rate of return determined at board approval, the
34 authority shall release to the developer the escrowed funds. If the
35 project final rate of return exceeds the reasonable and appropriate
36 rate of return determined at board approval, the authority shall
37 require the developer to pay up to 20 percent of the amount of the
38 excess, which shall include the funds held in escrow, and such
39 funds shall be deposited in the State General Fund.

40 d. The incentive award agreement shall include a requirement
41 that the authority confirm with the Department of Environmental
42 Protection, the Department of Labor and Workforce Development,
43 and the Department of the Treasury that the developer is in
44 substantial good standing with the respective department, or the
45 developer has entered into an agreement with the respective
46 department that includes a practical corrective action for the
47 developer, and the developer shall confirm that each contractor or

1 subcontractor performing work at the redevelopment project: (1) is
2 registered as required by "The Public Works Contractor
3 Registration Act," P.L.1999, c.238 (C.34:11-56.48 et seq.); (2) has
4 not been debarred, suspended, or disqualified by the Department of
5 Labor and Workforce Development from engaging in or bidding on
6 Public Works Contracts in the State, or been debarred, suspended,
7 or disqualified by a federal agency from engaging in federally-
8 funded construction projects or bidding on federal contracting
9 opportunities; and (3) possesses a tax clearance certificate issued by
10 the Division of Taxation in the Department of the Treasury. The
11 incentive award agreement shall also include a provision that the
12 developer shall forfeit the incentive award in any year in which the
13 developer is neither in substantial good standing with each
14 department nor has entered into a practical corrective action. The
15 incentive award agreement shall also require a developer to engage
16 in on-site consultations with the Division of Workplace Safety and
17 Health in the Department of Health.

18 e. (1) Except as provided in paragraph (2) of this subsection,
19 the authority shall not enter into an incentive award agreement for a
20 redevelopment project that includes at least one retail establishment
21 which will have more than 10 employees, at least one distribution
22 center which will have more than 20 employees, or at least one
23 hospitality establishment which will have more than 10 employees,
24 unless the incentive award agreement includes a precondition that
25 any business that serves as the owner or operator of the retail
26 establishment, distribution center, or hospitality establishment
27 enters into a labor harmony agreement with a labor organization or
28 cooperating labor organizations which represent retail
29 establishment, hospitality establishment, or distribution center
30 employees in the State.

31 (2) A labor harmony agreement shall be required only if the
32 State has a proprietary interest in the redevelopment project and
33 shall remain in effect for as long as the State acts as a market
34 participant in the redevelopment project. The authority may enter
35 into an incentive award agreement with a developer without the
36 labor harmony agreement required under paragraph (1) of this
37 subsection if the authority determines that the redevelopment
38 project would not be able to go forward if a labor harmony
39 agreement is required. The authority shall support the
40 determination by a written finding, which provides the specific
41 basis for the determination.

42 (3) (Deleted by amendment, P.L.2023, c.98)

43 f. (1) Except for ²a special mission non-profit project in any
44 location, or² a residential project that is located in a government-
45 restricted municipality ²[,]² and in which 100 percent of the
46 residential units constructed in the residential project are reserved
47 for occupancy by low- and moderate-income households, for a
48 redevelopment project whose ¹total¹ ²total² project cost equals or

1 exceeds \$10 million, in addition to the incentive award agreement, a
 2 developer shall enter into a community benefits agreement with the
 3 authority and the county or municipality in which the
 4 redevelopment project is located. The agreement may include, but
 5 shall not be limited to, requirements for training, employment, and
 6 youth development and free services to underserved communities in
 7 and around the community in which the redevelopment project is
 8 located. Prior to entering a community benefits agreement, ²the
 9 governing body of ²the county or municipality in which the
 10 redevelopment project is located shall hold at least one ²previously
 11 advertised² public hearing at which ²the governing body shall
 12 hear² testimony from residents, community groups, and other
 13 stakeholders ²shall have an opportunity to be heard² on the needs of
 14 the community that the agreement should address², and the minutes
 15 of the meeting shall be included in the resolution of the governing
 16 body of the municipality or county adopting the community benefits
 17 agreement².

18 (2) The community benefits agreement shall provide for the
 19 creation of a community advisory committee to oversee the
 20 implementation of the agreement, monitor successes, ensure
 21 compliance with the terms of the agreement, and produce an annual
 22 public report. The community advisory committee created pursuant
 23 to this paragraph shall be comprised of representatives of diverse
 24 community groups and residents of the county or municipality in
 25 which the redevelopment project is located.

26 (3) At the time the developer submits the annual report required
 27 pursuant to section 62 of P.L.2020, c.156 (C.34:1B-330) to the
 28 authority, the developer shall certify, under the penalty of perjury,
 29 that it is in compliance with the terms of the community benefits
 30 agreement. If the developer fails to provide the certification
 31 required pursuant to this paragraph or the authority determines that
 32 the developer is not in compliance with the terms of the community
 33 benefits agreement based on the reports submitted by the
 34 community advisory committee pursuant to paragraph (2) of this
 35 subsection, then the authority may rescind an award or recapture all
 36 or part of any tax credits awarded.

37 (4) Notwithstanding any requirement of this subsection to the
 38 contrary, ²because all redevelopment agreements require a
 39 certificate of completion issued by the municipality to confirm the
 40 developer's compliance with the redevelopment agreement,¹² a
 41 developer shall be considered to have met the requirements of a
 42 community benefits agreement [pursuant to this subsection] ²and
 43 the requirements of paragraphs (2) and (3) of this subsection shall
 44 not apply,] pursuant to this subsection² if the developer submits to
 45 the authority:

46 (a) a copy of either the developer's approval letter from the
 47 authority or a redevelopment agreement applicable to the qualified

1 business facility, provided that the approval letter ²is certified by
2 the municipality² or ²the² redevelopment agreement is
3 certified² adopted by resolution at a public meeting² certified²
4 by the municipality in which the redevelopment project is located,
5 and includes provisions that meet or exceed² or exceed² the
6 standards² community benefit² standards² required for²
7 under² for² a community benefits agreement ¹in² pursuant
8 to¹ in² this subsection], as determined by the chief executive
9 officer pursuant to rules adopted by the authority², as determined
10 by the chief executive officer pursuant to rules adopted by the
11 authority²; or

12 (b) a resolution adopted by the governing body of the
13 municipality in which the redevelopment project is located, which
14 resolution shall be adopted after at least one public hearing at which
15 the governing body provides an opportunity for residents,
16 community groups, and other stakeholders to testify, and which
17 resolution shall state that the governing body has determined that
18 the redevelopment project will provide economic and social benefits
19 to the community that fulfill the purposes of this subsection, which
20 benefits render a separate community benefit agreement
21 unnecessary, and explain the reasons supporting the governing
22 body's determination.

23 ²(c) The developer and the municipality or county shall submit
24 the executed community benefits agreement, redevelopment
25 agreement, or approved resolution to the authority within the same
26 time as all other conditions subsequent required in the approval
27 letter.²

28 g. A developer shall submit, prior to the first disbursement of
29 tax credits under the incentive award agreement, but no later than
30 six months following project completion, satisfactory evidence of
31 actual project costs, as certified by a certified public accountant,
32 evidence of a temporary certificate of occupancy, or other event
33 evidencing project completion that begins the eligibility period
34 indicated in the incentive award agreement. The developer, or an
35 authorized agent of the developer, shall certify that the information
36 provided pursuant to this subsection is true under the penalty of
37 perjury. Claims, records, or statements submitted by a developer to
38 the authority in order to receive tax credits shall not be considered
39 claims, records, or statements made in connection with State tax
40 laws.

41 h. The incentive award agreement shall include a provision
42 allowing the authority to extend, in individual cases, the deadline
43 for any annual reporting or certification requirement.

44 i. The incentive award agreement shall include one or more
45 provisions, as determined by the authority, concerning the terms
46 and conditions for default and the remedies for the developer of a
47 redevelopment project in the event of default. The incentive award

1 agreement shall not allow the authority to declare a cross-default
 2 when the developer of a redevelopment project, including any
 3 business affiliate of the developer or any other entity with common
 4 principals as the developer, is in default with any other assistance
 5 program administered by the authority.
 6 (cf: P.L.2023, c.98, s.6)

7
 8 5. Section 61 of P.L.2020, c.156 (C.34:1B-329) is amended to
 9 read as follows:

10 61. a. Up to the limits established in subsection b. of this
 11 section and in accordance with an incentive award agreement,
 12 beginning upon the receipt of occupancy permits for any portion of
 13 the redevelopment project, or upon any other event evidencing
 14 project completion as set forth in the incentive award agreement, a
 15 developer shall be allowed a total tax credit **that shall not exceed**
 16 **²[as follows, subject to the enhancements set forth in subsection c.**
 17 **of this section] that shall not exceed²:**

18 (1) **²[80] (a) 85²** percent of the **¹[total] eligible¹** project cost for
 19 a redevelopment project that **²;²** is located in a government-
 20 restricted municipality **², which municipality qualified as a**
 21 **government-restricted municipality prior to the effective date of**
 22 **P.L. , c. (C.) (pending before the Legislature as this bill);²**
 23 **¹or is a special mission non-profit project¹; ²or**

24 **(b) 80 percent of the eligible project cost for a redevelopment**
 25 **project that is located in a government-restricted municipality,**
 26 **which municipality did not qualify as a government-restricted**
 27 **municipality prior to the effective date of P.L. , c. (C.)**
 28 **(pending before the Legislature as this bill);²**

29 (2) 60 percent of the **¹[total] eligible¹** project cost for a
 30 residential project that receives a four-percent allocation from the
 31 federal Low Income Housing Tax Credit Program administered by
 32 the agency , or a redevelopment project that is located in a qualified
 33 incentive tract, enhanced area, or a municipality with a Municipal
 34 Revitalization Index score of at least 50; or

35 (3) 50 percent of the **¹[total] eligible¹** project cost for any other
 36 redevelopment project.

37 b. The value of all tax credits approved by the authority under
 38 the program for a redevelopment project phase shall not exceed:

39 (1) \$120,000,000 per redevelopment project or phase for a
 40 redevelopment project that is located in a government-restricted
 41 municipality **¹or is a special mission non-profit project¹;**

42 (2) \$90,000,000 per redevelopment project or phase for a
 43 redevelopment project that is allowed a tax credit under paragraph
 44 (2) of subsection a. of this section; and

45 (3) \$60,000,000 for any other redevelopment project or phase.

46 **²[c. Notwithstanding the limitations set forth in subsection a. of**
 47 **this section, but subject to the limitations of subsections b. and d. of**

1 this section and the demonstration of a financing gap, a developer
2 shall be eligible for each of the following enhancements to the total
3 tax credit award:

4 (1) for a redevelopment project that includes the redevelopment
5 of a stranded asset, an enhancement of up to 10 percent of the
6 project cost of the redevelopment project;

7 (2) for a residential project that meets the three-bedroom
8 distribution requirement under the Uniform Housing Affordability
9 Controls, an enhancement of up to five percent of the project cost of
10 the residential project; and

11 (3) for a redevelopment project that meets local first source
12 hiring requirements for residents in the municipality or county in
13 which the project is located and in surrounding municipalities, as
14 appropriate, an enhancement of up to three percent of the project
15 cost of the redevelopment project.

16 d. Except for a redevelopment project that is located in a
17 government restricted municipality:

18 (1) the total tax credits awarded for the redevelopment project,
19 together with all tax credits awarded under any other program
20 administered by the authority, shall not exceed 80 percent of the
21 project cost of the redevelopment project; and

22 (2) for a redevelopment project that receives tax credits under
23 the Federal Low-Income Housing Tax Credit Program, the total tax
24 credits awarded for the redevelopment project, together with all tax
25 credits awarded under any other program administered by the
26 authority and under the Federal Low-Income Housing Tax Credit
27 Program, shall not exceed 90 percent of the project cost.】²

28 (cf: P.L.2023, c.98, s.7)

29
30 6. Section 62 of P.L.2020, c.156 (C.34:1B-330) is amended to
31 read as follows:

32 62. a. A developer approved for an incentive award pursuant to
33 sections 58 and 59 of P.L.2020, c.156 (C.34:1B-326 and C.34:1B-
34 327) and that enters an incentive award agreement pursuant to
35 section 60 of P.L.2020, c.156 (C.34:1B-328) shall submit annually,
36 commencing in the year in which the incentive award is issued and
37 for the remainder of the eligibility period, a report indicating
38 whether the developer is aware of any condition, event, or act that
39 would cause the developer not to be in compliance with the
40 incentive award agreement or the provisions of sections 54 through
41 67 of P.L.2020, c.156 (C.34:1B-322 through C.34:1B-335) and any
42 additional reporting requirements contained in the incentive award
43 agreement or tax credit certificate. The developer, or an authorized
44 agent of the developer, shall certify that the information provided
45 pursuant to this subsection is true under the penalty of perjury.

46 b. (1) Upon receipt and review of each report submitted during
47 the eligibility period, the authority shall provide to the developer
48 and the director a certificate of compliance indicating the amount of

1 tax credits that the developer may apply against the developer's tax
 2 liability. ²1The authority shall preliminarily determine whether
 3 the annual report submitted by the developer is complete as early as
 4 practicable after accepting each annual report. Within 90
 5 Notwithstanding any provision of law or regulation to the contrary,
 6 the authority shall not require the developer to include a permanent
 7 certificate of occupancy in the first annual report, but the developer
 8 shall include the permanent certificate of occupancy in the next
 9 annual report after the developer receives the permanent certificate
 10 of occupancy. Subject to forfeiture, reduction, or other action for
 11 failure to comply with a program requirement, within 120² days
 12 after the authority preliminarily determines that an annual report is
 13 complete, the authority shall either: (a) approve the annual report
 14 and notify the director that the authority has approved the report
 15 and that the director is to issue the tax credit certificate; or (b)
 16 request more information from the developer to finalize the
 17 approval. If the authority fails to act within ²90 120² days from
 18 its preliminary determination that the annual report is complete, the
 19 annual report shall be deemed approved by the authority, and the
 20 developer shall be entitled to receive its tax credit certificate.¹

21 (2) Upon receipt by the director of the certificate of compliance,
 22 the director shall allow the developer a credit against the tax
 23 imposed pursuant to section 5 of P.L.1945, c.162 (C.54:10A-5). A
 24 developer shall apply the credit awarded against the developer's
 25 liability under section 5 of P.L.1945, c.162 (C.54:10A-5), sections 2
 26 and 3 of P.L.1945, c.132 (C.54:18A-2 and C.54:18A-3), section 1
 27 of P.L.1950, c.231 (C.17:32-15), or N.J.S.17B:23-5 ¹for the
 28 privilege period during identified in the tax credit certificate
 29 which the director allows issues to the developer a tax credit
 30 pursuant to this subsection, or within the three successive tax
 31 periods immediately following the tax period in which the tax credit
 32 certificate is received by the developer in the tax period for which
 33 it was issued, in the tax period in which it was issued, or in any
 34 ²successive tax period ², as authorized pursuant to this
 35 subsection during the eligibility period², without the need to
 36 amend the tax return for the tax period for which the credit was
 37 issued, subject to the carry-forward provision in this section.
 38 Notwithstanding the foregoing, no more than the amount of tax
 39 credits equal to the total credit amount divided by the duration of
 40 the tax credit term, in years, may be taken in any tax period¹. A
 41 developer may carry forward an unused credit resulting from the
 42 limitations of paragraph (3) of this subsection, if necessary, for use
 43 in the seven privilege periods next following the privilege period
 44 for which the credits are awarded applied. Credits granted to a
 45 partnership shall be passed through to the partners, members, or
 46 owners, respectively, pro-rata, or pursuant to an executed agreement
 47 among the partners, members, or owners documenting an alternate

1 distribution method provided to the director accompanied by any
2 additional information as the director may prescribe.

3 (3) The director shall prescribe the order of priority of the
4 application of the credit allowed under this section and any other
5 credits allowed by law against the tax imposed under section 5 of
6 P.L.1945, c.162 (C.54:10A-5). The amount of the credit applied
7 under this section against the tax imposed pursuant to section 5 of
8 P.L.1945, c.162 (C.54:10A-5) for a privilege period, together with
9 any other credits allowed by law, shall not reduce the tax liability to
10 an amount less than the statutory minimum provided in subsection
11 (e) of section 5 of P.L.1945, c.162 (C.54:10A-5).
12 (cf: P.L.2022, c.46, s.1)

13
14 7. Section 63 of P.L.2020, c.156 (C.34:1B-331) is amended to
15 read as follows:

16 63. a. ¹(1)¹A developer may apply to the director and the chief
17 executive officer of the authority for a tax credit transfer certificate,
18 covering one or more years, in lieu of the developer being allowed
19 any amount of the credit against the tax liability of the developer.
20 ²1The authority shall preliminarily determine whether the
21 application submitted by the developer is complete as early as
22 practicable after accepting the application. Within 901 Subject to
23 the forfeiture, reduction, or other action for failure to comply with a
24 program requirement, within 120² days after the authority
25 preliminarily determines that an application is complete, the
26 authority shall either: (a) approve the application and notify the
27 director that the authority has approved the application and that the
28 director is to issue the tax credit transfer certificate; or (b) request
29 more information from the developer to finalize the approval. If the
30 authority fails to act within ²901 120² days from its preliminary
31 determination that the application is complete, the application shall
32 be deemed approved by the authority, and the developer shall be
33 entitled to receive its tax credit transfer certificate.

34 (2)¹ The tax credit transfer certificate, upon receipt thereof by
35 the developer from the director and the chief executive officer of
36 the authority, may be sold or assigned, in full or in part in an
37 amount not less than \$25,000, in the privilege period during which
38 the developer receives the tax credit transfer certificate from the
39 director, to another person, who may apply the credit against a tax
40 liability pursuant to section 5 of P.L.1945, c.162 (C.54:10A-5),
41 sections 2 and 3 of P.L.1945, c.132 (C.54:18A-2 and C.54:18A-3),
42 section 1 of P.L.1950, c.231 (C.17:32-15), or N.J.S.17B:23-5. The
43 certificate provided to the developer shall include a statement
44 waiving the developer's right to claim the amount of the credit that
45 the developer has elected to sell or assign against the developer's
46 tax liability.

1 b. The developer shall not sell or assign, including a collateral
 2 assignment, a tax credit transfer certificate allowed under this
 3 section for consideration received by the developer of less than 85
 4 percent of the transferred credit amount before considering any
 5 further discounting to present value which shall be permitted,
 6 except a developer of a residential project consisting of newly-
 7 constructed residential units may assign a tax credit transfer
 8 certificate for consideration of less than 85 percent subject to the
 9 submission of a plan to the authority and the agency to use the
 10 proceeds derived from the assignment of tax credits to complete the
 11 residential project, except a developer of a residential project
 12 consisting of newly-constructed residential units that has received
 13 federal low income housing tax credits under 26 U.S.C.
 14 s.42(b)(1)(B)(i) may assign a tax credit transfer certificate for
 15 consideration of no less than 65 percent subject to the submission of
 16 a plan to the authority and the New Jersey Housing and Mortgage
 17 Finance Agency to use the proceeds derived from the assignment of
 18 tax credits to complete the residential project. The tax credit
 19 transfer certificate issued to a developer by the director shall be
 20 subject to any limitations and conditions imposed on the application
 21 of State tax credits pursuant to sections 54 through 67 of P.L.2020,
 22 c.156 (C.34:1B-322 through 34:1B-335) and any other terms and
 23 conditions that the director may prescribe; provided, however, that
 24 the holder of a tax credit certificate may transfer all or part of the
 25 tax credit amount, ¹within the three successive tax periods
 26 immediately following the tax period in which the tax credit
 27 certificate is received by the developer ²at any time after the date
 28 of receipt of the tax credit certificate ¹, ² on or after the date of
 29 issuance of the tax credit transfer certificate, for use by the
 30 transferee in the tax period for which it was issued ¹or within the
 31 three successive tax periods immediately following the tax period in
 32 which the tax credit transfer certificate is received by the transferee,
 33 and the transferee may carry forward all or part of the tax credit
 34 amount in any of the next five successive tax periods after the tax
 35 period for which it was used ¹, in the tax period in which it was
 36 issued, or in any ²of the next three ² successive tax ²period
 37 periods. The tax certificate holder or transferee may first use the
 38 credit against tax liabilities in the tax period in which it was issued
 39 or in a succeeding tax period ², as authorized in this subsection,
 40 without the need to amend the tax return for the tax period for
 41 which the credit was issued, subject to the ²carry-forward
 42 provision in ² provisions of ² this section. A transferee may carry
 43 forward an unused credit for use in any of the next five successive
 44 tax periods, and the unused credit shall expire thereafter ¹.
 45 Notwithstanding any provision of this section to the contrary, the
 46 amount of tax credits that may be claimed by the transferee in any

1 tax period shall not exceed the total tax credit amount divided by
2 the duration of the eligibility period in years.

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

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

9 (1) the name of the transferor;

10 (2) the name of the transferee;

11 (3) the value of the tax credit transfer certificate; and

12 (4) the consideration received by the transferor.

13 ¹[e. When a tax credit certificate is issued to a developer after
14 the tax period in which all or part of the tax credits may be used by
15 the developer or a holder of the credit transfer certificate, the
16 developer or transferee shall be allowed to use the tax credit for the
17 same tax period specified in the tax credit certificate, or within the
18 three successive tax periods immediately following the tax period in
19 which the certificate is received by the developer or transferee. In
20 this circumstance, the developer or transferee shall not be required
21 to amend its tax return for the tax period in which it applies the tax
22 credit or for a tax period preceding the tax period in which the tax
23 credit is applied.]¹

24 (cf: P.L.2023, c.98, s.8)

25
26 8. Section 65 of P.L.2020, c.156 (C.34:1B-333) is amended to
27 read as follows:

28 65. a. As used in this section, "transformative project" means a
29 redevelopment project: that has a project financing gap; that has a
30 total project cost of at least \$150,000,000; that ¹[, subject to the
31 provisions of subsection h. of this section,]¹ includes 200,000 or
32 more square feet of new or substantially renovated industrial,
33 commercial, or residential space for a project located in a
34 government-restricted municipality, that includes 250,000 or more
35 square feet of film studios, professional stages, television studios,
36 recording studios, screening rooms, or other infrastructure for film
37 production, that includes 300,000 or more square feet of new or
38 substantially renovated industrial, commercial, or residential space
39 for a project located in an enhanced area, or that includes 500,000
40 or more square feet of new or substantially renovated industrial,
41 commercial, or residential space for any other project; and, for a
42 commercial project, that is of special economic importance as
43 measured by the level of new jobs, new capital investment,
44 opportunities to leverage leadership in a high-priority targeted
45 industry, or other state priorities as determined by the authority
46 pursuant to rules and regulations promulgated to implement this
47 section. Notwithstanding the provisions of subsection b. of section
48 14 of P.L.2023, c.98 (C.34:1B-335.1) to the contrary, for

1 applications submitted on and after the effective date of P.L.2023,
 2 c.98 (C.34:1B-335.1 et al.), if the redevelopment project is located
 3 entirely on land designated by the Department of Environmental
 4 Protection as a brownfield development area pursuant to section 7
 5 of P.L.2005, c.223 (C.58:10B-25.1), and the ²~~['total']~~ eligible²
 6 project cost of the redevelopment project includes at least
 7 \$15,000,000 in environmental remediation costs, the redevelopment
 8 project shall constitute a project of special economic importance. A
 9 transformative project may be completed in phases, which phases
 10 may be determined by the authority based on factors such as written
 11 architectural plans and specifications completed before or during
 12 the physical work, certificates of occupancy, or financial and
 13 operational plans. The criteria developed by the authority shall
 14 include, but shall not be limited to:

15 (1) the extent to which the proposed transformative project
 16 would create modern facilities that enhance the State's
 17 competitiveness in attracting targeted industries;

18 (2) (a) for a residential project, the construction of 700 or more
 19 new residential units; ²~~['or']~~²

20 (b) for a ²mixed-use² residential project containing ~~['less']~~ fewer
 21 than 700 new residential units ²~~['']~~ :

22 (i) ²the construction of 200 or more new residential units if the
 23 project is located in a government-restricted municipality, 300 or
 24 more ¹new¹ residential units if the project is located in an enhanced
 25 area, or 400 or more ¹new¹ residential units for all other mixed-use
 26 projects; ²~~['or']~~ and

27 (ii) the construction of 30,000 square feet or more of
 28 commercial space, which commercial space may include retail
 29 space; and²

30 (c) ²~~['for a residential project']~~ ¹~~['containing']~~ , not located in a
 31 government-restricted municipality or an enhanced area, that
 32 contains¹ ~~['less']~~ fewer than 700 new residential units, the
 33 construction of ~~['50,000']~~ 20,000 square feet or more of commercial
 34 space, which commercial space may include retail space; and
 35 (Deleted by amendment, P.L. , c. (pending before the
 36 Legislature as this bill)²

37 (d) for a residential project, 20 percent of the new residential
 38 units shall be constructed for occupancy by low- and moderate-
 39 income households with affordability controls as adopted by the
 40 authority, in consultation with the agency, in accordance with
 41 paragraph (2) of subsection a. of section 56 of P.L.2020, c.156
 42 (C.34:1B-324), except that a residential project receiving a federal
 43 historic rehabilitation tax credit pursuant to section 47 of the federal
 44 Internal Revenue Code of 1986, 26 U.S.C. s.47, or a tax credit
 45 pursuant to the "Historic Property Reinvestment Act," sections 2
 46 through 8 of P.L.2020, c.156 (C.34:1B-270 through 34:1B-276),

1 shall be exempt from the affordability controls related to bedroom
2 distribution; and

3 (3) the extent to which the proposed project would leverage the
4 competitive economic development advantages of the State's mass
5 transit assets, higher education assets, and other economic
6 development assets in attracting or retaining both employers and
7 skilled workers generally or in targeted industries.

8 A "transformative project" shall not include a redevelopment
9 project at which more than 50 percent of the premises is occupied
10 by one or more businesses engaged in final point of sale retail.

11 b. (1) The authority may award incentive awards to
12 transformative projects in accordance with the provisions of
13 sections 55 through 67 of P.L.2020, c.156 (C.34:1B-323 through
14 34:1B-335).

15 (2) (a) For transformative projects completed in phases, the
16 developer shall enter into a transformative phase agreement with the
17 authority.

18 (b) As used in this subsection, "transformative phase agreement"
19 shall mean a sub-agreement of the incentive award agreement that
20 governs the timing, capital investment, and other applicable details
21 of the respective phase of a phased project.

22 (3) Notwithstanding the provisions of section 57 of P.L.2020,
23 c.156 (C.34:1B-325), or any other section of P.L.2020, c.156
24 (C.34:1B-269 et al.) to the contrary, a transformative project shall
25 be completed, and the developer shall be issued a certificate of
26 occupancy for the transformative project facilities by the applicable
27 enforcing agency, within five years of executing the incentive
28 award agreement, except that the authority may, in its discretion,
29 extend this deadline by up to one additional year. For
30 transformative projects completed in phases, the transformative
31 project shall be completed, and the developer shall be issued
32 certificates of occupancy for all phases of the transformative project
33 facilities by the applicable enforcing agency, within 10 years of
34 executing either the incentive award agreement or the first
35 transformative phase agreement corresponding to the transformative
36 project.

37 (4) Notwithstanding the provisions of sections 55 and 60 of
38 P.L.2020, c.156 (C.34:1B-323 and C.34:1B-328), or any other
39 section of P.L.2020, c.156 (C.34:1B-269 et al.) to the contrary, each
40 phase of a transformative project completed in phases shall have a
41 separate eligibility period. After completing each phase, the
42 developer shall submit a certification that the phase is completed.
43 If the authority approves the certification, the tax credit allowed to
44 the developer shall be increased by the tax credit amount
45 corresponding to that phase. Notwithstanding the different
46 eligibility periods for each phase, all conditions and requirements
47 applicable during an eligibility period pursuant to sections 55
48 through 67 of P.L.2020, c.156 (C.34:1B-323 through 34:1B-335)

1 shall apply to ¹~~the entire~~ ²each phase of a¹ ~~the entire~~²
2 transformative project until the end of the eligibility period ¹~~for~~
3 ~~the last~~ ²of each completed¹ ~~for the last~~² phase.

4 (5) Notwithstanding the provisions of section 60 of P.L.2020,
5 c.156 (C.34:1B-328), or any other section of P.L.2020, c.156
6 (C.34:1B-269 et al.) to the contrary, for a transformative project
7 completed in phases, a review of the project financing gap shall be
8 performed at the certification of completion of each phase, and the
9 authority shall re-evaluate the developer's rate of return in the
10 seventh year and at the end of the eligibility period for the last
11 phase, provided that the authority may also re-evaluate the
12 developer's rate of return during the fifth year of any earlier phase.

13 (6) A transformative project receiving an incentive award
14 pursuant to this section, other than a project that includes 250,000
15 or more square feet of film studios, professional stages, television
16 studios, recording studios, screening rooms or other infrastructure
17 for film production, shall be located in an incentive area, a
18 distressed municipality, a government-restricted municipality, or an
19 enhanced area. A transformative project receiving an incentive
20 award pursuant to this section that includes 250,000 or more square
21 feet of film studios, professional stages, television studios,
22 recording studios, screening rooms or other infrastructure for film
23 production may be located anywhere in the State. The authority
24 shall not consider an application for a transformative project unless
25 the applicant submits with its application a letter evidencing support
26 for the transformative project from the governing body of the
27 municipality in which the transformative project is located.

28 c. The authority shall review the transformative project cost,
29 evaluate and validate the project financing gap estimated by the
30 developer, and conduct a State fiscal impact analysis to ensure that
31 the overall public assistance provided to the transformative project
32 will result in a net positive benefit to the State. In determining
33 whether a transformative project will result in a net positive benefit
34 to the State, the authority shall not consider the value of any taxes
35 exempted, abated, rebated, or retained under the "Five-Year
36 Exemption and Abatement Law," P.L.1991, c.441 (C.40A:21-1 et
37 seq.), the "Long Term Tax Exemption Law," P.L.1991, c.431
38 (C.40A:20-1 et al.), the "New Jersey Urban Enterprise Zones Act,"
39 P.L.1983, c.303 (C.52:27H-60 et seq.), or any other law that has the
40 effect of lowering or eliminating the developer's State or local tax
41 liability. The determination made pursuant to this subsection shall
42 be based on the potential tax liability of the developer without
43 regard for potential tax losses if the developer were to locate in
44 another state. The authority shall assess the cost of these reviews to
45 the applicant. A developer shall pay to the authority the full
46 amount of the direct costs of an analysis concerning the developer's
47 application for an incentive award that a third party retained by the
48 authority performs, if the authority deems such retention to be

1 necessary. The authority shall evaluate the net economic benefits
2 on a present value basis under which the requested tax credit
3 allocation amount is discounted to present value at the same
4 discount rate as the projected benefits from the implementation of
5 the proposed transformative project for which an award of tax
6 credits is being sought. Projects that are predominantly residential
7 ²or that qualify as special mission non-profit projects² shall be
8 excluded from the calculation of the net benefit test required
9 pursuant to this subsection.

10 d. In determining net benefits for any business or person
11 considering locating in a transformative project and applying to
12 receive from the authority any other economic development
13 incentive subsequent to the award of transformative project tax
14 credits pursuant to section 65 of P.L.2020, c.156 (C.34:1B-333), the
15 authority shall not credit the business or person with any benefit
16 that was previously credited to the transformative project pursuant
17 to section 65 of P.L.2020, c.156 (C.34:1B-333).

18 e. The authority shall administer the credits awarded pursuant
19 to this section in accordance with the provisions of sections 62 and
20 63 of P.L.2020, c.156 (C.34:1B-330 and C.34:1B-331).

21 f. Prior to allocating an incentive award to a developer, the
22 authority shall confirm with the Department of Labor and
23 Workforce Development, the Department of Environmental
24 Protection, and the Department of the Treasury that the developer is
25 in substantial good standing with the respective department, or the
26 developer has entered into an agreement with the respective
27 department that includes a practical corrective action plan, and the
28 developer shall certify that each contractor or subcontractor
29 performing work at the transformative project: (1) is registered as
30 required by "The Public Works Contractor Registration Act,"
31 P.L.1999, c.238 (C.34:11-56.48 et seq.); (2) has not been debarred
32 by the Department of Labor and Workforce Development from
33 engaging in or bidding on Public Works Contracts in the State; and
34 (3) possesses a tax clearance certificate issued by the Division of
35 Taxation in the Department of the Treasury. The authority may also
36 contract with an independent third party to perform a background
37 check on the developer.

38 g. Notwithstanding the limitation on incentive awards set forth
39 in subsection b. of section 61 and section 98 of P.L.2020, c.156
40 (C.34:1B-329 and C.34:1B-362) to the contrary, the authority may
41 allow a developer of a transformative project a tax credit in an
42 amount not to exceed the lesser of:

43 (1) (a) ²**[80]** ²(i) 85² percent of the ¹**[total]** eligible¹ project cost
44 for a transformative project that is located in a government-
45 restricted municipality ², which municipality qualified as a
46 government-restricted municipality prior to the effective date of

1 P.L. , c. (C.) (pending before the Legislature as this bill)² ;

2 ²or

3 (ii) 80 percent of the eligible project cost for a transformative
 4 project that is located in a government-restricted municipality,
 5 which municipality did not qualify as a government-restricted
 6 municipality prior to the effective date of P.L. , c. (C.)
 7 (pending before the Legislature as this bill);²

8 (b) 60 percent of the ¹**total** eligible¹ project cost for a
 9 residential transformative project that receives a four-percent
 10 allocation from the federal Low Income Housing Tax Credit
 11 Program administered by the agency or a transformative project that
 12 is located in a qualified incentive tract, enhanced area, or a
 13 municipality with a Municipal Revitalization Index score of at least
 14 50; or

15 (c) 50 percent of the ¹**total** eligible¹ project cost for any other
 16 transformative project;

17 (2) the total value of the project financing gap; or

18 (3) \$400,000,000 except that for a transformative project that is
 19 developed in phases, the \$400,000,000 limitation on incentive
 20 awards set forth in this paragraph shall apply to the total aggregate
 21 award for all phases of the transformative project.

22 ²**h.** Notwithstanding the limitations set forth in subsection g. of
 23 this section, a developer of a transformative project shall be eligible
 24 for each of the following enhancements to the total tax credit award
 25 ¹, individually or in combination, subject to the demonstration of a
 26 financing gap and need for support¹ :

27 (1) for a transformative project that includes the redevelopment
 28 of a stranded asset, an enhancement of up to 10 percent of the
 29 project cost of the transformative project;

30 (2) for a residential transformative project that meets the three-
 31 bedroom distribution requirement under the Uniform Housing
 32 Affordability Controls, an enhancement of up to five percent of the
 33 project cost of the residential transformative project; and

34 (3) for a transformative project that meets local first source
 35 hiring requirements for residents in the municipality or county in
 36 which the project is located and in surrounding municipalities, as
 37 appropriate, an enhancement of up to three percent of the project
 38 cost of the transformative project.]²

39 ¹**i.** (1) The parking component of a transformative project shall
 40 be included in the calculation of the total square footage of the
 41 project, provided that the parking component shall be constructed in
 42 conformity with local zoning, planning, or similar requirements, or
 43 up to the amount required by the Residential Site Improvement
 44 Standards, regardless of whether the Residential Site Improvement
 45 Standards apply to the parking component. Any portion of the
 46 parking component that exceeds the local parking requirements or

1 the Residential Site Improvement Standards shall not be included in
 2 the calculation of the total square footage of the project.

3 (2) Notwithstanding any provision of paragraph (1) of this
 4 subsection to the contrary, the entire parking component of a
 5 project located in a government restricted municipality shall be
 6 included in the calculation of the total square footage of the
 7 project.】¹

8 (cf: P.L.2023, c.98, s.9)

9
 10 ²【9. Section 14 of P.L.2023, c.98 (C.34:1B-335.1) is amended to
 11 read as follows:

12 14. a. (1) Except as otherwise provided in subsection b. of this
 13 section, all program applications **【completed after】** submitted to ¹or
 14 approved by¹ the authority **‘【on or】’** after ¹**【the date six months prior**
 15 **to the effective date of 【P.L.2023, c.98 (C.34:1B-335.1 et al.)】 P.L. ,**
 16 **c. (C.) (pending before the Legislature as this bill)】** January 1,
 17 2023¹ shall be subject to the "New Jersey Aspire Program Act,"
 18 sections 54 through 67 of P.L.2020, c.156 (C.34:1B-322 through
 19 34:1B-335), as amended as supplemented by P.L.2023, c.98 (C.34:1B-
 20 335.1 et al.), and as further amended and supplemented by P.L. , c.
 21 (C.) (pending before the Legislature as this bill), including the
 22 rules and regulations adopted pursuant to subsection b. of section 67 of
 23 P.L.2020, c.156 (C.34:1B-335), except that applications submitted to
 24 the authority prior to the effective date of P.L. , c. (C.)
 25 (pending before the Legislature as this bill) shall be subject to the rules
 26 and regulations concerning application fees that were in effect
 27 immediately before the effective date of P.L. , c. (C.)
 28 (pending before the Legislature as this bill).

29 (2) **【**Except as otherwise provided in subsection b. of this section,
 30 all program applications completed on or before the effective date of
 31 P.L.2023, c.98 (C.34:1B-335.1 et al.) shall be subject to the provisions
 32 of the "New Jersey Aspire Program Act," sections 54 through 67 of
 33 P.L.2020, c.156 (C.34:1B-322 through 34:1B-335), as such provisions
 34 remained in effect immediately before the effective date of P.L.2023,
 35 c.98 (C.34:1B-335.1 et al.), including the rules and regulations adopted
 36 pursuant to subsection a. of section 67 of P.L.2020, c.156 (C.34:1B-
 37 335).**】** (Deleted by amendment, P.L. , c. (C.))(pending before
 38 the Legislature as this bill)

39 b. Notwithstanding any provision of P.L.2020, c.156 (C.34:1B-
 40 269 et al.) to the contrary, if a completed application for a residential
 41 project is submitted to the authority on or before the 121st calendar
 42 day next following effective date of P.L.2023, c.98 (C.34:1B-335.1 et
 43 al.), the applicant for the residential project has received all applicable
 44 approvals pursuant to the "Municipal Land Use Law," P.L.1975, c.291
 45 (C.40:55D-1 et seq.) on or before the 121st calendar day next
 46 following the effective date of P.L.2023, c.98 (C.34:1B-335.1 et al.),
 47 and the applicant submits written notice to the authority, before the

1 authority's approval or denial of the application, electing for the
2 application to be governed under the provisions of this subsection,
3 then the residential units constructed for occupancy by low- and
4 moderate-income households within the residential project shall not be
5 subject to the affordability controls adopted by the authority, in
6 consultation with the agency, pursuant to paragraph (2) of subsection
7 a. of section 56 of P.L.2020, c.156 (C.34:1B-324) and subsection b. of
8 section 67 of P.L.2020, c.156 (C.34:1B-335). In this event, the
9 application for the residential project shall be reviewed, approved, and
10 administered in accordance with the provisions of the "New Jersey
11 Aspire Program Act," sections 54 through 67 of P.L.2020, c.156
12 (C.34:1B-322 through 34:1B-335), as such provisions remained in
13 effect immediately before the effective date of P.L.2023, c.98
14 (C.34:1B-335.1 et al.), including the rules and regulations adopted
15 pursuant to subsection a. of section 67 of P.L.2020, c.156 (C.34:1B-
16 335), except that the application shall be subject to:

17 (1) the determination of a reasonable and appropriate return on
18 investment, as defined in section 55 of P.L.2020, c.156 (C.34:1B-323),
19 as amended by P.L.2023, c.98 (C.34:1B-335.1 et al.); ¹**and**¹

20 (2) the limitation on tax credit awards set forth in subsection b. of
21 section 61 of P.L.2020, c.156 (C.34:1B-329) and subsection g. of
22 section 65 of P.L.2020, c.156 (C.34:1B-333), respectively, as amended
23 by P.L.2023, c.98 (C.34:1B-335.1 et al.) ¹; and

24 (3) no proration of the tax credit for any year within the eligibility
25 period¹.

26 (cf: P.L.2023, c.98, s.14)**】**²

27
28 ²**【**10. (New section) The authority shall promulgate a schedule
29 of application and other fees imposed under the program, which
30 fees shall be limited to the coverage of actual direct costs of
31 administering the program, the coverage of reasonable indirect costs
32 of administering the program, and the maintenance of reasonable
33 reserves for administering the program. Any application fee or
34 other fee charged by the authority shall be proportional to the tax
35 credit amount awarded for a redevelopment project under the
36 program.**】**²

37
38 ²**【**11. (New section) a. The authority shall establish, as part of the
39 program, a "Redevelopment Project Bridge Financing Program" to
40 facilitate the ability of a developer to secure financing for a
41 redevelopment project until such time as tax credits are issued
42 pursuant to the "New Jersey Aspire Program Act," sections 54 through
43 67 of P.L.2020, c.156 (C.34:1B-322 through C.34:1B-335), as
44 amended as supplemented. Through the program, the authority shall
45 provide full or partial loans or loan guarantees, at the authority's
46 discretion, to the developers of redevelopment projects for the purpose
47 of ensuring the completion of the redevelopment projects. As

1 determined by the authority, the Redevelopment Project Bridge
2 Financing Program may consist of:

3 (1) the issuance of redevelopment project bridge financing loans,
4 subject to the provisions of subsection b. of this section; and
5 (2) the provision of redevelopment project loan guarantees, subject
6 to the provisions of subsection c. of this section.

7 b. (1) The authority may issue a redevelopment project bridge
8 financing loan to the developer of an approved redevelopment project,
9 upon application by the developer, provided that the authority
10 determines that:

11 (a) a project financing gap continues to exist after the award of tax
12 credits to the developer of the redevelopment project; and
13 (b) the redevelopment project bridge financing loan will enable the
14 completion of the redevelopment project.

15 (2) A developer who seeks a redevelopment project bridge
16 financing loan shall submit an application to the authority, which
17 application shall include:

18 (a) a proposed loan principle and interest amount;
19 (b) a proposed repayment schedule;
20 (c) an accounting of the remaining project financing gap; and
21 (d) any other information as the authority shall require.

22 (3) The authority may issue the redevelopment project bridge
23 financing loan in such amount as it deems appropriate, subject to such
24 terms, including, but not limited to, interest rates, collateral, and
25 repayment or release schedules, as the authority shall deem reasonable
26 and appropriate, except that each worker employed to perform
27 construction work on the redevelopment project shall be paid not less
28 than the prevailing wage rate for the worker's craft or trade, as
29 determined by the Commissioner of Labor and Workforce
30 Development pursuant to P.L.1963, c.150 (C.34:11-56.25 et seq.) and
31 P.L.2005, c.379 (C.34:11-56.58 et seq.).

32 c. (1) The authority may provide a loan guarantee to the
33 developer of an approved redevelopment project, upon application by
34 the developer, provided that the authority determines that:

35 (a) a project financing gap continues to exist after the initial award
36 of tax credits to the developer of the redevelopment project; and
37 (b) the loan guarantee will enable the developer to access the
38 financing needed to complete the redevelopment project.

39 (2) A developer who seeks a loan guarantee shall submit an
40 application to the authority, which application shall include:

41 (a) a proposed loan guarantee amount and terms;
42 (b) an accounting of the remaining project financing gap; and
43 (c) any other information as the authority shall require.

44 (3) The authority may issue the loan guarantees in such amounts as
45 it deems appropriate, subject to such terms as the authority deems
46 reasonable and appropriate, except that each worker employed to
47 perform construction work on the redevelopment project shall be paid
48 not less than the prevailing wage rate for the worker's craft or trade, as

determined by the Commissioner of Labor and Workforce Development pursuant to P.L.1963, c.150 (C.34:11-56.25 et seq.) and P.L.2005, c.379 (C.34:11-56.58 et seq.).

d. (1) The authority shall establish a Redevelopment Project Bridge Financing Revolving Fund from which the authority shall provide all loans issued pursuant to subsection b. of this section and provide all loan guarantees issued pursuant to subsection c. of this section. All monies received from payments of the principle and interest for loans issued pursuant to this section shall be deposited into the Redevelopment Project Bridge Financing Revolving Fund, which fund shall remain until the authority determines that there no longer remains a need for bridge financing or until December 31, 2028, whichever occurs first. After the fund is no longer needed, or upon its expiration, all monies in the fund shall be deposited into the General Fund.

(2) Within 90 days after the effective date of P.L. , c. (C.) (pending before the Legislature as this bill), the authority shall submit a recommendation to the Governor and to the Legislature, pursuant to section 2 of P.L.1991, c.164 (C.52:14-19.1), for the amount of appropriations needed to fund the Redevelopment Project Bridge Financing Program.】²

²【12. (New section) a. To facilitate the efficient monetization of tax credits awarded under the program, the Department of the Treasury shall ¹【, at such times as the department deems necessary,】¹ redeem the tax credits ¹【awarded to】 surrendered for redemption by¹ a developer for a redevelopment project at a discount from face value. ¹【The tax credit redemptions shall be made at such discounts as the State Treasurer deems appropriate, except that the discount shall not exceed 10 percent of the face value of the tax credits.】¹

b. ¹To effectuate a redemption authorized pursuant to this section, in lieu of applying any tax credit certificate or tax credit transfer certificate against tax liability otherwise due pursuant to section 5 of P.L.1945, c.162 (C.54:10A-5), sections 2 and 3 of P.L.1945, c.132 (C.54:18A-2 and C.54:18A-3), section 1 of P.L.1950, c.231 (C.17:32-15), or N.J.S.17B:23-5, a taxpayer may surrender a tax credit certificate or tax credit transfer certificate for redemption to the director for a cash payment equal to 90 percent of the amount of tax credits evidenced by the certificate, provided that the issuance date of the tax credit certificate or tax credit transfer certificate to the taxpayer surrendering such certificate occurred at least one year prior to the date of surrender and that the certificate has not been sold or assigned previously.

c.¹ The tax credit redemptions shall be paid in the same manner as refunds of tax payable under section 5 of P.L.1945, c.162 (C.54:10A-5), sections 2 and 3 of P.L.1945, c.132 (C.54:18A-2 and C.54:18A-3), section 1 of P.L.1950, c.231 (C.17:32-15), or N.J.S.17B:23-5,

notwithstanding that such tax is not applicable to the person or entity seeking the redemption. ¹【The State Treasurer shall allow the proceeds of the tax credit redemption to be issued over one or more tax periods, but not to exceed the applicable eligibility period.】¹²

²【13.】 9.² Section 89 of P.L.2020, c.156 (C.52:18A-263) is amended to read as follows:

89. a. The Director of the Division of Taxation in the Department of the Treasury may purchase unused tax credits awarded under a program listed in subsection b. of this section, including tax credit transfer certificates issued by the director in lieu of a tax credit allowed under such programs. The director shall not pay consideration in excess of 75 percent of the credit amount to be purchased, except for a credit awarded under:

(1) the "Emerge Program Act," sections 68 through 81 of P.L.2020, c.156 (C.34:1B-336 et al.), which shall be subject to the provisions of paragraph (4) of subsection d. of section 77 of P.L.2020, c.156 (C.34:1B-345); ²【or】²

(2) the "New Jersey Aspire Program Act," sections 54 through 67 ²of P.L.2020, c.156² (¹【C.34:1B-222】 C.34:1B-322¹ through C.34:1B-335), as amended and supplemented, ²for² which ²【shall be subject to the provisions of section 12 of P.L. , c. (C.) (pending before the Legislature as this bill)】 the director shall pay an amount equal to 85 percent of the credit amount, provided that the issuance date of the tax credit certificate or tax credit transfer certificate to the developer or the holder of such certificate occurred at least one year prior to the date of application to the director, and further provided that, if the application to the director is submitted after the sixth year of the eligibility period, the amount in excess of the reasonable and appropriate rate of return on investment that the developer is required to pay pursuant to subsection c. of section 60 of P.L.2020, c.156 (C.34:1B-328) shall increase to 50 percent; or

(3) the "Cultural Arts Incentives Program Act," P.L.2023, c.197 (C.34:1B-383 et al.), for which the director shall pay an amount equal to 85 percent of the credit amount, provided that the issuance date of the tax credit certificate or tax credit transfer certificate to the developer or the holder of such certificate occurred at least one year prior to the date of application to the director².

b. The Director of the Division of Taxation in the Department of the Treasury may purchase tax credits awarded under the following:

(1) the "Historic Property Reinvestment Act," sections ¹【1】 2¹ through 8 of P.L.2020, c.156 (¹【C.34:1B-269】 C.34:1B-270¹ through C.34:1B-276);

(2) the "Brownfield Redevelopment Incentive Program Act," sections 9 through 19 of P.L.2020, c.156 (C.34:1B-277 through C.34:1B-287);

- 1 (3) the "New Jersey Innovation Evergreen Act," sections 20
- 2 through 34 of P.L.2020, c.156 (C.34:1B-288 through C.34:1B-302);
- 3 (4) the "Food Desert Relief Act," sections 35 through 42 of
- 4 P.L.2020, c.156 (C.34:1B-303 through C.34:1B-310);
- 5 (5) the "New Jersey Community-Anchored Development Act,"
- 6 sections 43 through 53 of P.L.2020, c.156 (C.34:1B-311 through
- 7 C.34:1B-321);
- 8 (6) the "New Jersey Aspire Program Act," sections 54 through
- 9 67 of P.L.2020, c.156 (C.34:1B-322 through C.34:1B-335);
- 10 (7) the " Emerge Program Act," sections 68 through 81 of
- 11 P.L.2020, c.156 (C.34:1B-336 et al.);
- 12 (8) the Grow New Jersey Assistance Program established
- 13 pursuant to section 3 of P.L.2011, c.149 (C.34:1B-244);
- 14 (9) section 6 of P.L.2010, c.57 (C.34:1B-209.4);
- 15 (10) the State Economic Redevelopment and Growth Grant
- 16 program established pursuant to section 5 of P.L.2009, c.90
- 17 (C.52:27D-489e);
- 18 (11) section 1 of P.L.2018, c.56 (C.54:10A-5.39b); ²**[and]**²
- 19 (12) section 2 of P.L.2018, c.56 (C.54A:4-12b) ²; and
- 20 (13) the "Cultural Arts Incentives Program Act," P.L.2023,
- 21 c.197 (C.34:1B-383 et al.)².
- 22 (cf: P.L.2020, c.156, s.89)

23

24 ²**[14.** Section 4 of P.L.1945, c.162 (C.54:10A-4) is amended to

25 read as follows:

26 4. For the purposes of this act, unless the context requires a

27 different meaning:

28 (a) "Commissioner" or "director" shall mean the Director of the

29 Division of Taxation of the State Department of the Treasury.

30 (b) "Allocation factor" shall mean the proportionate part of a

31 taxpayer's net worth or entire net income used to determine a measure

32 of its tax under this act.

33 (c) "Corporation" shall mean any corporation, joint-stock company

34 or association and any business conducted by a trustee or trustees

35 wherein interest or ownership is evidenced by a certificate of interest

36 or ownership or similar written instrument, any other entity classified

37 as a corporation for federal income tax purposes, and any state or

38 federally chartered building and loan association or savings and loan

39 association.

40 (d) "Net worth" shall mean the aggregate of the values disclosed

41 by the books of the corporation for (1) issued and outstanding capital

42 stock, (2) paid-in or capital surplus, (3) earned surplus and undivided

43 profits, and (4) surplus reserves which can reasonably be expected to

44 accrue to holders or owners of equitable shares, not including

45 reasonable valuation reserves, such as reserves for depreciation or

46 obsolescence or depletion. Notwithstanding the foregoing, net worth

47 shall not include any deduction for the amount of the excess

48 depreciation described in paragraph (2) (F) of subsection (k) of this

1 section. The foregoing aggregate of values shall be reduced by 50% of
2 the amount disclosed by the books of the corporation for investment in
3 the capital stock of one or more subsidiaries, which investment is
4 defined as ownership (1) of at least 80% of the total combined voting
5 power of all classes of stock of the subsidiary entitled to vote and (2)
6 of at least 80% of the total number of shares of all other classes of
7 stock except nonvoting stock which is limited and preferred as to
8 dividends. In the case of investment in an entity organized under the
9 laws of a foreign country, the foregoing requisite degree of ownership
10 shall effect a like reduction of such investment from the net worth of
11 the taxpayer, if the foreign entity is considered a corporation for any
12 purpose under the United States federal income tax laws, such as (but
13 not by way of sole examples) for the purpose of supplying deemed
14 paid foreign tax credits or for the purpose of status as a controlled
15 foreign corporation. In calculating the net worth of a taxpayer entitled
16 to reduction for investment in subsidiaries, the amount of liabilities of
17 the taxpayer shall be reduced by such proportion of the liabilities as
18 corresponds to the ratio which the excluded portion of the subsidiary
19 values bears to the total assets of the taxpayer.

20 In the case of banking corporations which have international
21 banking facilities as defined in subsection (n), the foregoing aggregate
22 of values shall also be reduced by retained earnings of the international
23 banking facility. Retained earnings means the earnings accumulated
24 over the life of such facility and shall not include the distributive share
25 of dividends paid and federal income taxes paid or payable during the
26 tax year.

27 If in the opinion of the director, the corporation's books do not
28 disclose fair valuations the director may make a reasonable
29 determination of the net worth which, in his opinion, would reflect the
30 fair value of the assets, exclusive of subsidiary investments as defined
31 aforesaid, carried on the books of the corporation, in accordance with
32 sound accounting principles, and such determination shall be used as
33 net worth for the purpose of this act.

34 (e) (Deleted by amendment, P.L.1998, c.114.)

35 (f) "Investment company" shall mean any corporation whose
36 business during the period covered by its report consisted, to the extent
37 of at least 90 percent thereof of holding, investing and reinvesting in
38 stocks, bonds, notes, mortgages, debentures, patents, patent rights and
39 other securities for its own account, but this shall not include any
40 corporation which: (1) is a merchant or a dealer of stocks, bonds and
41 other securities, regularly engaged in buying the same and selling the
42 same to customers; or (2) had less than 90 percent of its average gross
43 assets in New Jersey, at cost, invested in stocks, bonds, debentures,
44 mortgages, notes, patents, patent rights or other securities or consisting
45 of cash on deposit during the period covered by its report; or (3) is a
46 banking corporation, a savings institution, or a financial business
47 corporation as defined in the Corporation Business Tax Act.

1 (g) "Regulated investment company" shall mean any corporation
2 which for a period covered by its report, is registered and regulated
3 under the Investment Company Act of 1940 (¹54 Stat. 789] 15
4 U.S.C. ss.80a-1 et seq.¹), as amended.

5 (h) "Taxpayer" shall mean any corporation, any combined group
6 filing a mandatory or elective New Jersey combined return, and any
7 partnership required, or consenting, to report or to pay taxes, interest
8 or penalties under this act. "Taxpayer" shall not include a partnership
9 that is listed on a United States national stock exchange.

10 (i) "Fiscal year" shall mean an accounting period ending on any
11 day other than the last day of December on the basis of which the
12 taxpayer is required to report for federal income tax purposes.

13 (j) Except as herein provided, "privilege period" shall mean the
14 calendar or fiscal accounting period for which a tax is payable under
15 this act.

16 (k) "Entire net income" shall mean total net income from all
17 sources, whether within or without the United States, and shall include
18 the gain derived from the employment of capital or labor, or from both
19 combined, as well as profit gained through a sale or conversion of
20 capital assets.

21 For the purpose of this act, the amount of a taxpayer's entire net
22 income shall be deemed prima facie to be equal in amount to the
23 taxable income, before net operating loss deduction and special
24 deductions, which the taxpayer is required to report, or, if the taxpayer
25 is classified as a partnership for federal tax purposes, would otherwise
26 be required to report, to the United States Treasury Department for the
27 purpose of computing its federal income tax, provided however, that in
28 the determination of such entire net income,

29 (1) Entire net income shall exclude for the periods set forth in
30 paragraph (2)(F)(i) of this subsection, any amount, except with respect
31 to qualified mass commuting vehicles as described in section
32 168(f)(8)(D)(v) of the Internal Revenue Code as in effect immediately
33 prior to January 1, 1984, which is included in a taxpayer's federal
34 taxable income solely as a result of an election made pursuant to the
35 provisions of paragraph (8) of that section.

36 (2) Entire net income shall be determined without the exclusion,
37 deduction or credit of:

38 (A) The amount of any exemption or credit allowed in any law of
39 the United States imposing any tax on or measured by the income of
40 corporations.

41 (B) Any part of any income from dividends or interest on any kind
42 of stock, securities or indebtedness, except as provided in paragraph
43 (5) of subsection (k) of this section.

44 (C) Taxes paid or accrued to the United States, a possession or
45 territory of the United States, a state, a political subdivision thereof, or
46 the District of Columbia, or to any foreign country, state, province,
47 territory or subdivision thereof, on or measured by profits or income,
48 or business presence or business activity, or the tax imposed by this

1 act, or any tax paid or accrued with respect to subsidiary dividends
2 excluded from entire net income as provided in paragraph (5) of
3 subsection (k) of this section.

4 (D) (Deleted by amendment, P.L.1985, c.143.)

5 (E) (Deleted by amendment, P.L.1995, c.418.)

6 (F) (i) The amount by which depreciation reported to the United
7 States Treasury Department for property placed in service on and after
8 January 1, 1981, but prior to taxpayer fiscal or calendar accounting
9 years beginning on and after the effective date of P.L.1993, c.172, for
10 purposes of computing federal taxable income in accordance with
11 section 168 of the Internal Revenue Code in effect after December 31,
12 1980, exceeds the amount of depreciation determined in accordance
13 with the Internal Revenue Code provisions in effect prior to January 1,
14 1981, but only with respect to a taxpayer's accounting period ending
15 after December 31, 1981; provided, however, that where a taxpayer's
16 accounting period begins in 1981 and ends in 1982, no modification
17 shall be required with respect to this paragraph (F) for the report filed
18 for such period with respect to property placed in service during that
19 part of the accounting period which occurs in 1981. The provisions of
20 this subparagraph shall not apply to assets placed in service prior to
21 January 1, 1998 of a gas, gas and electric, and electric public utility
22 that was subject to the provisions of P.L.1940, c.5 (C.54:30A-49 et
23 seq.) prior to 1998.

24 (ii) For the periods set forth in subparagraph (F)(i) of paragraph (2)
25 of this subsection, any amount, except with respect to qualified mass
26 commuting vehicles as described in section 168(f)(8)(D)(v) of the
27 Internal Revenue Code as in effect immediately prior to January 1,
28 1984, which the taxpayer claimed as a deduction in computing federal
29 income tax pursuant to a qualified lease agreement under paragraph (8)
30 of that section.

31 The director shall promulgate rules and regulations necessary to
32 carry out the provisions of this section, which rules shall provide,
33 among others, the manner in which the remaining life of property shall
34 be reported.

35 (G)(i) The amount of any civil, civil administrative, or criminal
36 penalty or fine, including a penalty or fine under an administrative
37 consent order, assessed and collected for a violation of a State or
38 federal environmental law, an administrative consent order, or an
39 environmental ordinance or resolution of a local governmental entity,
40 and any interest earned on the penalty or fine, and any economic
41 benefits having accrued to the violator as a result of a violation, which
42 benefits are assessed and recovered in a civil, civil administrative, or
43 criminal action, or pursuant to an administrative consent order. The
44 provisions of this paragraph shall not apply to a penalty or fine
45 assessed or collected for a violation of a State or federal environmental
46 law, or local environmental ordinance or resolution, if the penalty or
47 fine was for a violation that resulted from fire, riot, sabotage, flood,
48 storm event, natural cause, or other act of God beyond the reasonable

1 control of the violator, or caused by an act or omission of a person
2 who was outside the reasonable control of the violator.

3 (ii) The amount of treble damages paid to the Department of
4 Environmental Protection pursuant to subsection a. of section 7 of
5 P.L.1976, c.141 (C.58:10-23.11f), for costs incurred by the department
6 in removing, or arranging for the removal of, an unauthorized
7 discharge upon failure of the discharger to comply with a directive
8 from the department to remove, or arrange for the removal of, the
9 discharge.

10 (H) The amount of any sales and use tax paid by a utility vendor
11 pursuant to section 71 of P.L.1997, c.162.

12 (I) With respect to privilege periods ending before July 31, 2023,
13 interest paid, accrued or incurred for the privilege period to a related
14 member, as defined in section 5 of P.L.2002, c.40 (C.54:10A-4.4),
15 except that a deduction shall be permitted to the extent that the
16 taxpayer establishes by clear and convincing evidence, as determined
17 by the director, that: (i) a principal purpose of the transaction giving
18 rise to the payment of the interest was not to avoid taxes otherwise due
19 under Title 54 of the Revised Statutes or Title 54A of the New Jersey
20 Statutes, (ii) the interest is paid pursuant to arm's length contracts at an
21 arm's length rate of interest, and (iii)(aa) the related member was
22 subject to a tax on its net income or receipts in this State or another
23 state or possession of the United States or in a foreign nation, (bb) a
24 measure of the tax includes the interest received from the related
25 member, and (cc) the rate of tax applied to the interest received by the
26 related member is equal to or greater than a rate three percentage
27 points less than the rate of tax applied to taxable interest by this State
28 pursuant to section 5 of P.L.1945, c.162 (C.54:10A-5).

29 With respect to privilege periods ending before July 31, 2023, a
30 deduction shall also be permitted if the taxpayer establishes by clear
31 and convincing evidence, as determined by the director, that the
32 disallowance of a deduction is unreasonable, or the taxpayer and the
33 director agree in writing to the application or use of an alternative
34 method of apportionment under section 8 of P.L.1945, c.162
35 (C.54:10A-8); nothing in this subsection shall be construed to limit or
36 negate the director's authority to otherwise enter into agreements and
37 compromises otherwise allowed by law.

38 With respect to privilege periods ending before July 31, 2023, a
39 deduction shall also be permitted to the extent that the taxpayer
40 establishes by a preponderance of the evidence, as determined by the
41 director, that the interest is directly or indirectly paid, accrued or
42 incurred to (i) a related member in a foreign nation which has in force
43 a comprehensive income tax treaty with the United States and the
44 related member (aa) was subject to tax in the foreign nation on a tax
45 base that included the payment paid, accrued, or incurred; and (bb)
46 under which the related member's income received from the
47 transaction was taxed at an effective tax rate equal to or greater than a
48 rate of three percentage points less than the rate of tax applied to

1 taxable interest by the State of New Jersey pursuant to section 5 of
2 P.L.1945, c.162 (C.54:10A-5), provided however that the taxpayer
3 shall disclose on its return for the privilege period the name of the
4 related member, the amount of the interest, the relevant foreign nation,
5 and such other information as the director may prescribe or (ii) to an
6 independent lender and the taxpayer guarantees the debt on which the
7 interest is required. The adjustments required by this subparagraph
8 shall not apply to transactions between related members included in a
9 combined group reported on a New Jersey combined return.

10 (J) (i) Amounts deducted for federal tax purposes pursuant to
11 section 199 of the federal Internal Revenue Code of 1986, 26 U.S.C.
12 s.199, except that this exclusion shall not apply to amounts deducted
13 pursuant to that section that are exclusively based upon domestic
14 production gross receipts of the taxpayer which are derived only from
15 any lease, rental, license, sale, exchange, or other disposition of
16 qualifying production property which the taxpayer demonstrates to the
17 satisfaction of the director was manufactured or produced by the
18 taxpayer in whole or in significant part within the United States but not
19 qualified production property that was grown or extracted by the
20 taxpayer. "Manufactured or produced" as used in this paragraph shall
21 be limited to performance of an operation or series of operations the
22 object of which is to place items of tangible personal property in a
23 form, composition, or character different from that in which they were
24 acquired. The change in form, composition, or character shall be a
25 substantial change, and result in a transformation of property into a
26 different or substantially more usable product.

27 (ii) For privilege periods beginning after December 31, 2017,
28 notwithstanding the provisions of P.L.1945, c.162 (C.54:10A-1 et seq.)
29 or any other law to the contrary, for the purposes of determining the
30 amount of income pursuant to P.L.1945, c.162 (C.54:10A-1 et seq.)
31 that is net of expenses, no amounts shall be taken as a deduction
32 pursuant to section 199A of the Internal Revenue Code (26 U.S.C.
33 s.199A).

34 (K)(i) For privilege periods beginning after December 31, 2017
35 and ending before July 31, 2022, the interest deduction limitation in
36 subsection (j) of section 163 of the Internal Revenue Code (26 U.S.C.
37 s.163), shall apply on a pro-rata basis to interest paid to both related
38 and unrelated parties, regardless of whether the related parties are
39 subject to the add-back provision of either subparagraph (I) of
40 paragraph (2) of this subsection or in section 5 of P.L.2002, c.40
41 (C.54:10A-4.4).

42 (ii) For privilege periods beginning after December 31, 2017 and
43 ending on and after July 31, 2022, the interest deduction limitation in
44 subsection (j) of section 163 of the Internal Revenue Code (26 U.S.C.
45 s.163), shall apply to a combined group as though the combined group
46 filed a federal consolidated return; provided, however, for the purposes
47 of applying the limitation in subsection (j) of section 163 of the
48 Internal Revenue Code (26 U.S.C. s.163), with regard to affiliates that

1 were members of the federal consolidated return but were not
2 members of the combined group included on the New Jersey combined
3 return, the combined group and the affiliates will also be treated as
4 having filed one federal consolidated return.

5 (3) The director may, whenever necessary to properly reflect the
6 entire net income of any taxpayer, determine the year or period in
7 which any item of income or deduction shall be included, without
8 being limited to the method of accounting employed by the taxpayer.

9 (4) There shall be allowed as a deduction from entire net income
10 of a banking corporation, to the extent not deductible in determining
11 federal taxable income, the eligible net income of an international
12 banking facility determined as follows:

13 (A) The eligible net income of an international banking facility
14 shall be the amount remaining after subtracting from the eligible gross
15 income the applicable expenses;

16 (B) Eligible gross income shall be the gross income derived by an
17 international banking facility, which shall include, but not be limited
18 to, gross income derived from:

19 (i) Making, arranging for, placing or carrying loans to foreign
20 persons, provided, however, that in the case of a foreign person which
21 is an individual, or which is a foreign branch of a domestic corporation
22 (other than a bank), or which is a foreign corporation or foreign
23 partnership which is controlled by one or more domestic corporations
24 (other than banks), domestic partnerships or resident individuals, all
25 the proceeds of the loan are for use outside of the United States;

26 (ii) Making or placing deposits with foreign persons which are
27 banks or foreign branches of banks (including foreign subsidiaries) or
28 foreign branches of the taxpayers or with other international banking
29 facilities;

30 (iii) Entering into foreign exchange trading or hedging transactions
31 related to any of the transactions described in this paragraph; or

32 (iv) Such other activities as an international banking facility may,
33 from time to time, be authorized to engage in;

34 (C) Applicable expenses shall be any expense or other deductions
35 attributable, directly or indirectly, to the eligible gross income
36 described in subparagraph (B) of this paragraph.

37 (5) (A) (i) Entire net income shall exclude 100% of dividends
38 which were included in computing such taxable income for federal
39 income tax purposes, paid to the taxpayer by one or more subsidiaries
40 owned by the taxpayer to the extent of the 80% or more ownership of
41 investment described in subsection (d) of this section for privilege
42 periods beginning on or before December 31, 2016.

43 (ii) For privilege periods beginning after December 31, 2016 and
44 before January 1, 2019, entire net income shall exclude 95% of
45 dividends which were included in computing such taxable income for
46 federal income tax purposes, paid or deemed paid, to the taxpayer by
47 one or more subsidiaries owned by the taxpayer to the extent of the
48 80% or more ownership of investment described in subsection (d) of

1 this section. For the purposes of calculating the tax liability owed for
2 the paid or deemed paid dividends included in entire net income by
3 this subsubparagraph (ii), the taxpayer shall use either their three-year
4 average allocation factor for the taxpayer's 2014 through 2016 tax
5 years reported on the taxpayer's tax returns or 3.5 percent, whichever
6 is lower.

7 (iii) For privilege periods beginning on and after January 1, 2019
8 and ending before July 31, 2023, entire net income shall exclude 95%
9 of dividends which were included in computing such taxable income
10 for federal income tax purposes, paid or deemed paid to the taxpayer
11 by one or more subsidiaries owned by the taxpayer to the extent of the
12 80% or more ownership of investment described in subsection (d) of
13 this section.

14 (iv) For privilege periods ending on and after July 31, 2023, entire
15 net income shall exclude 100 percent of dividends and deemed
16 dividends that were included in computing such taxable income for
17 federal income tax purposes, paid or deemed paid to the taxpayer by
18 one or more subsidiaries owned by the taxpayer to the extent of the 80
19 percent or more ownership of investment described in subsection (d)
20 of this section.

21 (B) Entire net income shall exclude 50% of dividends which were
22 included in computing such taxable income for federal income tax
23 purposes, paid or deemed paid to the taxpayer by one or more
24 subsidiaries owned by the taxpayer to the extent of 50% or more
25 ownership of investment, such ownership of investment calculated in
26 the same manner as the 80% or more of ownership of investment is
27 calculated as described in subsection (d) of this section.

28 (C) To the extent a subsidiary received dividends from other
29 subsidiaries and included those dividends in its entire net income for
30 the purposes of determining its tax liability pursuant to section 5 of
31 P.L.1945, c.162 (C.54:10A-5) and paid tax on those dividends, the
32 taxpayer receiving those same dividends from the subsidiary shall
33 exclude those dividends from its entire net income based on the
34 subsidiary's allocation factor used by the subsidiary in determining its
35 tax liability pursuant to section 5 of P.L.1945, c.162 (C.54:10A-5).
36 This subparagraph (C) shall not apply to privilege periods ending on
37 and after July 31, 2019.

38 (D) For privilege periods ending on and after July 31, 2019 but
39 before July 31, 2020, to the extent a subsidiary received dividends
40 from other subsidiaries and included those dividends in its entire net
41 income for the purposes of determining its tax liability pursuant to
42 section 5 of P.L.1945, c.162 (C.54:10A-5) and paid tax on those
43 dividends, the taxpayer receiving those same dividends from the
44 subsidiary shall exclude those dividends from its entire net income.

45 (E) For privilege periods ending on and after July 31, 2020, for
46 purposes of this paragraph (5), the members of a combined group
47 filing a New Jersey combined return shall be treated as one taxpayer

1 with regard to dividends and deemed dividends that were received as
2 part of the unitary business of the combined group.

3 (F) For privilege periods ending on and after July 31, 2023:

4 (i) The exclusion provided by this paragraph (5) shall be deducted
5 from entire net income after the State modifications that increase
6 federal entire net income but before the other State modifications that
7 reduce entire net income and before the allocation of entire net income
8 to this State.

9 (ii) In computing the total amount of the dividends and deemed
10 dividends excluded by this paragraph (5) for privilege periods ending
11 on and after July 31, 2023, the amount of dividends and deemed
12 dividends excluded shall be reduced by the amount of the expenses
13 and deductions that are attributable to those dividends and deemed
14 dividends. For purposes of this paragraph (5), expenses and
15 deductions related to dividends shall equal five percent of all dividends
16 and deemed dividends received by a taxpayer during an income year.

17 (G) For privilege periods ending on and after July 31, 2023, for the
18 purposes of this paragraph (5) and for subsection d. of section 18 of
19 P.L.2018, c.48 (C.54:10A-4.6), the income amounts required to be
20 included in federal taxable income pursuant to 26 U.S.C. s.951A, shall
21 be considered a dividend.

22 (6) (A) Net operating loss deduction. For privilege periods ending
23 before July 31, 2019, there shall be allowed as a deduction for the
24 privilege period the net operating loss carryover to that period.

25 (B) Net operating loss carryover. A net operating loss for any
26 privilege period ending after June 30, 1984 shall be a net operating
27 loss carryover to each of the seven privilege periods following the
28 period of the loss and a net operating loss for any privilege period
29 ending after June 30, 2009 shall be a net operating loss carryover to
30 each of the twenty privilege periods following the period of the loss.
31 The entire amount of the net operating loss for any privilege period
32 (the "loss period") shall be carried to the earliest of the privilege
33 periods to which the loss may be carried. The portion of the loss which
34 shall be carried to each of the other privilege periods shall be the
35 excess, if any, of the amount of the loss over the sum of the entire net
36 income, computed without the exclusions permitted in paragraphs (4)
37 and (5) of this subsection or the net operating loss deduction provided
38 by subparagraph (A) of this paragraph, for each of the prior privilege
39 periods to which the loss may be carried.

40 (C) Net operating loss. For purposes of this paragraph the term "net
41 operating loss" means the excess of the deductions over the gross
42 income used in computing entire net income without the net operating
43 loss deduction provided for in subparagraph (A) of this paragraph and
44 the exclusions in paragraphs (4) and (5) of this subsection.

45 (D) Change in ownership. Where there is a change in 50% or more
46 of the ownership of a corporation because of redemption or sale of
47 stock and the corporation changes the trade or business giving rise to
48 the loss, no net operating loss sustained before the changes may be

1 carried over to be deducted from income earned after such changes. In
2 addition where the facts support the premise that the corporation was
3 acquired under any circumstances for the primary purpose of the use
4 of its net operating loss carryover, the director may disallow the
5 carryover.

6 (E) Notwithstanding the provisions of this paragraph (6) of
7 subsection (k) of this section to the contrary, for privilege periods
8 beginning during calendar year 2002 and calendar year 2003, no
9 deduction for any net operating loss carryover shall be allowed and for
10 privilege periods beginning during calendar year 2004 and calendar
11 year 2005, there shall be allowed as a deduction for the privilege
12 period so much of the net operating loss carryover as reduces entire net
13 income otherwise calculated by 50%. If and only to the extent that any
14 net operating loss carryover deduction is disallowed by reason of this
15 subparagraph (E), the date on which the amount of the disallowed net
16 operating loss carryover deduction would otherwise expire shall be
17 extended by a period equal to the period for which application of the
18 net operating loss was disallowed by this subparagraph.

19 Provided, that this subparagraph (E) shall not restrict the surrender
20 or acquisition of corporation business tax benefit certificates pursuant
21 to section 1 of P.L.1997, c.334 (C.34:1B-7.42a) and shall not restrict
22 the application of corporation business tax benefit certificates pursuant
23 to section 2 of P.L.1997, c.334 (C.54:10A-4.2).

24 (F) Reduction for discharge of indebtedness. A net operating loss
25 for any privilege period ending after June 30, 2014, and any net
26 operating loss carryover to such privilege period, shall be reduced by
27 the amount excluded from federal taxable income under subparagraph
28 (A), (B), or (C) of paragraph (1) of subsection (a) of section 108 of the
29 federal Internal Revenue Code (26 U.S.C. s.108), for the privilege
30 period of the discharge of indebtedness.

31 (7) The entire net income of gas, electric and gas and electric
32 public utilities that were subject to, or would have been subject to tax
33 if doing business in this State, the provisions of P.L.1940, c.5
34 (C.54:30A-49 et seq.) prior to 1998, shall be adjusted by substituting
35 the New Jersey depreciation allowance for federal tax depreciation
36 with respect to assets placed in service prior to January 1, 1998. For
37 gas, electric, and gas and electric public utilities that were subject to,
38 or would have been subject to tax if doing business in this State, the
39 provisions of P.L.1940, c.5 (C.54:30A-49 et seq.) prior to 1998, the
40 New Jersey depreciation allowance shall be computed as follows: All
41 depreciable assets placed in service prior to January 1, 1998 shall be
42 considered a single asset account. The New Jersey tax basis of this
43 depreciable asset account shall be an amount equal to the carryover
44 adjusted basis for federal income tax purposes on December 31, 1997
45 of all depreciable assets in service on December 31, 1997, increased
46 by the excess, of the "net carrying value," defined to be adjusted book
47 basis of all assets and liabilities, excluding deferred income taxes,
48 recorded on the public utility's books of account on December 31,

1 1997, over the carryover adjusted basis for federal income tax
2 purposes on December 31, 1997 of all assets and liabilities owned by
3 the gas, electric, or gas and electric public utility as of December 31,
4 1997. "Books of account" for gas, gas and electric, and electric public
5 utilities means the uniform system of accounts as promulgated by the
6 Federal Energy Regulatory Commission and adopted by the Board of
7 Public Utilities. The following adjustments to entire net income shall
8 be made pursuant to this section:

9 (A) Depreciation for property placed in service prior to January 1,
10 1998 shall be adjusted as follows:

11 (i) Depreciation for federal income tax purposes shall be
12 disallowed in full.

13 (ii) A deduction shall be allowed for the New Jersey depreciation
14 allowance. The New Jersey depreciation allowance shall be computed
15 for the single asset account described above based on the New Jersey
16 tax basis as adjusted above as if all assets in the single asset account
17 were first placed in service on January 1, 1998. Depreciation shall be
18 computed using the straight line method over a thirty-year life. A full
19 year's depreciation shall be allowed in the initial tax year. No half-year
20 convention shall apply. The depreciable basis of the single account
21 shall be reduced by the adjusted federal tax basis of assets sold, retired,
22 or otherwise disposed of during any year on which gain or loss is
23 recognized for federal income tax purposes as described in
24 subparagraph (B) of this paragraph.

25 (B) Gains and losses on sales, retirements and other dispositions of
26 assets placed in service prior to January 1, 1998 shall be recognized
27 and reported on the same basis as for federal income tax purposes.

28 (C) The Director of the Division of Taxation shall promulgate
29 regulations describing the methodology for allocating the single asset
30 account in the event that a portion of the utility's operations are
31 separated, spun-off, transferred to a separate company or otherwise
32 desegregated.

33 (8) In the case of taxpayers that are gas, electric, gas and electric,
34 or telecommunications public utilities as defined pursuant to
35 subsection (q) of this section, the director shall have authority to
36 promulgate rules and issue guidance correcting distortions and
37 adjusting timing differences resulting from the adoption of P.L.1997,
38 c.162 (C.54:10A-5.25 et al.).

39 (9) Notwithstanding paragraph (1) of this subsection, entire net
40 income shall not include the income derived by a corporation
41 organized in a foreign country from the international operation of a
42 ship or ships, or from the international operation of aircraft, if such
43 income is exempt from federal taxation pursuant to section 883 of the
44 federal Internal Revenue Code of 1986, 26 U.S.C. s.883.

45 (10) Entire net income shall exclude all income of an alien
46 corporation the activities of which are limited in this State to investing
47 or trading in stocks and securities for its own account, investing or
48 trading in commodities for its own account, or any combination of

1 those activities, within the meaning of section 864 of the federal
2 Internal Revenue Code of 1986, 26 U.S.C. s.864, as in effect on
3 December 31, 1998. Notwithstanding the previous sentence, if an alien
4 corporation undertakes one or more infrequent, extraordinary or non-
5 recurring activities, including but not limited to the sale of tangible
6 property, only the income from such infrequent, extraordinary or non-
7 recurring activity shall be subject to the tax imposed pursuant to
8 P.L.1945, c.162 (C.54:10A-1 et seq.), and that amount of income
9 subject to tax shall be determined without regard to the allocation to
10 that specific transaction of any general business expense of the
11 taxpayer and shall be specifically assigned to this State for taxation by
12 this State without regard to section 6 of P.L.1945, c.162 (C.54:10A-6).
13 For the purposes of this paragraph, "alien corporation" means a
14 corporation organized under the laws of a jurisdiction other than the
15 United States or its political subdivisions.

16 (11) No deduction shall be allowed for research and
17 experimental expenditures, to the extent that those research and
18 experimental expenditures are qualified research expenses or basic
19 research payments for which an amount of credit is claimed pursuant
20 to section 1 of P.L.1993, c.175 (C.54:10A-5.24) unless those research
21 and experimental expenditures are also used to compute a federal
22 credit claimed pursuant to section 41 of the federal Internal Revenue
23 Code of 1986, 26 U.S.C. s.41; provided, however, for privilege periods
24 beginning on and after January 1, 2022, a deduction for research and
25 experimental expenditures shall be allowed during the same privilege
26 period for which a credit is claimed pursuant to section 1 of P.L.1993,
27 c.175 (C.54:10A-5.24), notwithstanding the timing schedule required
28 by the federal Internal Revenue Code of 1986, 26 U.S.C. s.174, for the
29 deduction of specified research and experimental expenditures.

30 (12) (A) Notwithstanding the provisions of subsection (k) of
31 section 168 of the federal Internal Revenue Code of 1986, 26 U.S.C.
32 s.168, subsection (b) of section 1400L of the federal Internal Revenue
33 Code of 1986, 26 U.S.C. s.1400L, or any other federal law, for
34 property acquired after September 10, 2001, the depreciation
35 deduction otherwise allowed pursuant to section 167 of the federal
36 Internal Revenue Code of 1986, 26 U.S.C. s.167, shall be determined
37 pursuant to the provisions of the federal Internal Revenue Code of
38 1986 (26 U.S.C. s.1 et seq.) in effect on December 31, 2001.

39 (B) The director shall prescribe the rules and regulations necessary
40 to carry out the provisions of this paragraph, including, among others,
41 those for determining the adjusted basis of the acquired property for
42 the purposes of the Corporation Business Tax Act (1945), P.L.1945,
43 c.162 ¹(C.54:10A-1 et seq.)¹.

44 (13) (A) Notwithstanding the provisions of section 179 of the
45 federal Internal Revenue Code of 1986, 26 U.S.C. s.179, for property
46 placed in service on or after January 1, 2004, the costs that a taxpayer
47 may otherwise elect to treat as an expense which is not chargeable to a
48 capital account shall be determined pursuant to the provisions of the

1 federal Internal Revenue Code of 1986 (26 U.S.C. s.1 et seq.) in effect
2 on December 31, 2002.

3 (B) The director shall prescribe the rules and regulations necessary
4 to carry out the provisions of this paragraph, including, among others,
5 those for determining the adjusted basis of the acquired property for
6 the purposes of the Corporation Business Tax Act (1945), P.L.1945,
7 c.162 ¹(C.54:10A-1 et seq.)¹.

8 (14) Notwithstanding the provisions of subsection (i) of section
9 108 of the federal Internal Revenue Code of 1986 (26 U.S.C. s.108),
10 for privilege periods beginning after December 31, 2008 and before
11 January 1, 2011, entire net income shall include the amount of
12 discharge of indebtedness income excluded for federal income tax
13 purposes pursuant to subsection (i) of section 108 of the federal
14 Internal Revenue Code of 1986 (26 U.S.C. s.108), and for privilege
15 periods beginning on or after January 1, 2014 and before January 1,
16 2019, entire net income shall exclude the amount of discharge of
17 indebtedness income included for federal income tax purposes,
18 pursuant to subsection (i) of section 108 of the federal Internal
19 Revenue Code of 1986 (26 U.S.C. s.108).

20 (15) Entire net income shall exclude the gain or income derived
21 from the sale or assignment of a tax credit transfer certificate pursuant
22 to section 7 of P.L.2011, c.149 (C.34:1B-248) **【and】**, section 10 of
23 P.L.2014, c.63 (C.34:1B-251), or the "New Jersey Economic Recovery
24 Act of 2020," P.L.2020, c.156 (C.34:1B-269 et al.), as amended and
25 supplemented.

26 (16) (A) There shall be allowed as a deduction an amount
27 computed in accordance with this paragraph.

28 (B) For purposes of this paragraph, "net deferred tax liability"
29 means deferred tax liabilities that exceed the deferred tax assets of the
30 combined group, as computed in accordance with generally accepted
31 accounting principles, and "net deferred tax asset" means that deferred
32 tax assets exceed the deferred tax liabilities of the combined group, as
33 computed in accordance with generally accepted accounting
34 principles.

35 (C) Only publicly traded companies, including affiliated
36 corporations participating in the filing of a publicly traded company's
37 financial statements prepared in accordance with generally accepted
38 accounting principles, as of the effective date of this paragraph, shall
39 be eligible for this deduction.

40 (D) If the provisions of sections 18 through 23 of P.L.2018, c.48
41 (C.54:10A-4.6 to C.54:10A-4.11) result in an aggregate increase to the
42 members' net deferred tax liability or an aggregate decrease to the
43 members' net deferred tax asset, or an aggregate change from a net
44 deferred tax asset to a net deferred tax liability, the combined group
45 shall be entitled to a deduction, as determined in this paragraph.

46 (E) (i) Beginning with the combined group's first privilege period
47 on or after January 1 of the fifth year after the effective date of
48 P.L.2018, c.48 (C.54:10A-5.41 et al.), a combined group shall be

1 entitled to a deduction from combined group entire net income equal
2 to one-tenth of the amount necessary to offset the increase in the net
3 deferred tax liability or decrease in the net deferred tax asset, or
4 aggregate change from a net deferred tax asset to a net deferred tax
5 liability, according to the schedule provided by subsubparagraphs (ii)
6 and (iii) of this subparagraph (E). Such increase in the net deferred tax
7 liability or decrease in the net deferred tax asset or the aggregate
8 change from a net deferred tax asset to a net deferred tax liability shall
9 be computed based on the change that would result from the
10 imposition of the unitary reporting requirements under sections 1 and
11 18 through 23 of P.L.2018, c.48 (C.54:10A-5.41 and C.54:10A-4.6 to
12 C.54:10A-4.11) but for the deduction provided under this paragraph as
13 of the effective date of this paragraph.

14 (ii) For group privilege periods beginning on and after January 1,
15 2023, but before January 1, 2030, the combined group may deduct one
16 percent of the amount necessary to offset the increase in the net
17 deferred tax liability or decrease in the net deferred tax asset, or
18 aggregate change from a net deferred tax asset to a net deferred tax
19 liability, during a group privilege period. Such increase in the net
20 deferred tax liability or decrease in the net deferred tax asset or the
21 aggregate change from a net deferred tax asset to a net deferred tax
22 liability shall be computed based on the change that would result from
23 the imposition of the unitary reporting requirements under sections 1
24 and 18 through 23 of P.L.2018, c.48 (C.54:10A-5.41 and C.54:10A-
25 4.6 to C.54:10A-4.11) but for the deduction provided under this
26 paragraph as of the effective date of this paragraph.

27 (iii) For group privilege periods beginning on and after January 1,
28 2030, the combined group may deduct up to five percent of any
29 remaining unused amount of the deduction during the group privilege
30 period, until the group privilege period in which the total deduction
31 amount has been fully utilized. Such increase in the net deferred tax
32 liability or decrease in the net deferred tax asset or the aggregate
33 change from a net deferred tax asset to a net deferred tax liability shall
34 be computed based on the change that would result from the
35 imposition of the unitary reporting requirements under sections 1 and
36 18 through 23 of P.L.2018, c.48 (C.54:10A-5.41 and C.54:10A-4.6 to
37 C.54:10A-4.11) but for the deduction provided under this paragraph as
38 of the effective date of this paragraph.

39 (F) The deferred tax impact determined in subparagraph (E) of this
40 paragraph must be converted to the annual Deferred Tax Deduction
41 amount, as follows:

42 (i) the deferred tax impact determined in subparagraph (E) of this
43 paragraph shall be divided by the rate determined under section 5 of
44 P.L.1945, c.162 (C.54:10A-5) at the effective date of P.L.2018, c.48
45 (C.54:10A-5.41 et al.);

46 (ii) the resulting amount shall be further divided by the New Jersey
47 unitary business allocation factor that was used by the combined group

1 in the calculation of the deferred tax assets and deferred tax liabilities
2 as described in subparagraph (E) of this paragraph;

3 (iii) the resulting amount represents the total net Deferred Tax
4 Deduction available over the period as described in subparagraph (E)
5 of this paragraph.

6 (G) The deduction calculated under this paragraph shall not be
7 adjusted as a result of any events happening subsequent to such
8 calculation, including, but not limited to, any disposition or
9 abandonment of assets. Such deduction shall be calculated without
10 regard to the federal tax effect and shall not alter the tax basis of any
11 asset. If the deduction under this section is greater than combined
12 group entire net income, any excess deduction shall be carried forward
13 and applied as a deduction to combined group entire net income in
14 future privilege periods until fully utilized.

15 (H) Any combined group intending to claim a deduction under this
16 paragraph shall file a statement with the director on or before July 1 of
17 the year subsequent to the first privilege period for which a combined
18 return is required. Such statement shall specify the total amount of the
19 deduction which the combined group claims on such form and in such
20 manner as prescribed by the director. No deduction shall be allowed
21 under this paragraph for any privilege period except to the extent
22 claimed on such timely filed statement in accordance with this
23 paragraph.

24 (17) (A) In the case of a taxpayer that is a cannabis licensee,
25 there shall be allowed as a deduction an amount equal to any
26 expenditure that is eligible to be claimed as a federal income tax
27 deduction but is disallowed because cannabis is a controlled substance
28 under federal law, and income shall be determined without regard to
29 section 280E of the Internal Revenue Code (26 U.S.C. s.280E) for
30 cannabis licensees.

31 (B) In the case of a taxpayer that is a cannabis licensee, there shall
32 be allowed as a deduction an amount equal to any expenditure that
33 would qualify as a specified research or experimental expenditure
34 pursuant to section 174 of the Internal Revenue Code but is disallowed
35 as a deduction for federal tax purposes because cannabis is a
36 controlled substance under federal law. Any expenditure that is
37 claimed as a deduction pursuant to this subparagraph may also be
38 claimed as a qualified research expense for purposes of the credit
39 allowed pursuant to section 1 of P.L.1993, c.175 (C.54:10A-5.24).

40 (C) For purposes of this paragraph, "licensee" means the same as
41 that term is defined in section 3 of P.L.2021, c.16 (C.24:6I-33).

42 (18) For privilege periods ending on and after July 31, 2022:

43 (A) Notwithstanding subparagraph (A) of paragraph (2) of this
44 subsection or any other law or treaty to the contrary, for a corporation
45 that is incorporated or formed in a foreign nation with a
46 comprehensive tax treaty with the United States, and that is not a
47 member of a world-wide group combined return filed pursuant to
48 subsection b. of section 23 of P.L.2018, c.48 (C.54:10A-4.11), entire

1 net income shall not include an item of income or loss excluded or
2 exempted from federal taxable income under the terms of the treaty,
3 and no other deduction, exclusion, or elimination shall be permitted for
4 an item of income or loss excluded by this paragraph.

5 (B) For a non-U.S. corporation that files a federal tax return and is
6 not a member of a combined group filing a New Jersey combined
7 return on a world-wide basis pursuant to subsection b. of section 23 of
8 P.L.2018, c.48 (C.54:10A-4.11), the non-U.S. corporation shall only
9 include its income or loss included in federal taxable income, which
10 shall be limited to only the non-U.S. corporation's effectively
11 connected income or loss, as modified by the provisions of the
12 Corporation Business Tax Act (1945), P.L.1945, c.162 (C.54:10A-1 et
13 seq.), and the items of expense and the allocation factor receipts
14 attributable to such items of income or loss.

15 (l) "Real estate investment trust" shall mean any corporation, trust
16 or association qualifying and electing to be taxed as a real estate
17 investment trust under federal law.

18 (m) "Financial business corporation" shall mean any corporate
19 enterprise which is (1) in substantial competition with the business of
20 national banks and which (2) employs moneyed capital with the object
21 of making profit by its use as money, through discounting and
22 negotiating promissory notes, drafts, bills of exchange and other
23 evidences of debt; buying and selling exchange; making of or dealing
24 in secured or unsecured loans and discounts; dealing in securities and
25 shares of corporate stock by purchasing and selling such securities and
26 stock without recourse, solely upon the order and for the account of
27 customers; or investing and reinvesting in marketable obligations
28 evidencing indebtedness of any person, copartnership, association or
29 corporation in the form of bonds, notes or debentures commonly
30 known as investment securities; or dealing in or underwriting
31 obligations of the United States, any state or any political subdivision
32 thereof, or of a corporate instrumentality of any of them. This shall
33 include, without limitation of the foregoing, business commonly
34 known as industrial banks, dealers in commercial paper and
35 acceptances, sales finance, personal finance, small loan and mortgage
36 financing businesses, as well as any other enterprise employing
37 moneyed capital coming into competition with the business of national
38 banks; provided that the holding of bonds, notes, or other evidences of
39 indebtedness by individual persons not employed or engaged in the
40 banking or investment business and representing merely personal
41 investments not made in competition with the business of national
42 banks, shall not be deemed financial business. Nor shall "financial
43 business" include national banks, production credit associations
44 organized under the Farm Credit Act of 1933 or the Farm Credit Act
45 of 1971, Pub.L.92-181 (12 U.S.C. s.2091 et seq.), stock and mutual
46 insurance companies duly authorized to transact business in this State,
47 security brokers or dealers or investment companies or bankers not
48 employing moneyed capital coming into competition with the business

1 of national banks, real estate investment trusts, or any of the following
2 entities organized under the laws of this State: credit unions, savings
3 banks, savings and loan and building and loan associations,
4 pawnbrokers, and State banks and trust companies.

5 (n) "International banking facility" shall mean a set of asset and
6 liability accounts segregated on the books and records of a depository
7 institution, United States branch or agency of a foreign bank, or an
8 Edge or Agreement Corporation that includes only international
9 banking facility time deposits and international banking facility
10 extensions of credit as such terms are defined in section 204.8(a)(2)
11 and section 204.8(a)(3) of Regulation D of the board of governors of
12 the Federal Reserve System, 12 CFR Part 204, effective December 3,
13 1981. In the event that the United States enacts a law, or the board of
14 governors of the Federal Reserve System adopts a regulation which
15 amends the present definition of international banking facility or of
16 such facilities' time deposits or extensions of credit, the Commissioner
17 of Banking and Insurance shall forthwith adopt regulations defining
18 such terms in the same manner as such terms are set forth in the laws
19 of the United States or the regulations of the board of governors of the
20 Federal Reserve System. The regulations of the Commissioner of
21 Banking and Insurance shall thereafter provide the applicable
22 definitions.

23 (o) "S corporation" means a corporation that has elected to be an
24 "S corporation" pursuant to section 1361 of the federal Internal
25 Revenue Code of 1986, 26 U.S.C. s.1361, for the taxable year.

26 (p) "New Jersey S corporation" means a taxpayer that has made a
27 valid election to be an S corporation for federal tax purposes, and that
28 has not made a valid election pursuant to subsection d. of section
29 ¹[20] ³ of ¹[P.L.2022, c.133] P.L.1993, c.173¹ (C.54:10A-5.22).

30 (q) "Public Utility" means "public utility" as defined in R.S.48:2-
31 13.

32 (r) "Qualified investment partnership" means a partnership under
33 this act that has more than 10 members or partners with no member or
34 partner owning more than a 50% interest in the entity and that derives
35 at least 90% of its gross income from dividends, interest, payments
36 with respect to securities loans, and gains from the sale or other
37 disposition of stocks or securities or foreign currencies or commodities
38 or other similar income (including but not limited to gains from swaps,
39 options, futures or forward contracts) derived with respect to its
40 business of investing or trading in those stocks, securities, currencies
41 or commodities, but "investment partnership" shall not include a
42 "dealer in securities" within the meaning of section 1236 of the federal
43 Internal Revenue Code of 1986, 26 U.S.C. s.1236.

44 (s) "Savings institution" means a state or federally chartered
45 building and loan association, savings and loan association, or savings
46 bank.

47 (t) "Partnership" means an entity classified as a partnership for
48 federal income tax purposes.

1 (u) "Prior net operating loss conversion carryover" means a net
2 operating loss incurred in a privilege period ending prior to July 31,
3 2019 and converted from a pre-allocation net operating loss to a post-
4 allocation net operating loss as follows:

5 (1) As used in this subsection:

6 "Base year" means the last privilege period ending prior to July 31,
7 2019.

8 "Base year BAF" means the taxpayer's business allocation factor as
9 provided in sections 6 through 10 of P.L.1945, c.162 (C.54:10A-6
10 through C.54:10A-10) for purposes of calculating entire net income for
11 the base year, as such section was in effect for the last privilege period
12 ending prior to July 31, 2019.

13 "UNOL" means the unabsorbed portion of net operating loss as
14 calculated under paragraph (6) of subsection (k) of this section as such
15 paragraph was in effect for the last privilege period ending prior to
16 July 31, 2019, that was not deductible in previous privilege periods
17 and was eligible for carryover on the last day of the base year subject
18 to the limitations for deduction under such subsection, including any
19 net operating loss sustained by the taxpayer during the base year.

20 (2) The prior net operating loss conversion carryover shall be
21 calculated as follows:

22 (A) The taxpayer shall first calculate the tax value of its UNOL for
23 the base year and for each preceding privilege period for which there is
24 a UNOL. The value of the UNOL for each privilege period is equal to
25 the product of (I) the amount of the taxpayer's UNOL for a privilege
26 period, and (II) the taxpayer's base year BAF. This result shall equal
27 the taxpayer's prior net operating loss conversion carryover.

28 (B) The taxpayer shall continue to carry over its prior net operating
29 loss conversion carryover to offset its allocated entire net income as
30 provided in sections 6 through 10 of P.L.1945, c.162 (C.54:10A-6
31 through C.54:10A-10) for privilege periods ending on and after July
32 31, 2019. Such carryover periods shall not exceed the twenty privilege
33 periods following the privilege period of the initial loss. The entire
34 amount of the prior net operating loss conversion carryover for any
35 privilege period shall be carried to the earliest of the privilege periods
36 to which the loss may be carried. The portion of the prior net operating
37 loss conversion carryover which shall be carried to each of the other
38 privilege periods shall be the excess, if any, of the amount of the prior
39 net operating loss conversion carryover over the sum of the entire net
40 income, computed without the exclusions permitted in paragraphs (4)
41 and (5) of subsection (k) of this section allocated to this State. For
42 privilege periods ending on and after July 31, 2023, for the purpose of
43 computing taxable net income for a current privilege period, the
44 amount of the prior net operating loss conversion carryover shall be
45 subtracted from entire net income allocated to this State, after the
46 application of paragraphs (4) and (5) of subsection (k) of this section
47 against current privilege period income when the entire net income
48 allocated to this State for the privilege period is greater than zero.

1 (C) The prior net operating loss conversion carryover computed
2 under this subsection shall be applied against the entire net income
3 allocated to this State before the net operating loss carryover computed
4 under subsection (v) of this section.

5 (v) "Net operating loss deduction" means the amount allowed as a
6 deduction for the net operating loss carryover to the privilege period,
7 calculated as follows:

8 (1) Net operating loss carryover. A net operating loss for any
9 privilege period ending on or after July 31, 2019, shall be a net
10 operating loss carryover to each of the twenty privilege periods
11 following the period of the loss. The entire amount of the net
12 operating loss for any privilege period shall be carried to the earliest of
13 the privilege periods to which the loss may be carried. For privilege
14 periods ending before July 31, 2023, the portion of the loss which shall
15 be carried to each of the other privilege periods shall be the excess, if
16 any, of the amount of the loss over the sum of the entire net income,
17 computed without the exclusions permitted in paragraphs (4) and (5)
18 of subsection (k) of this section allocated to this State. For privilege
19 periods ending on and after July 31, 2023, the portion of the loss that
20 shall be carried to each of the other privilege periods shall be the
21 excess, if any, of the amount of the loss over the sum of the entire net
22 income, after the application of paragraphs (4) and (5) of subsection
23 (k) of this section allocated to this State; provided, however, for the
24 purpose of computing taxable net income for the privilege period, the
25 net operating loss carryover shall only be subtracted from entire net
26 income allocated to this State when the entire net income allocated to
27 this State is greater than zero.

28 (2) Net operating loss. For purposes of this paragraph the term "net
29 operating loss" means the excess of the deductions over the gross
30 income used in computing entire net income, without regard to any net
31 operating loss carryover, and for privilege periods ending before July
32 31, 2023, computed without the exclusions in paragraphs (4) and (5) of
33 subsection (k) of this section, and for privilege periods ending on and
34 after July 31, 2023, computed after the application of paragraphs (4)
35 and (5) of subsection (k) of this section, allocated to this State pursuant
36 to sections 6 through 10 of P.L.1945, c.162 (C.54:10A-6 through
37 C.54:10A-10).

38 (3) Reduction for discharge of indebtedness. A net operating loss
39 for any privilege period ending on or after July 31, 2019, and any net
40 operating loss carryover to such privilege period, shall be reduced by
41 the amount excluded from federal taxable income under subparagraph
42 (A), (B), or (C) of paragraph (1) of subsection (a) of section 108 of the
43 federal Internal Revenue Code, 26 U.S.C. s.108, for the privilege
44 period of the discharge of indebtedness.

45 (4) A net operating loss carryover shall not include any net
46 operating loss incurred during any privilege period ending prior to July
47 31, 2019.

1 (5) Change in ownership. Where there is a change in 50% or more
2 of the ownership of a corporation because of redemption or sale of
3 stock and the corporation changes the trade or business giving rise to
4 the loss, no net operating loss sustained before the changes may be
5 carried over to be deducted from income earned after such changes. In
6 addition, where the facts support the premise that the corporation was
7 acquired under any circumstances for the primary purpose of the use
8 of its net operating loss carryover, the director may disallow the
9 carryover; provided, however, this paragraph shall not apply between
10 members of a combined group reported on a New Jersey combined
11 return.

12 (w) "Taxable net income" means entire net income allocated to this
13 State as calculated pursuant to sections 6 through 8 of P.L.1945, c.162
14 (C.54:10A-6 through 54:10A-8) as modified by subtracting any prior
15 net operating loss conversion carryforward calculated pursuant to
16 subsection (u) of this section, and any net operating loss calculated
17 pursuant to subsection (v) of this section; provided, however, for
18 privilege periods ending on and after July 31, 2023, when subtracting
19 any net operating losses calculated pursuant to subsection (v) of this
20 section or the combined group net operating losses calculated pursuant
21 to subsection h. of section 18 of P.L.2018, c.48 (C.54:10A-4.6), the
22 limitation set forth in paragraph (2) of subsection (a) of Internal
23 Revenue Code Section 172 (26 U.S.C. s.172(a)(2)) shall apply, except
24 that August 1, 2023 is substituted for the reference to January 1, 2018
25 in subparagraph (A) of paragraph (2) of subsection a. of Internal
26 Revenue Code Section 172 (26 U.S.C. s.172), and July 31, 2023 is
27 substituted for the reference to December 31, 2017 in subparagraph
28 (B) of paragraph (2) of subsection (a) of Internal Revenue Code
29 Section 172 (26 U.S.C. s.172). For privilege periods ending on and
30 after July 31, 2023, for a combined group, before subtracting the prior
31 net operating loss conversion carryforwards and subtracting the net
32 operating losses of the combined group when computing the total
33 taxable net income, the combined group shall first add together the
34 allocated entire net income from the unitary business of the combined
35 group and the portion of allocated entire net income of members with
36 activities independent of the group, and then subtract the prior net
37 operating loss conversion carryforwards and then the net operating
38 losses.

39 (x) "Affiliated group" means, for purposes of section 23 of
40 P.L.2018, c.48 (C.54:10A-4.11), an affiliated group as defined in
41 section 1504 of the federal Internal Revenue Code, 26 U.S.C. s.1504,
42 except such affiliated group shall include all U.S. domestic
43 corporations that are commonly owned, directly or indirectly, by any
44 member of such affiliated group, without regard to whether the
45 affiliated group includes (1) corporations included in more than one
46 federal consolidated return, (2) corporations engaged in one or more
47 unitary businesses, or (3) corporations that are not engaged in a unitary
48 business with any other member of the affiliated group.

1 For purposes of this subsection:

2 "U.S. domestic corporations" means: (1) business entities wherever
3 incorporated or formed that are U.S. domestic corporations, are
4 deemed to be, or are treated as U.S. domestic corporations under the
5 provisions of the federal Internal Revenue Code; or (2) any entities
6 incorporated or formed under the laws of a foreign nation that are
7 required to file federal tax returns if such entities have effectively
8 connected income within the meaning of the federal Internal Revenue
9 Code; and

10 "Commonly owned" means that more than 50 percent of the voting
11 control of each member of an affiliated group is directly or indirectly
12 owned by a common owner or owners, either corporate or non-
13 corporate, whether or not the owner or owners are members of the
14 affiliated group. Whether voting control is indirectly owned shall be
15 determined in accordance with section 318 of the federal Internal
16 Revenue Code (26 U.S.C. s.318).

17 (y) "Combinable captive insurance company" means an entity that
18 is treated as an association taxable as a corporation under the federal
19 Internal Revenue Code:

20 (1) more than 50% of the voting stock of which is owned or
21 controlled, directly or indirectly, by a single entity that is treated as an
22 association taxable as a corporation under the federal Internal Revenue
23 Code, and not exempt from federal income tax;

24 (2) that is licensed as a captive insurance company under the laws
25 of this State or another jurisdiction;

26 (3) whose business includes providing, directly and indirectly,
27 insurance or reinsurance covering the risks of its parent, members of
28 its affiliated group, or both; and

29 (4) 50% or less of whose gross receipts for the privilege period
30 consist of premiums from arrangements that constitute insurance for
31 federal income tax purposes.

32 A combinable captive insurance company shall not be exempt
33 under section 3 of P.L.1945, c.162 (C.54:10A-3). A captive insurance
34 company that does not meet the definition of combinable captive
35 insurance company shall be excluded as provided in subsection k. of
36 section 18 of P.L.2018, c.48 (C.54:10A-4.6) and shall be exempt under
37 section 3 of P.L.1945, c.162 (C.54:10A-3).

38 For purposes of this definition:

39 "Affiliated group" shall have the same meaning as that term is
40 given by section 1504 of the federal Internal Revenue Code, 26 U.S.C.
41 s.1504, except that the term "common parent corporation" as used in
42 section 1504 of the federal Internal Revenue Code, 26 U.S.C. s.1504,
43 shall mean any person, as defined in section 7701 of the federal
44 Internal Revenue Code, 26 U.S.C. s.7701, and references to "at least
45 80%" in section 1504 of the federal Internal Revenue Code, 26 U.S.C.
46 s.1504, shall be read as "50% or more." Section 1504 of the federal
47 Internal Revenue Code, 26 U.S.C. s.1504, shall be read without regard
48 to the exclusions provided for in subsection (b) of that section.

1 "Gross receipts" includes the amounts included in gross receipts
2 for purposes of paragraph (15) of subsection (c) of section 501 of the
3 federal Internal Revenue Code, 26 U.S.C. s.501, except that those
4 amounts also include all premiums.

5 "Premiums" includes consideration for annuity contracts and
6 excludes any part of the consideration for insurance, reinsurance, or
7 annuity contracts that do not provide bona fide insurance, reinsurance,
8 or annuity benefits.

9 (z) "Combined group" means the group of all companies that have
10 common ownership and are engaged in a unitary business, where at
11 least one company is subject to tax under this chapter, and shall
12 include all business entities, except as provided for under any section
13 of the Corporation Business Tax Act (1945), P.L.1945, c.162
14 (C.54:10A-1 et seq.).

15 A combined group shall be treated, for privilege periods ending on
16 and after July 31, 2020, as one taxpayer for purposes of paragraph (1)
17 of subsection (c) of section 5 of P.L.1945, c.162 (C.54:10A-5) and
18 section 1 of P.L.2018, c.48 (C.54:10A-5.41) for the income derived
19 from the unitary business; provided however, with regard to the surtax
20 imposed pursuant to section 1 of P.L.2018, c.48 (C.54:10A-5.41) and
21 for that purpose only, the portion of income that is attributable to a
22 member which is a public utility exempt from the surtax shall not be
23 included when computing the surtax due.

24 (aa) "Common ownership" means that more than 50% of the
25 voting control of each member of a combined group is directly or
26 indirectly owned by a common owner or owners, either corporate or
27 non-corporate, whether or not the owner or owners are members of the
28 combined group. Whether voting control is indirectly owned shall be
29 determined in accordance with section 318 of the federal Internal
30 Revenue Code, 26 U.S.C. s.318.

31 (bb) "Group privilege period" means, if two or more
32 members in the combined group file in the same federal consolidated
33 tax return, the same income year as that used on the federal
34 consolidated tax return and, in all other cases, the privilege period of
35 the managerial member.

36 (cc) "Managerial member" means if the combined group has
37 a common parent corporation and that common parent corporation is a
38 taxable member, the managerial member shall be the common parent
39 corporation. In other cases, the combined group shall select a taxable
40 member as its managerial member or, in the discretion of the director
41 or upon failure of the combined group to select its managerial member,
42 the director shall designate a taxable member of the combined group
43 as managerial member.

44 (dd) "Member" means a business entity that is a part of a
45 combined group.

46 A corporation exempt pursuant to section 3 of P.L.1945, c.162
47 (C.54:10A-3) from the tax imposed by P.L.1945, c.162 (C.54:10A-1 et
48 seq.) shall not be a member of a combined group.

1 (ee) "Nontaxable member" means a member that is: (i) not
2 subject to tax pursuant to the Corporation Business Tax Act (1945),
3 P.L.1945, c.162 (C.54:10A-1 et seq.); or (ii) (deleted by amendment,
4 P.L.2020, c.118 (C.54:10A-5.46 et al.).

5 (ff) "Taxable member" means a member that is subject to tax
6 pursuant to the Corporation Business Tax Act (1945), P.L.1945, c.162
7 (C.54:10A-1 et seq.).

8 A New Jersey S corporation shall only be included as a taxable
9 member of a combined group filing a New Jersey combined return if
10 the New Jersey S Corporation elects to be included as a member and
11 taxed at the same rate as the other members of the combined group. A
12 New Jersey S corporation that does not elect to be included shall be
13 excluded as a member of the combined return and shall file a separate
14 return.

15 (gg) "Unitary business" means, for privilege periods ending
16 before July 31, 2023, a single economic enterprise that is made up
17 either of separate parts of a single business entity or of a group of
18 business entities under common ownership that are sufficiently
19 interdependent, integrated, and interrelated through their activities so
20 as to provide a synergy and mutual benefit that produces a sharing or
21 exchange of value among them and a significant flow of value among
22 the separate parts. For privilege periods ending on and after July 31,
23 2023, "unitary business" means a single economic enterprise that is
24 made up either of separate parts of a single business entity or of a
25 group of business entities under common ownership that are
26 sufficiently interdependent, integrated, or interrelated through their
27 activities so as to provide a synergy and mutual benefit that produces a
28 sharing or exchange of value among them and a significant flow of
29 value among the separate parts. "Unitary business" shall be construed
30 to the broadest extent permitted under the Constitution of the United
31 States. A business conducted by a partnership which is in a unitary
32 business with the combined group shall be treated as the business of
33 the partners that are members of the combined group, whether the
34 partnership interest is held directly or indirectly through a series of
35 partnerships, to the extent of a partner's distributive share of
36 partnership income. The amount of partnership income to be included
37 in the partner's entire net income shall be determined in accordance
38 with subsection a. of section 3 of P.L.2001, c.136 (C.54:10A-15.6) or
39 subsection a. of section 4 of P.L.2001, c.136 (C.54:10A-15.7), as
40 applicable. A business conducted directly or indirectly by one
41 corporation is unitary with that portion of a business conducted by
42 another corporation through its direct or indirect interest in a
43 partnership.

44 (hh) "Captive investment company" shall mean, for
45 privilege periods ending on and after July 31, 2023, an investment
46 company that is not regularly traded on an established securities
47 market and of which more than 50 percent of the voting stock is
48 owned or controlled, directly or indirectly, by a single corporation,

1 other than an investment company, that is not exempt from federal
2 income tax. For purposes of this subsection, a captive investment
3 company shall not include any captive investment company of which
4 at least 50 percent of the shares, by vote or value, is owned or
5 controlled, directly or indirectly, by a state or federally chartered bank,
6 savings bank, or savings and loan association with assets that do not
7 exceed \$15 billion.

8 For privilege periods ending on and after July 31, 2023, any voting
9 stock in an investment company that is held in a segregated asset
10 account of a life insurance corporation, as described in section 817 of
11 the Internal Revenue Code, shall not be taken into account for
12 purposes of determining whether an investment company is a captive
13 regulated investment company.

14 For privilege periods ending on and after July 31, 2023, a captive
15 investment company shall be taxed in the same manner as a C
16 corporation, and subsection d. of section 5 of P.L. 1945, c. 162 (C.
17 54:10A-5) shall not apply. A captive investment company shall not be
18 permitted to claim any deductions or expenses that were permitted for
19 federal purposes, solely as a result of the entity being an investment
20 company, when computing federal taxable net income. A captive
21 investment company shall be a member of a combined group and shall
22 be included as a member on the combined return.

23 (ii) "Captive real estate investment trust" shall mean, for privilege
24 periods ending on and after July 31, 2023, a real estate investment trust
25 that is not regularly traded on an established securities market and of
26 which more than 50 percent of the voting stock is owned or controlled,
27 directly or indirectly, by a single entity that is treated as an association
28 taxable as a corporation under the Internal Revenue Code, is not
29 exempt from federal income tax, and is not a real estate investment
30 trust. For purposes of this subsection, a captive real estate investment
31 trust shall not include any captive real estate investment trust of which
32 at least 50 percent of the shares, by vote or value, is owned or
33 controlled, directly or indirectly, by a state or federally chartered bank,
34 savings bank, or savings and loan association with assets that do not
35 exceed \$15 billion.

36 For privilege periods ending on and after July 23, 2023, any voting
37 stock in a real estate investment trust that is held in a segregated asset
38 account of a life insurance corporation, as described in section 817 of
39 the Internal Revenue Code (26 U.S.C. s.817), shall not be taken into
40 account for purposes of determining whether a real estate investment
41 trust is a captive real estate investment trust. For purposes of this
42 subsection, an association taxable as a corporation shall not include
43 any listed Australian property trust or any qualified foreign entity.

44 For privilege periods ending on and after July 31, 2023, a captive
45 real estate investment trust shall be taxed in the same manner as a C
46 corporation, and subsection d. of section 5 of P.L.1945, c.162
47 (C.54:10A-5) shall not apply. A captive real estate investment trust
48 shall not be permitted to claim any deductions or expenses that were

1 permitted for federal purposes, solely as a result of the entity being a
2 real estate investment trust, when computing federal taxable net
3 income. A captive real estate investment trust shall be a member of a
4 combined group and shall be included as a member on the combined
5 return.

6 As used in this subsection:

7 "Australian property trust" means an Australian unit trust that is
8 registered as a managed investment scheme under the Australian
9 Corporations Act, and in which the principal class of units is listed on
10 a recognized stock exchange in Australia and is regularly traded on an
11 established securities market; or an entity organized as a trust,
12 provided that a listed Australian property trust owns or controls,
13 directly or indirectly, 75 percent or more of the voting power or value
14 of the beneficial interests of shares of the trust.

15 "Qualified foreign entity" means a corporation, trust, association,
16 or partnership that is organized outside the laws of the United States
17 and that satisfies the following criteria:

18 (1) At least 75 percent of the entity's total asset value at the close
19 of its taxable year is represented by real estate assets, as defined at
20 subparagraph (B) of paragraph (5) of subsection (c) of section 856 of
21 the Internal Revenue Code (26 U.S.C. s.856), including shares or
22 certificates of beneficial interest in any real estate investment trust,
23 cash and cash equivalents, and United States Government securities;

24 (2) The entity is not subject to tax on amounts distributed to its
25 beneficial owners, or is exempt from entity-level taxation;

26 (3) The entity distributes, on an annual basis, at least 85 percent of
27 its taxable income, as computed in the jurisdiction in which it is
28 organized, to the holders of its shares or certificates of beneficial
29 interest;

30 (4) No more than 10 percent of the voting power or value in the
31 entity is held directly, indirectly, or constructively by a single entity or
32 individual, or the shares or certificates of beneficial interests of the
33 entity are regularly traded on an established securities market; and

34 (5) The entity is organized in a country that has a tax treaty with
35 the United States.

36 (jj) "Captive regulated investment company" shall mean, for
37 privilege periods ending on and after July 31, 2023, a regulated
38 investment company that is not regularly traded on an established
39 securities market, and of which more than 50 percent of the voting
40 stock is owned or controlled, directly or indirectly, by a single
41 corporation, other than a regulated investment company, that is not
42 exempt from federal income tax. For purposes of this subsection, a
43 captive regulated investment company shall not include any captive
44 regulated investment company of which at least 50 percent of the
45 shares, by vote or value, is owned or controlled, directly or indirectly,
46 by a state or federally chartered bank, savings bank, or savings and
47 loan association with assets that do not exceed \$15 billion.

1 For privilege periods ending on and after July 31, 2023, any voting
2 stock in a regulated investment company that is held in a segregated
3 asset account of a life insurance corporation, as described in section
4 817 of the Internal Revenue Code (26 U.S.C. s.817), shall not be taken
5 into account for purposes of determining whether a regulated
6 investment company is a captive regulated investment company.

7 For privilege periods ending on and after July 31, 2023, a captive
8 regulated investment company shall be taxed in the same manner as a
9 C corporation and subsection d. of section 5 of P.L.1945, c.162
10 (C.54:10A-5) shall not apply. A captive real estate investment
11 company shall not be permitted to claim any deductions or expenses
12 that were permitted for federal purposes, solely as a result of the entity
13 being a regulated investment company, when computing federal
14 taxable net income. A captive regulated investment company shall be
15 a member of a combined group and shall be included as a member on
16 the combined return.

17 (kk) "World-wide basis" and "world-wide group" shall
18 mean, for privilege periods ending on and after July 31, 2022, for the
19 purposes of sections 18 through 23 of P.L.2018, c.48 (C.54:10A-4.6
20 through C.54:10A-4.11) and for the purposes of combined reporting in
21 general under the Corporation Business Tax Act (1945), P.L.1945,
22 c.162 (C.54:10A-1 et seq.), that the combined group shall include all
23 of the members of the combined group, wherever located or formed.
24 For privilege periods ending on and after July 31, 2022, the combined
25 group shall include all of the income and attributes of those members
26 regardless of how or whether those members file federal returns or
27 report or include their income in federal taxable income for federal
28 purposes, and without regard to any exemption or exclusion from
29 federal taxable income under the terms of a tax treaty; provided,
30 however, any deductions that are allowed under the federal Internal
31 Revenue Code that are also allowable under the Corporation Business
32 Tax Act (1945), P.L.1945, c.162 (C.54:10A-1 et seq.), that would
33 apply to a U.S. corporation, but that a non-U.S. corporation is
34 prohibited from claiming for federal corporation income tax purposes
35 because the corporation's income was not included in federal taxable
36 income for any reason or because the corporation is a non-U.S.
37 corporation, shall be allowed for the non-U.S. corporation members of
38 the combined group for New Jersey corporation business tax purposes
39 as though those non-U.S. corporation members were U.S.
40 corporations.

41 (cf: P.L.2023, c.96, s.1)]²

42
43 ²[15. N.J.S.54A:5-1 is amended to read as follows:

44 54A:5-1. New Jersey Gross Income Defined. New Jersey gross
45 income shall consist of the following categories of income:

46 a. Salaries, wages, tips, fees, commissions, bonuses, and other
47 remuneration received for services rendered whether in cash or in
48 property, and amounts paid or distributed, or deemed paid or

1 distributed, out of a medical savings account that are not excluded
2 from gross income pursuant to section 5 of P.L.1997, c.414
3 (C.54A:6-27).

4 b. Net profits from business. The net income from the
5 operation of a business, profession or other activity after provision
6 for all costs and expenses incurred in the conduct thereof,
7 determined either on a cash or accrual basis in accordance with the
8 method of accounting allowed for federal income tax purposes but
9 without deduction of the amount of:

10 (1) taxes based on income;

11 (2) a civil, civil administrative, or criminal penalty or fine,
12 including a penalty or fine under an administrative consent order,
13 assessed and collected for a violation of a State or federal
14 environmental law, an administrative consent order, or an
15 environmental ordinance or resolution of a local governmental
16 entity, and any interest earned on the penalty or fine, and any
17 economic benefits having accrued to the violator as a result of a
18 violation, which benefits are assessed and recovered in a civil, civil
19 administrative, or criminal action, or pursuant to an administrative
20 consent order. The provisions of this paragraph shall not apply to a
21 penalty or fine assessed or collected for a violation of a State or
22 federal environmental law, or local environmental ordinance or
23 resolution, if the penalty or fine was for a violation that resulted
24 from fire, riot, sabotage, flood, storm event, natural cause, or other
25 act of God beyond the reasonable control of the violator, or caused
26 by an act or omission of a person who was outside the reasonable
27 control of the violator; and

28 (3) treble damages paid to the Department of Environmental
29 Protection pursuant to subsection a. of section 7 of P.L.1976, c.141
30 (C.58:10-23.11f) for costs incurred by the department in removing,
31 or arranging for the removal of, an unauthorized discharge upon the
32 failure of the discharger to comply with a directive from the
33 department to remove, or arrange for the removal of, a discharge.

34 c. Net gains or income from disposition of property. Net gains
35 or net income, less net losses, derived from the sale, exchange or
36 other disposition of property, including real or personal, whether
37 tangible or intangible as determined in accordance with the method
38 of accounting allowed for federal income tax purposes. For the
39 purpose of determining gain or loss, the basis of property shall be
40 the adjusted basis used for federal income tax purposes, except as
41 expressly provided for under this act, but without a deduction for
42 penalties, fines, or economic benefits excepted pursuant to
43 paragraph (2), or for treble damages excepted pursuant to paragraph
44 (3) of subsection b. of this section.

45 A taxpayer's net gain or loss on the sale, exchange or other
46 disposition of a share of an S corporation shall be calculated by
47 increasing the adjusted basis of the share by an amount equal to the
48 shareholder's net losses and deductions in respect of the share

1 allowed and deducted from income for federal income tax purposes,
2 not including any personal net operating loss deductions, to the
3 extent that such net losses were not offset by the taxpayer's pro rata
4 share of S corporation income otherwise subject to taxation
5 pursuant to subsection p. of this section in respect of another S
6 corporation, subject to rules of priority and assignment determined
7 by the director.

8 For the tax year 1976, any taxpayer with a tax liability under this
9 subsection, or under the "Tax on Capital Gains and Other Unearned
10 Income Act," P.L.1975, c.172 (C.54:8B-1 et seq.), shall not be
11 subject to payment of an amount greater than the amount he would
12 have paid if either return had covered all capital transactions during
13 the full tax year 1976; provided, however, that the rate which shall
14 apply to any capital gain shall be that in effect on the date of the
15 transaction. To the extent that any loss is used to offset any gain
16 under P.L.1975, c.172, it shall not be used to offset any gain under
17 the "New Jersey Gross Income Tax Act," N.J.S.54A:1-1 et seq.

18 The term "net gains or income" shall not include gains or income
19 derived from obligations which are referred to in clause (1) or (2) of
20 N.J.S.54A:6-14 of this act or from securities which evidence
21 ownership in a qualified investment fund as defined in section 2 of
22 P.L.1987, c.310 (C.54A:6-14.1). The term "net gains or income"
23 shall not include gains or income derived from the sale or
24 assignment of a tax credit transfer certificate pursuant to section 7
25 of P.L.2011, c.149 (C.34:1B-248) **[and]**, section 10 of P.L.2014,
26 c.63 (C.34:1B-251), or the "New Jersey Economic Recovery Act of
27 2020," P.L.2020, c.156 (C.34:1B-269 et al.), as amended and
28 supplemented, from any sale or assignment of a tax credit issued
29 pursuant to an award of tax credits approved by the New Jersey
30 Economic Development Authority **[prior to July 1, 2018]**,
31 regardless of when such sale or assignment occurs. The term "net
32 gains or net income" shall not include gains or income from
33 transactions to the extent to which nonrecognition is allowed for
34 federal income tax purposes. The term "sale, exchange or other
35 disposition" shall not include the exchange of stock or securities in
36 a corporation a party to a reorganization in pursuance of a plan of
37 reorganization, solely for stock or securities in such corporation or
38 in another corporation a party to the reorganization and the transfer
39 of property to a corporation by one or more persons solely in
40 exchange for stock or securities in such corporation if immediately
41 after the exchange such person or persons are in control of the
42 corporation. For purposes of this clause, stock or securities issued
43 for services shall not be considered as issued in return for property.

44 For purposes of this clause, the term "reorganization" means**[--]**:

45 (i) A statutory merger or consolidation;

46 (ii) The acquisition by one corporation, in exchange solely for
47 all or part of its voting stock (or in exchange solely for all or a part
48 of the voting stock of a corporation which is in control of the

1 acquiring corporation) of stock of another corporation if,
2 immediately after the acquisition, the acquiring corporation has
3 control of such other corporation (whether or not such acquiring
4 corporation had control immediately before the acquisition);

5 (iii) The acquisition by one corporation, in exchange solely for
6 all or part of its voting stock (or in exchange solely for all or a part
7 of the voting stock of a corporation which is in control of the
8 acquiring corporation), of substantially all of the properties of
9 another corporation, but in determining whether the exchange is
10 solely for stock the assumption by the acquiring corporation of a
11 liability of the other, or the fact that property acquired is subject to
12 a liability, shall be disregarded;

13 (iv) A transfer by a corporation of all or a part of its assets to
14 another corporation if immediately after the transfer the transferor,
15 or one or more of its shareholders (including persons who were
16 shareholders immediately before the transfer), or any combination
17 thereof, is in control of the corporation to which the assets are
18 transferred;

19 (v) A recapitalization;

20 (vi) A mere change in identity, form, or place of organization
21 however effected; or

22 (vii) The acquisition by one corporation, in exchange for stock of
23 a corporation (referred to in this subclause as "controlling
24 corporation") which is in control of the acquiring corporation, of
25 substantially all of the properties of another corporation which in
26 the transaction is merged into the acquiring corporation shall not
27 disqualify a transaction under subclause (i) if such transaction
28 would have qualified under subclause (i) if the merger had been into
29 the controlling corporation, and no stock of the acquiring
30 corporation is used in the transaction;

31 (viii) A transaction otherwise qualifying under subclause (i) shall
32 not be disqualified by reason of the fact that stock of a corporation
33 (referred to in this subclause as the "controlling corporation") which
34 before the merger was in control of the merged corporation is used
35 in the transaction, if after the transaction, the corporation surviving
36 the merger holds substantially all of its properties and of the
37 properties of the merged corporation (other than stock of the
38 controlling corporation distributed in the transaction); and in the
39 transaction, former shareholders of the surviving corporation
40 exchanged, for an amount of voting stock of the controlling
41 corporation, an amount of stock in the surviving corporation which
42 constitutes control of such corporation.

43 For purposes of this clause, the term "control" means the
44 ownership of stock possessing at least 80% of the total combined
45 voting power of all classes of stock entitled to vote and at least 80%
46 of the total number of shares of all other classes of stock of the
47 corporation.

1 For purposes of this clause, the term "a party to a reorganization"
2 includes a corporation resulting from a reorganization, and both
3 corporations, in the case of a reorganization resulting from the
4 acquisition by one corporation of stock or properties of another. In
5 the case of a reorganization qualifying under subclause (i) by reason
6 of subclause (vii) the term "a party to a reorganization" includes the
7 controlling corporation referred to in such subclause (vii).

8 Notwithstanding any provisions hereof, upon every such
9 exchange or conversion, the taxpayer's basis for the stock or
10 securities received shall be the same as the taxpayer's actual or
11 attributed basis for the stock, securities or property surrendered in
12 exchange therefor.

13 d. Net gains or net income derived from or in the form of rents,
14 royalties, patents, and copyrights.

15 e. Interest, except interest referred to in clause (1) or (2) of
16 N.J.S.54A:6-14, or distributions paid by a qualified investment fund
17 as defined in section 2 of P.L.1987, c.310 (C.54A:6-14.1), to the
18 extent provided in that section.

19 f. Dividends. "Dividends" means any distribution in cash or
20 property made by a corporation, association or business trust that is
21 not an S corporation, (1) out of accumulated earnings and profits, or
22 (2) out of earnings and profits of the year in which such dividend is
23 paid and any distribution in cash or property made by an S
24 corporation, as specifically determined pursuant to section 16 of
25 P.L.1993, c.173 (C.54A:5-14).

26 The term "dividends" shall not include distributions paid by a
27 qualified investment fund as defined in section 2 of P.L.1987, c.310
28 (C.54A:6-14.1), to the extent provided in that section.

29 g. Gambling winnings.

30 h. Net gains or income derived through estates or trusts.

31 i. Income in respect of a decedent.

32 j. Amounts distributed or withdrawn from an employee trust
33 attributable to contributions to the trust which were excluded from
34 gross income under the provisions of chapter 6 of Title 54A of the
35 New Jersey Statutes, amounts rolled over from an IRA, as defined
36 pursuant to subsection (a) of section 408 of the federal Internal
37 Revenue Code of 1986, 26 U.S.C. s.408, that is not a Roth IRA, as
38 defined pursuant to subsection b. of section 2 of P.L.1998,c.57
39 (C.54A:6-28) to an IRA that is a Roth IRA, and pensions and
40 annuities except to the extent of exclusions in N.J.S.54A:6-10
41 hereunder, notwithstanding the provisions of N.J.S.18A:66-51,
42 P.L.1973, c.140, s.41 (C.43:6A-41), P.L.1954, c.84, s.53
43 (C.43:15A-53), P.L.1944, c.255, s.17 (C.43:16A-17), P.L.1965,
44 c.89, s.45 (C.53:5A-45), R.S.43:10-14, P.L.1943, c.160, s.22
45 (C.43:10-18.22), P.L.1948, c.310, s.22 (C.43:10-18.71), P.L.1954,
46 c.218, s.32 (C.43:13-22.34), P.L.1964, c.275, s.11 (C.43:13-22.60),
47 R.S.43:10-57, P.L.1938, c.330, s.13 (C.43:10-105), R.S.43:13-44,
48 and P.L.1943, c.189, s.5 (C.43:13-37.5).

1 k. Distributive share of partnership income, excluding the gain
 2 or income derived from the sale or assignment of a tax credit
 3 transfer certificate pursuant to section 7 of P.L.2011, c.149
 4 (C.34:1B-248) **and**, section 10 of P.L.2014, c.63 (C.34:1B-251),
 5 or the "New Jersey Economic Recovery Act of 2020," P.L.2020,
 6 c.156 (C.34:1B-269 et al.), as amended and supplemented, from any
 7 sale or assignment of a tax credit issued pursuant to an award of tax
 8 credits approved by the New Jersey Economic Development
 9 Authority **prior to July 1, 2018**, regardless of when such sale or
 10 assignment occurs.

11 l. Amounts received as prizes and awards, except as provided
 12 in N.J.S.54A:6-8 and N.J.S.54A:6-11 hereunder.

13 m. Rental value of a residence furnished by an employer or a
 14 rental allowance paid by an employer to provide a home.

15 n. Alimony and separate maintenance payments to the extent
 16 that such payments are required to be made under a decree of
 17 divorce or separate maintenance but not including payments for
 18 support of minor children.

19 o. Income, gain or profit derived from acts or omissions
 20 defined as crimes or offenses under the laws of this State or any
 21 other jurisdiction.

22 p. Net pro rata share of S corporation income, excluding the
 23 gain or income derived from the sale or assignment of a tax credit
 24 transfer certificate pursuant to section 7 of P.L.2011, c.149
 25 (C.34:1B-248) **and**, section 10 P.L.2014, c.63 (C.34:1B-251), or
 26 the "New Jersey Economic Recovery Act of 2020," P.L.2020, c.156
 27 (C.34:1B-269 et al.), as amended and supplemented, from any sale
 28 or assignment of a tax credit issued pursuant to an award of tax
 29 credits approved by the New Jersey Economic Development
 30 Authority **prior to July 1, 2018**, regardless of when such sale or
 31 assignment occurs.

32 (cf: P.L.2018, c.131, s.8)**】²**

33

34 ²**16.** Section 1 of P.L.1979, c.303 (C.34:1B-5.1) is amended to
 35 read as follows:

36 1. a. The New Jersey Economic Development Authority shall
 37 adopt rules and regulations requiring that not less than the prevailing
 38 wage rate be paid to workers employed in the performance of any
 39 construction contract, including contracts for millwork fabrication,
 40 undertaken in connection with authority financial assistance or any of
 41 its projects, those projects which it undertakes pursuant to P.L.2002,
 42 c.43 (C.52:27BBB-1 et al.), or undertaken to fulfill any condition of
 43 receiving authority financial assistance, including the performance of
 44 any contract to construct, renovate or otherwise prepare a facility for
 45 operations which are necessary for the receipt of authority financial
 46 assistance, unless the work performed under the contract is performed
 47 on a facility owned by a landlord of the entity receiving the assistance

1 and less than 35 percent of the facility is leased by the entity at the
2 time of the contract and under any agreement to subsequently lease the
3 facility. The prevailing wage rate shall be the rate determined by the
4 Commissioner of Labor and Workforce Development pursuant to the
5 provisions of P.L.1963, c.150 (C.34:11-56.25 et seq.). For the
6 purposes of this section, "authority financial assistance" means any
7 loan, loan guarantee, grant, incentive, tax exemption or other financial
8 assistance that is approved, funded, authorized, administered or
9 provided by the authority to any entity and is provided before, during
10 or after completion of a project, including but not limited to, all
11 authority financial assistance received by the entity pursuant to the
12 "Business Employment Incentive Program Act," P.L.1996, c.26
13 (C.34:1B-124 et al.) that enables the entity to engage in a construction
14 contract, but this section shall not be construed as requiring the
15 payment of the prevailing wage for construction commencing more
16 than two years after an entity has executed with the authority a
17 commitment letter regarding authority financial assistance and the first
18 payment or other provision of the assistance is received.

19 b. The New Jersey Economic Development Authority shall adopt
20 rules and regulations requiring that not less than the prevailing wage
21 rate be paid to workers employed in the performance of any contract,
22 for construction, demolition, remediation, removal of hazardous
23 substances, alteration, custom fabrication, repair work, or maintenance
24 work, including painting and decorating, or excavation, grading, pile
25 driving, concrete form, or other types of foundation work in
26 connection with the "New Jersey Community-Anchored Development
27 Act," sections 43 through 53 of P.L.2020, c.156 (C.34:1B-311 through
28 34:1B-321), the "New Jersey Aspire Program Act," sections 54
29 through 67 of P.L.2020, c.156 (C.34:1B-322 through C.34:1B-335),
30 and the "**1**[New Jersey]**1** Emerge Program Act," sections 68 through
31 81 of P.L.2020, c.156 (C.34:1B-336 et al.). The requirements of this
32 subsection shall apply to any site preparation work performed 24
33 months prior to and during the incentive eligibility period of any
34 project receiving tax credits under the "New Jersey Community-
35 Anchored Development Act," sections 43 through 53 of P.L.2020,
36 c.156 (C.34:1B-311 through C.34:1B-321), the "New Jersey Aspire
37 Program Act," sections 54 through 67 of P.L.2020, c.156 (C.34:1B-
38 322 through C.34:1B-335), and the "**1**[New Jersey]**1** Emerge Program
39 Act," sections 68 through 81 of P.L.2020, c.156 (C.34:1B-336 et al.),
40 and to projects receiving financial assistance under the
41 "Redevelopment Project Bridge Financing Program," established
42 pursuant to section 11 of P.L. , c. (C.) (pending before the
43 Legislature as this bill), in which there is a continuity of ownership in
44 the site of the redevelopment project, including work undertaken to
45 fulfill any condition of receiving tax credits under the programs. Work
46 that is subject to the requirements of this subsection shall include the
47 performance of any contract for construction, demolition, remediation,
48 removal of hazardous substances, alteration, custom fabrication, repair

1 work, or maintenance work, including painting and decorating, or
 2 excavation, grading, pile driving, concrete form, or other types of
 3 foundation work undertaken on a facility for operations which are
 4 necessary for the receipt of tax credits under the "New Jersey
 5 Community-Anchored Development Act," sections 43 through 53 of
 6 P.L.2020, c.156 (C.34:1B-311 through C.34:1B-321), the "New Jersey
 7 Aspire Program Act," sections 54 through 67 of P.L.2020, c.156
 8 (C.34:1B-322 through C.34:1B-335), and the "¹**【New Jersey】**¹
 9 Emerge Program Act," sections 68 through 81 of P.L.2020, c.156
 10 (C.34:1B-336 et al.), or the receipt of financial assistance under the
 11 "Redevelopment Project Bridge Financing Program," established
 12 pursuant to section 11 of P.L. , c. (C.) (pending before the
 13 Legislature as this bill), unless the work performed under the contract
 14 is performed on a facility owned by a landlord of the entity receiving
 15 the tax credit and less than 35 percent of the facility is leased by the
 16 entity at the time of the contract and under any agreement to
 17 subsequently lease the facility. The prevailing wage rate shall be the
 18 rate determined by the Commissioner of Labor and Workforce
 19 Development pursuant to the provisions of P.L.1963, c.150 (C.34:11-
 20 56.25 et seq.), and all contractors and subcontractors subject to the
 21 prevailing wage requirement set forth in this section shall be registered
 22 with the Department of Labor and Workforce Development pursuant
 23 to the provisions of section 5 of P.L.1999, c.238 (C.34:11-56.52). An
 24 applicant for tax credits under the "New Jersey Community-Anchored
 25 Development Act," sections 43 through 53 of P.L.2020, c.156
 26 (C.34:1B-311 through C.34:1B-321), the "New Jersey Aspire Program
 27 Act," sections 54 through 67 of P.L.2020, c.156 (C.34:1B-322 through
 28 C.34:1B-335), and the "¹**【New Jersey】**¹ Emerge Program Act,"
 29 sections 68 through 81 of P.L.2020, c.156 (C.34:1B-336 et al.), shall
 30 certify under penalty of perjury as part of its application that all
 31 construction contracts undertaken on any project in connection with an
 32 award under the programs comply with the prevailing wage
 33 requirements of this subsection. If at any time the authority
 34 determines that the developer made a material misrepresentation
 35 regarding compliance with the provisions of this subsection on the
 36 developer's application, the developer shall forfeit 35 percent of the tax
 37 credits allowed under the programs, and pay to the affected workers
 38 back wages in an amount that compensates the workers at the
 39 prevailing wage rate for the work performed.

40 (cf: P.L.2020, c.156, s.112) ²**】**²

41

42 ²10. (New section) a. Notwithstanding any provision of
 43 P.L.2020, c.156 (C.34:1B-269 et al.), section 14 of P.L.2023, c.98
 44 (C.34:1B-335.1), or any provision of law to the contrary, any
 45 project approved by the authority after the effective date of
 46 P.L.2020, c.156 (C.34:1B-269 et al.) shall be subject to:

47 (1) the requirements of subsection f. of section 57 of P.L.2020,
 48 c.156 (C.34:1B-325), as amended by P.L. , c. (C.) (pending

1 before the Legislature as this bill), concerning the average
2 occupancy rate of commercial projects;

3 (2) any lower fees promulgated by the authority on or after the
4 effective date of P.L. , c. (C.) (pending before the
5 Legislature as this bill), except that such lower fees shall not apply
6 to any fees already paid to the authority;

7 (3) the requirements of paragraphs (1) and (4) of subsection f. of
8 section 60 of P.L. 2020, c.156 (C.34:1B-328), as amended by
9 P.L. , c. (C.) (pending before the Legislature as this bill),
10 concerning the execution of community benefits agreements;

11 (4) the requirements of subsection b. of section 62 of P.L.2020,
12 c.156 (C.34:1B-330), as amended by P.L. , c. (C.) (pending
13 before the Legislature as this bill);

14 (5) the requirements of subsection a. of section 63 of P.L.2020,
15 c.156 (C.34:1B-331), as amended by P.L. , c. (C.) (pending
16 before the Legislature as this bill);

17 (6) the provisions of subsection b. and subsection c. of section
18 60 of P.L.2020, c.156 (C.34:1B-328), as amended by P.L. ,
19 c. (C.) (pending before the Legislature as this bill); and

20 (7) any other provision concerning the terms and conditions of
21 an incentive award issued under the New Jersey Aspire Program
22 that the authority determines will make the administration of the
23 program consistent with the provisions of the “New Jersey Aspire
24 Program Act,” sections 54 through 67 of P.L.2020, c.156 (C.34:1B-
25 322 through C.34:1B-335), as amended and supplemented by
26 P.L. , c. (C.) (pending before the Legislature as this bill),
27 provided that such provision shall not have a materially adverse
28 impact on any projects approved by the authority before the
29 effective date of P.L. , c. (C.) (pending before the
30 Legislature as this bill).

31 b. Notwithstanding any provision of P.L.2020, c.156 (C.34:1B-
32 269 et al.), section 14 of P.L.2023, c.98 (C.34:1B-335.1), or any
33 other provision of law to the contrary, any project approved by the
34 authority after the effective date of P.L.2020, c.156 (C.34:1B-269 et
35 al.) shall not be subject to any proration of tax credits for any year
36 of the eligibility period.²

37
38 ²[17.] 11.² This act shall take effect immediately.

SENATE, No. 1323

STATE OF NEW JERSEY
221st LEGISLATURE

PRE-FILED FOR INTRODUCTION IN THE 2024 SESSION

Sponsored by:

Senator NELLIE POU

District 35 (Bergen and Passaic)

Senator PAUL A. SARLO

District 36 (Bergen and Passaic)

SYNOPSIS

Revises various requirements of New Jersey Aspire Program and establishes Redevelopment Project Bridge Financing Program.

CURRENT VERSION OF TEXT

As reported by the Senate Economic Growth Committee with technical review.



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

1 **AN ACT** concerning the New Jersey Aspire Program, amending
2 various parts of the statutory law, and supplementing P.L.2020,
3 c.156.

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

7
8 1. Section 55 of P.L.2020, c.156 (C.34:1B-323) is amended to read
9 as follows:

10 55. As used in sections 54 through 67 of P.L.2020, c.156 (C.34:1B-
11 322 through 34:1B-335):

12 "Agency" means the New Jersey Housing and Mortgage Finance
13 Agency established pursuant to P.L.1983, c.530 (C.55:14K-1 et seq.).

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

16 "Aviation district" means all areas within the boundaries of the
17 Atlantic City International Airport, established pursuant to section 24 of
18 P.L.1991, c.252 (C.27:25A-24), and the Federal Aviation
19 Administration William J. Hughes Technical Center and the area within
20 a one-mile radius of the outermost boundary of the Atlantic City
21 International Airport and the Federal Aviation Administration William
22 J. Hughes Technical Center.

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

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

35 "Cash flow" means the profit or loss that an investment property
36 earns from rent, deposits, and other fees after financial obligations, such
37 as debt, maintenance, government payments, and other expenses, have
38 been paid.

39 "Collaborative workspace" means coworking, accelerator,
40 incubator, or other shared working environments that promote
41 collaboration, interaction, socialization, and coordination among
42 tenants through the clustering of multiple businesses or individuals. For
43 this purpose, the collaborative workspace shall be the greater of: 2,500
44 of dedicated square feet or 10 percent of the total property on which the
45 redevelopment project is situated. The collaborative workspace shall

**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 include a community manager, be focused on collaboration among the
2 community members, and include regularly scheduled education events
3 for the community members. The collaborative workspace shall also
4 include a physical open space that supports the engagement of its
5 community members.

6 "Commercial project" means a redevelopment project, which is
7 predominantly commercial and, if located in a government-restricted
8 municipality, contains 25,000 or more square feet, or if located in any
9 other municipality, contains 50,000 or more square feet of office and
10 retail space, industrial space including, but not limited to, any industrial
11 space that is predominantly used for warehouse distribution or
12 fulfillment centers and has at least \$10 million in environmental
13 remediation costs, or film studios, professional stages, television
14 studios, recording studios, screening rooms, or other infrastructure for
15 film production, and may include a parking component. The term
16 "commercial project" includes a redevelopment project comprised
17 solely of a health care or health services center, which contains not less
18 than 10,000 square feet devoted to health care or health services, and
19 which may include a parking component.

20 "Developer" means a person who enters or proposes to enter into an
21 incentive award agreement pursuant to the provisions of section 60 of
22 P.L.2020, c.156 (C.34:1B-328), including, but not limited, to a lender
23 that completes a redevelopment project, operates a redevelopment
24 project, or completes and operates a redevelopment project.

25 "Director" means the Director of the Division of Taxation in the
26 Department of the Treasury.

27 "Distressed municipality" means a municipality that is qualified to
28 receive assistance under P.L.1978, c.14 (C.52:27D-178 et seq.), a
29 municipality under the supervision of the Local Finance Board pursuant
30 to the provisions of the "Local Government Supervision Act (1947),"
31 P.L.1947, c.151 (C.52:27BB-1 et seq.), a municipality identified by the
32 Director of the Division of Local Government Services in the
33 Department of Community Affairs to be facing serious fiscal distress, a
34 SDA municipality, or a municipality in which a major rail station is
35 located.

36 "Economic development incentive" means a financial incentive,
37 awarded by the authority, or agreed to between the authority and a
38 business or person, for the purpose of stimulating economic
39 development or redevelopment in New Jersey, including, but not limited
40 to, a bond, grant, loan, loan guarantee, matching fund, tax credit, or
41 other tax expenditure.

42 "Eligibility period" means the period not to exceed 15 years for a
43 commercial or mixed-use project or the period not to exceed 10 years
44 for a residential project specified in an incentive award agreement
45 during which a developer may claim a tax credit under the program, as
46 such period shall be determined by the authority pursuant to subsection
47 b. of section 60 of P.L.2020, c.156 (C.34:1B-328).

1 "Enhanced area" means (1) a municipality that contains an urban
2 transit hub, as defined in section 2 of P.L.2007, c.346 (C.34:1B-208);
3 (2) the five municipalities with the highest poverty rates according to
4 the 2017 Municipal Revitalization Index; and (3) the three
5 municipalities with the highest percentage of SNAP recipients
6 according to the 2017 Municipal Revitalization Index.

7 "Environmental remediation costs" means any costs incurred by a
8 developer in the completion of any actions necessary to investigate,
9 clean up, or respond to a known, suspected, or threatened discharge of
10 contaminants, including, as necessary, the preliminary assessment, site
11 investigation, remedial investigation, and remedial action, pursuant to
12 sections 23 through 43 and section 45 of P.L.1993, c.139 (C.58:10B-1
13 et seq.).

14 "Food delivery source" means access to nutritious foods, such as
15 fresh fruits and vegetables, through grocery operators, including, but not
16 limited to a full-service supermarket or grocery store, and other healthy
17 food retailers of at least 16,000 square feet, including, but not limited
18 to, a prepared food establishment selling primarily nutritious ready-to-
19 serve meals.

20 "Food desert community" means a physically contiguous area in the
21 State in which residents have limited access to nutritious foods, such as
22 fresh fruits and vegetables, and that has been designated as a food desert
23 community pursuant to subsection b. of section 38 of P.L.2020, c.156
24 (C.34:1B-306).

25 "Government-restricted municipality" means a municipality in this
26 State with a municipal revitalization index distress score of at least 75,
27 that met the criteria for designation as an urban aid municipality in the
28 2019 State fiscal year, and that, on the effective date of P.L.2020, c.156
29 (C.34:1B-269 et al.), is subject to financial restrictions imposed
30 pursuant to the "Municipal Stabilization and Recovery Act," P.L.2016,
31 c.4 (C.52:27BBBB-1 et seq.), or is restricted in its ability to levy
32 property taxes on property in that municipality as a result of the State of
33 New Jersey owning or controlling property representing at least 25
34 percent of the total land area of the municipality or as a result of the
35 federal government of the United States owning or controlling at least
36 50 acres of the total land area of the municipality, which is dedicated as
37 a national natural landmark.

38 "Health care or health services center" means an establishment that
39 consists of not less than 10,000 square feet devoted to health care or
40 health services, where patients are admitted for or seek examination and
41 treatment by one or more physicians, dentists, psychologists, or other
42 medical practitioners, and which is located in a municipality with a
43 Municipal Revitalization Index distress score of at least 50, a distressed
44 municipality, or a qualified incentive tract.

45 "Hospitality establishment" means a hotel, motel, or any business,
46 however organized, that sells food, beverages, or both for consumption
47 by patrons on the premises.

1 "Incentive area" means an aviation district; a port district; an area
2 designated pursuant to the "State Planning Act," P.L.1985, c.398
3 (C.52:18A-196 et seq.), as Planning Area 1 (Metropolitan), Planning
4 Area 2 (Suburban), **【or】** a Designated Center, **【provided an area**
5 **designated as Planning Area 2 (Suburban) or a Designated Center shall**
6 **be located within a one-half mile radius of the mid-point, with bicycle**
7 **and pedestrian connectivity, of a New Jersey Transit Corporation, Port**
8 **Authority Transit Corporation, or Port Authority Trans-Hudson**
9 **Corporation rail, bus, or ferry station, including all light rail stations, or**
10 **a high-frequency bus stop as certified by the New Jersey Transit**
11 **Corporation】 or an Endorsed Plan;** an area designated as a brownfield
12 site pursuant to the "Brownfield and Contaminated Site Remediation
13 Act," sections 23 through 43 and section 45 of P.L.1993, c.139
14 (C.58:10B-1 et seq.); and an area of not less than 100 acres for which a
15 licensed site remediation professional has certified environmental
16 remediation costs, as defined in this section and in accordance with the
17 "Site Remediation Reform Act," sections 1 through 29 of P.L.2009, c.60
18 (C.58:10C-1 et seq.), in an amount not less than \$10,000,000, provided
19 that any portion of such area is located in an area that otherwise qualifies
20 as an incentive area.

21 "Incentive award" means an award of tax credits to reimburse a
22 developer for all or a portion of the project financing gap of a
23 redevelopment project pursuant to the provisions of sections 54 through
24 67 of P.L.2020, c.156 (C.34:1B-322 through 34:1B-335).

25 "Incentive award agreement" means the contract executed between
26 a developer and the authority pursuant to section 60 of P.L.2020, c.156
27 (C.34:1B-328), which sets forth the terms and conditions under which
28 the developer may receive the incentive awards authorized pursuant to
29 the provisions of sections 54 through 67 of P.L.2020, c.156 (C.34:1B-
30 322 through 34:1B-335).

31 "Incubator facility" means a commercial property, which contains
32 5,000 or more square feet of office, laboratory, or industrial space,
33 which is located near, and presents opportunities for collaboration with,
34 a research institution, teaching hospital, college, or university, and
35 within which at least 75 percent of the gross leasable area is restricted
36 for use by one or more technology startup companies.

37 "Individuals with special needs" means individuals with mental
38 illness, individuals with physical or developmental disabilities, and
39 individuals in other emerging special needs groups identified by the
40 authority, based on guidelines established for the administration of the
41 Special Needs Housing Trust Fund established pursuant to section 1 of
42 P.L.2005, c.163 (C.34:1B-21.25a) or developed in consultation with
43 other State agencies.

44 "Labor harmony agreement" means an agreement between a
45 business that serves as the owner or operator of a retail establishment,
46 hospitality establishment, or distribution center and one or more labor
47 organizations, which requires, for the duration of the agreement: that
48 any participating labor organization and its members agree to refrain

1 from picketing, work stoppages, boycotts, or other economic
2 interference against the business; and that the business agrees to
3 maintain a neutral posture with respect to efforts of any participating
4 labor organization to represent employees at an establishment or other
5 unit in the retail establishment, hospitality establishment, or distribution
6 center, agrees to permit the labor organization to have access to the
7 employees, and agrees to guarantee to the labor organization the right
8 to obtain recognition as the exclusive collective bargaining
9 representatives of the employees in an establishment or unit at the retail
10 establishment, hospitality establishment, or distribution center by
11 demonstrating to the New Jersey State Board of Mediation, Division of
12 Private Employment Dispute Settlement, or a mutually agreed-upon,
13 neutral, third party that a majority of workers in the unit have shown
14 their preference for the labor organization to be their representative by
15 signing authorization cards indicating that preference. The labor
16 organization or organizations shall be from a list of labor organizations
17 which have requested to be on the list and which the Commissioner of
18 Labor and Workforce Development has determined represent
19 substantial numbers of retail establishment, hospitality establishment,
20 or distribution center employees in the State.

21 "Low-income housing" means housing affordable according to
22 federal Department of Housing and Urban Development or other
23 recognized standards for home ownership and rental costs and occupied
24 or reserved for occupancy by households with a gross household income
25 equal to 50 percent or less of the median gross household income for
26 households of the same size within the housing region in which the
27 housing is located.

28 "Major cultural institution" means a public or nonprofit institution,
29 not including an institution of higher education, within this State that
30 engages in the cultural, intellectual, scientific, environmental,
31 educational, or artistic enrichment of the people of this State, and which
32 institution is designated by the board as a major cultural institution.

33 "Major rail station" means a railroad station that is located within a
34 qualified incentive area and that provides to the public access to a
35 minimum of six rail passenger service lines operated by the New Jersey
36 Transit Corporation.

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

44 "Mixed-use project" means a redevelopment project that includes
45 both a residential component and a nonresidential component.

46 "Moderate-income housing" means housing affordable according to
47 federal Department of Housing and Urban Development or other
48 recognized standards for home ownership and rental costs and occupied

1 or reserved for occupancy by households with a gross household income
2 equal to more than 50 percent, but less than 80 percent, of the median
3 gross household income for households of the same size within the
4 housing region in which the housing is located.

5 "Municipal Revitalization Index" means the index by the
6 Department of Community Affairs ranking New Jersey's municipalities
7 according to eight separate indicators that measure diverse aspects of
8 social, economic, physical, and fiscal conditions in each locality.

9 "Port district" means the portions of a qualified incentive area that
10 are located within:

11 a. the "Port of New York District" of the Port Authority of New
12 York and New Jersey, as defined in Article II of the Compact Between
13 the States of New York and New Jersey of 1921; or

14 b. a 15-mile radius of the outermost boundary of each marine
15 terminal facility established, acquired, constructed, rehabilitated, or
16 improved by the South Jersey Port District established pursuant to "The
17 South Jersey Port Corporation Act," P.L.1968, c.60 (C.12:11A-1 et
18 seq.).

19 "Program" means the New Jersey Aspire Program established by
20 section 56 of P.L.2020, c.156 (C.34:1B-324).

21 "Project cost" or "total project cost" means the costs incurred in
22 connection with a redevelopment project by a developer until the
23 issuance of a permanent certificate of occupancy, or until such other
24 time specified by the authority, for a specific investment or
25 improvement, including the costs relating to lands, except the cost of
26 acquiring such lands, buildings, improvements, real or personal
27 property, or any interest therein, including leases discounted to present
28 value, including lands under water, riparian rights, space rights, and air
29 rights acquired, owned, developed or redeveloped, constructed,
30 reconstructed, rehabilitated, or improved, any environmental
31 remediation costs, plus costs not directly related to construction,
32 including capitalized interest paid to third parties, of an amount not to
33 exceed 20 percent of the total costs and the cost of infrastructure
34 improvements, including ancillary infrastructure projects. When 100
35 percent of the residential units constructed in a residential project are
36 reserved for occupancy by low- and moderate-income households, the
37 term "project cost" shall also include the developer fees paid before
38 acquiring permanent financing, as well as the deferred developer fees
39 approved pursuant to the rules established by the agency. In addition to
40 the foregoing, the term "project cost" shall include the following costs
41 when incurred by a developer for a redevelopment project located in a
42 government restricted municipality: any development, redevelopment,
43 and relocation costs, including, but not limited to, land and building
44 acquisition costs; any soft costs, including engineering, legal,
45 accounting, and other professional services required for the completion
46 of the project; any environmental remediation costs; and any
47 infrastructure improvement for the project area, including, but not
48 limited to, costs of on- and off-site utility, road, pier, wharf, bulkhead,

1 or sidewalk construction or repair. The fees associated with the
2 application or administration of a grant under sections 54 through 67 of
3 P.L.2020, c.156 (C.34:1B-322 through 34:1B-335) shall not constitute
4 a project cost, regardless of the location of the redevelopment project.

5 "Project financing gap" means the part of the total project cost,
6 including reasonable and appropriate return on investment, that remains
7 to be financed after all other sources of capital have been accounted for,
8 including, but not limited to developer contributed capital, which shall
9 not be less than 20 percent of the total project cost, and investor or
10 financial entity capital or loans for which the developer, after making
11 all good faith efforts to raise additional capital, certifies that additional
12 capital cannot be raised from other sources on a non-recourse basis;
13 provided, however, that for a redevelopment project located in a
14 government-restricted municipality, the developer contributed capital
15 shall not be less than 10 percent of the total project cost. Developer
16 contributed capital may consist of cash, deferred development fees,
17 costs for project feasibility incurred within the 12 months prior to
18 application, property value less any mortgages when the developer owns
19 the project site, and any other investment by the developer in the project
20 deemed acceptable by the authority, as provided by regulations
21 promulgated by the authority. Property value shall be valued at the
22 lesser of: (i) the purchase price, provided the property was purchased
23 pursuant to an arm's length transaction within 12 months of application;
24 or (ii) the value as determined by a current appraisal.

25 "Project labor agreement" means a form of pre-hire collective
26 bargaining agreement covering terms and conditions of a specific
27 project that satisfies the requirements set forth in section 5 of P.L.2002,
28 c.44 (C.52:38-5).

29 "Qualified incentive tract" means (i) a population census tract
30 having a poverty rate of 20 percent or more; or (ii) a census tract in
31 which the median family income for the census tract does not exceed 80
32 percent of the greater of the Statewide median family income or the
33 median family income of the metropolitan statistical area in which the
34 census tract is situated.

35 "Quality childcare facility" is a child care center licensed by the
36 Department of Children and Families or a registered family child care
37 home with the Department of Human Services, operating continuously,
38 which has not been subject to an enforcement action, and which has and
39 maintains a licensed capacity for children age 13 years or younger who
40 attend for less than 24 hours a day.

41 "Reasonable and appropriate return on investment" means the
42 discount rate at which the present value of the future cash flows of an
43 investment equals the cost of the investment. In determining the
44 "reasonable and appropriate return on investment," an investment shall
45 not include any federal, State, or local tax credits. For a residential
46 project that utilizes federal low-income housing tax credits awarded by
47 the agency, the "reasonable and appropriate return on investment" shall
48 be based on the approval of deferred developer fees pursuant to the rules

1 established by the agency. In the event that a residential project, which
2 utilizes federal low-income housing tax credits awarded by the agency,
3 generates returns on equity other than federal or local grants or proceeds
4 from the sale of federal or local tax credits, the "reasonable and
5 appropriate return on investment" shall be based on both the discount
6 rate at which the present value of the future cash flows of an investment
7 equal the cost of the investment for the entire project, and when
8 evaluating only the units financed with federal low-income housing tax
9 credits awarded by the agency, the approval of deferred developer fees
10 pursuant to the rules established by the agency.

11 "Redevelopment project" means a specific construction project or
12 improvement or phase of a project or improvement undertaken by a
13 developer, owner or tenant, or both, and any ancillary infrastructure
14 project. A redevelopment project may involve construction or
15 improvement upon lands, buildings, improvements, or real and personal
16 property, or any interest therein, including lands under water, riparian
17 rights, space rights, and air rights, acquired, owned, developed or
18 redeveloped, constructed, reconstructed, rehabilitated, or improved.

19 "Residential project" means a redevelopment project that is
20 predominantly residential, intended for multi-family residency, and may
21 include a parking component.

22 "SDA district" means an SDA district as defined in section 3 of
23 P.L.2000, c.72 (C.18A:7G-3).

24 "SDA municipality" means a municipality in which an SDA district
25 is situated.

26 "Stranded asset" means any building previously used for
27 commercial, retail, office space, manufacturing, or industrial purposes,
28 which building is no longer used for such purposes, and which has been
29 abandoned, experienced significant vacancies for at least two
30 consecutive years, or has fallen into such disrepair as to be untenable.

31 "Technology startup company" means a for-profit business that has
32 been in operation fewer than seven years at the time that it initially
33 occupies or expands in a qualified business facility and is developing or
34 possesses a proprietary technology or business method of a high
35 technology or life science-related product, process, or service, which
36 proprietary technology or business method the business intends to move
37 to commercialization. The business shall be deemed to have begun
38 operation on the date that the business first hired at least one employee
39 in a full-time position.

40 "Total **[project]** development cost" or "total redevelopment cost"
41 means the costs incurred in connection with the redevelopment project
42 by the developer until the issuance of a permanent certificate of
43 occupancy, or upon such other event evidencing project completion as
44 set forth in the incentive grant agreement, for a specific investment or
45 improvement.

46 "Tourism destination project" means a non-gaming business facility
47 that will be among the most visited privately owned or operated tourism
48 or recreation sites in the State, and which has been determined by the

1 authority to be in an area appropriate for development and in need of
2 economic development incentive assistance, including a non-gaming
3 business within an established Tourism District with a significant
4 impact on the economic viability of that district.

5 "Transit hub" means an urban transit hub, as defined in section 2 of
6 P.L.2007, c.346 (C.34:1B-208), that is located within an eligible
7 municipality, as defined in section 2 of P.L.2007, c.346 (C.34:1B-208)
8 and is located within a qualified incentive area.

9 "Transit hub municipality" means a Transit Village or a
10 municipality: a. which qualifies for State aid pursuant to P.L.1978, c.14
11 (C.52:27D-178 et seq.), or which has continued to be a qualified
12 municipality thereunder pursuant to P.L.2007, c.111; and b. in which 30
13 percent or more of the value of real property was exempt from local
14 property taxation during tax year 2006. The percentage of exempt
15 property shall be calculated by dividing the total exempt value by the
16 sum of the net valuation which is taxable and that which is tax exempt.

17 "Transit Village" means a municipality that has been designated as
18 a transit village by the Commissioner of Transportation and the Transit
19 Village Task Force established pursuant to P.L.1985, c.398 (C.27:1A-
20 5).

21 (cf: P.L.2023, c.98, s.1)

22
23 2. Section 56 of P.L.2020, c.156 (C.34:1B-324) is amended to
24 read as follows:

25 56. a. (1) The New Jersey Aspire Program is hereby established
26 as a program under the jurisdiction of the New Jersey Economic
27 Development Authority. The authority shall administer the program
28 to encourage redevelopment projects through the provision of
29 incentive awards to reimburse developers for certain project
30 financing gap costs. The board may approve the award of an
31 incentive award to a developer upon application to the authority
32 pursuant to sections 58 and 59 of P.L.2020, c.156 (C.34:1B-326 and
33 C.34:1B-327). The value of all tax credits approved by the authority
34 pursuant to sections 54 through 67 of P.L.2020, c.156 (C.34:1B-322
35 through 34:1B-335) shall be subject to the limitations set forth in
36 section 98 of P.L.2020, c.156 (C.34:1B-362).

37 (2) The authority, in consultation with the agency, shall adopt
38 rules and regulations, pursuant to subsection b. of section 67 of
39 P.L.2020, c.156 (C.34:1B-335), concerning the establishment and
40 administration of the affordability controls that shall apply to the
41 residential units constructed for occupancy by low- and moderate-
42 income households under the program, including, but not limited to,
43 residential units within residential projects that utilize federal low-
44 income housing tax credits awarded by the agency. Notwithstanding
45 any provision of law or regulation to the contrary, the affordability
46 controls shall, at a minimum, be consistent with the affordability
47 controls established in the rules and regulations adopted pursuant to
48 the "Fair Housing Act," P.L.1985, c.222 (C.52:27D-301 et al.), as in

1 effect immediately prior to the effective date of P.L.2023, c.98
2 (C.34:1B-335.1 et al.), including, but not limited to, any requirements
3 concerning the **【bedroom distributions,】** affordability averages,
4 affirmative marketing, and long-term deed restrictions of residential
5 units constructed for occupancy by low- and moderate-income
6 households, except not including the bedroom distribution
7 requirements for three-bedroom housing units.

8 b. The chief executive officer of the authority shall designate
9 one staff member per government-restricted municipality in order to
10 keep the municipality informed on activities within the municipality
11 and to coordinate economic development initiatives.

12 (cf: P.L.2023, c.98, s.2)

13
14 3. Section 57 of P.L.2020, c.156 (C.34:1B-325) is amended to read
15 as follows:

16 57. a. Prior to March 1, 2029, a developer shall be eligible to receive
17 an incentive award for a redevelopment project only if the developer
18 demonstrates to the authority at the time of application that:

19 (1) without the incentive award, the redevelopment project is not
20 economically feasible;

21 (2) a project financing gap exists, or the authority determines that
22 the redevelopment project will generate a below market rate of return;

23 (3) the redevelopment project, except a film studio, professional
24 stage, television studio, recording studio, screening room, or other
25 infrastructure used for film production, is located in the incentive area;

26 (4) (a) except for demolition and site remediation activities, the
27 developer has not commenced any construction at the site of the
28 redevelopment project prior to submitting an application, unless the
29 authority determines that the redevelopment project would not be
30 completed otherwise or, in the event the redevelopment project is to be
31 undertaken in phases, the requested incentive award is limited to only
32 phases for which construction has not yet commenced;

33 (b) if the developer has commenced demolition and site remediation
34 activities at the site of the redevelopment project prior to submitting an
35 application, all construction workers employed to undertake demolition
36 and site remediation activities at the site were paid not less than the
37 prevailing wage rate for the worker's craft or trade, as determined by
38 the Commissioner of Labor and Workforce Development pursuant to
39 P.L.1963, c.150 (C.34:11-56.25 et seq.) and P.L.2005, c.379 (C.34:11-
40 56.58 et seq.);

41 (5) the redevelopment project shall comply with minimum
42 environmental and sustainability standards;

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

46 (7) (a) during the eligibility period, each worker employed to
47 perform construction work at the redevelopment project shall be paid
48 not less than the prevailing wage rate for the worker's craft or trade, as

1 determined by the Commissioner of Labor and Workforce Development
2 pursuant to P.L.1963, c.150 (C.34:11-56.25 et seq.) and P.L.2005, c.379
3 (C.34:11-56.58 et seq.);

4 (b) during the eligibility period, each worker employed to perform
5 building services work at the redevelopment project, whether pursuant
6 to contract by the developer or a commercial tenant, commercial
7 subtenant, or other commercial occupant, shall be paid not less than the
8 prevailing wage rate for the worker's craft or trade, as determined by the
9 Commissioner of Labor and Workforce Development pursuant to
10 P.L.1963, c.150 (C.34:11-56.25 et seq.) and P.L.2005, c.379 (C.34:11-
11 56.58 et seq.), except that this requirement shall not apply to workers
12 employed to perform building services work by **[a]** any residential
13 tenant or any commercial tenant, commercial subtenant, or other
14 commercial occupant that has a leasehold interest or other occupancy
15 right in a redevelopment project, which leasehold interest or other
16 occupancy right encompasses less than 5,000 square feet of space within
17 the project. The developer shall include in all commercial leases or
18 other commercial occupancy agreements, and shall require that all
19 subleases or other commercial occupancy agreements applicable to the
20 redevelopment project include, a provision setting forth the
21 requirements of this subparagraph, which provision shall be in a form
22 acceptable to the authority. Notwithstanding any provisions of law to
23 the contrary, if a commercial tenant, commercial subtenant, or other
24 commercial occupant violates this provision due to the underpayment
25 of the required prevailing wage rate, then the issuance of tax credits to
26 the developer and any co-applicant shall be delayed until such time as
27 documentation demonstrating compliance has been provided to the
28 Commissioner of Labor and Workforce Development, subsequently
29 reviewed and approved by the Commissioner of Labor and Workforce
30 Development, and verified by the authority, which reviews and
31 verification shall be completed. If a violation is not cured, or is not
32 capable of being cured, within one year of receipt of notice of the
33 violation, then the developer and any co-applicant shall forfeit 50
34 percent of the tax credits otherwise authorized for the tax period in
35 which the notice of violation was issued. If the violation is not cured on
36 or before the conclusion of that tax period, the developer and any co-
37 applicant shall forfeit up to 100 percent of the tax credits otherwise
38 authorized, as determined by the authority, in each subsequent tax
39 period until the first tax period for which documentation demonstrating
40 compliance has been provided to the Commissioner of Labor and
41 Workforce Development, subsequently reviewed and approved by the
42 Commissioner of Labor and Workforce Development, and verified by
43 the authority, which reviews and verifications shall be completed. In
44 this event, the developer and any co-applicant shall be allowed the full
45 tax credit amount beginning in the tax period in which documentation
46 of compliance was reviewed and approved by the Commissioner of
47 Labor and Workforce Development and verified by the authority,

1 including each subsequent tax period in which the tax credits are
2 otherwise authorized;

3 (c) in the event a redevelopment project, or any portion thereof, is
4 undertaken by a tenant pursuant to a contract and the tenant has a
5 leasehold of more than 55 percent of space in the building owned or
6 controlled by the developer, the requirement that each worker employed
7 to perform building service work at the building be paid not less than
8 the prevailing wage shall apply to the entire building, except as
9 otherwise provided in subparagraph (b) of this paragraph for all
10 residential tenants and all commercial tenants, commercial subtenants,
11 or other commercial occupants with a leasehold interest or other
12 occupancy right encompassing less than 5,000 square feet;

13 (8) (a) the redevelopment project shall be completed, and the
14 developer shall be issued a certificate of occupancy for the
15 redevelopment project facilities by the applicable enforcing agency,
16 within four years of executing the incentive award agreement, or in the
17 case of a redevelopment project with a project cost in excess of
18 \$50,000,000, the incentive phase agreement corresponding to the
19 redevelopment project; or

20 (b) in the discretion of the authority, a redevelopment project with a
21 project cost in excess of \$50,000,000, and that is authorized to be
22 completed in phases, may be allowed no more than six years from the
23 date on which the incentive award agreement is executed to be issued a
24 certificate of occupancy by the applicable enforcement agency;

25 (9) the developer has complied with all requirements for filing tax
26 and information returns and for paying or remitting required State taxes
27 and fees by submitting, as a part of the application, a tax clearance
28 certificate, as described in section 1 of P.L.2007, c.101 (C.54:50-39);
29 and

30 (10) the developer is not more than 24 months in arrears at the time
31 of application.

32 b. In addition to the requirements set forth in subsection a. of this
33 section, for a commercial project to qualify for an incentive award the
34 developer shall demonstrate that the developer shall contribute capital
35 of at least 20 percent of the total project cost, except that if a
36 redevelopment project is located in a government-restricted
37 municipality, the developer shall contribute capital of at least 10 percent
38 of the total project cost.

39 c. In addition to the requirements set forth in subsection a. of this
40 section, for a residential project or a commercial project comprised
41 solely of a health care or health service center to qualify for an incentive
42 award, the residential project or health care or health service center
43 shall:

44 (1) have a total project cost of at least \$17,500,000, if the project is
45 located in a municipality with a population greater than 200,000
46 according to the latest federal decennial census;

1 (2) have a total project cost of at least \$10,000,000 if the project is
2 located in a municipality with a population less than 200,000 according
3 to the latest federal decennial census; or

4 (3) have a total project cost of at least \$5,000,000 if the project is in
5 a qualified incentive tract or government-restricted municipality.

6 d. In addition to the requirements set forth in subsections a. and c.
7 of this section, for a residential project consisting of newly-constructed
8 residential units to qualify for an incentive award, the developer shall
9 reserve at least 20 percent of the residential units constructed for
10 occupancy by low- and moderate-income households with affordability
11 controls as adopted by the authority, in consultation with the agency, in
12 accordance with paragraph (2) of subsection a. of section 56 of
13 P.L.2020, c.156 (C.34:1B-324), except that a residential project
14 receiving a federal historic rehabilitation tax credit pursuant to section
15 47 of the federal Internal Revenue Code of 1986, 26 U.S.C. s.47, or a
16 tax credit pursuant to the "Historic Property Reinvestment Act,"
17 sections 2 through 8 of P.L.2020, c.156 (C.34:1B-270 through 34:1B-
18 276), shall be exempt from the affordability controls related to bedroom
19 distribution.

20 e. Prior to the board considering an application submitted by a
21 developer, the authority shall confirm with the Department of Labor and
22 Workforce Development, the Department of Environmental Protection,
23 and the Department of the Treasury whether the developer is in
24 substantial good standing with the respective department, or has entered
25 into an agreement with the respective department that includes a
26 practical corrective action plan for the developer. The developer shall
27 certify that any contractors or subcontractors that will perform work at
28 the redevelopment project: (1) are registered as required by "The Public
29 Works Contractor Registration Act," P.L.1999, c.238 (C.34:11-56.48 et
30 seq.); (2) have not been debarred by the Department of Labor and
31 Workforce Development from engaging in or bidding on Public Works
32 Contracts in the State; and (3) possess a tax clearance certificate issued
33 by the Division of Taxation in the Department of the Treasury. The
34 authority may also contract with an independent third party to perform
35 a background check on the developer.

36 f. Beginning on the third year following the date of issuance of a
37 final certificate of occupancy for a commercial project, and through the
38 conclusion of the eligibility period, if the average occupancy rate of the
39 commercial project is less than 60 percent during any applicable tax
40 period, the developer and co-applicant shall forfeit all credits otherwise
41 allowed for the tax period and for each subsequent tax period until the
42 authority verifies documentation, submitted by the developer or co-
43 applicant, demonstrating that the average occupancy rate has reached or
44 surpassed 60 percent for the tax period. The full amount of credit shall
45 be allowed to a developer and any co-applicant for the tax period in
46 which the average occupancy rate reaches or surpasses 60 percent.
47 Occupancy for the tax period shall be determined by the average of the

1 monthly occupancy for the applicable tax period. The occupancy
2 requirement in this subsection shall not apply to residential projects.
3 (cf: P.L.2023, c.98, s.3)
4

5 4. Section 60 of P.L.2020, c.156 (C.34:1B-328) is amended to read
6 as follows:

7 60. a. (1) Following approval and selection of an application
8 pursuant to sections 58 and 59 of P.L.2020, c.156 (C.34:1B-326 and
9 C.34:1B-327), the authority shall enter into an incentive award
10 agreement with the developer. The chief executive officer of the
11 authority shall negotiate the terms and conditions of the incentive award
12 agreement on behalf of the State.

13 (2) For a phased project, the incentive phase agreement shall set
14 forth, for each phase of the project and for the total project, the capital
15 investment requirements and the time periods in which each phase of
16 the project shall be commenced and completed. The awarding of tax
17 credits shall be conditioned on the developer's compliance with the
18 requirements of the agreement. A redevelopment project may be
19 completed in phases in accordance with rules adopted by the authority
20 if the redevelopment project has a total project cost in excess of
21 \$50,000,000.

22 b. An incentive award agreement shall specify the amount of the
23 incentive award the authority shall award to the developer and the
24 duration of the eligibility period. The duration of the eligibility period
25 **【shall not exceed 15 years for a commercial or mixed-use project and】**
26 shall not exceed 10 years for a commercial project, mixed-use project,
27 or residential project, except that 【to】 the authority shall consider
28 reducing the eligibility period if a shorter period would reduce the total
29 value of tax credits needed to reimburse a developer for all or part of the
30 project financing gap of a redevelopment project, **【the authority may, in**
31 **its discretion, approve a duration for the eligibility period that is shorter**
32 **than the applicable maximum periods】** enhance access to tax credit
33 monetization on cost effective terms, or otherwise enhance the
34 effectiveness of the program. The incentive award agreement shall
35 provide an estimated date of completion and include a requirement for
36 periodic progress reports, including the submittal of executed financing
37 commitments and documents that evidence site control; provided
38 however, that the developer may sell one or more buildings during the
39 eligibility period, provided that such sale is: an arms-length transaction
40 to an unrelated party, or for an amount at least equal to fair market value
41 based on an appraisal conducted within one year; and subject to the
42 purchaser's assumption of all obligations relating to the buildings
43 pursuant to sections 54 through 67 of P.L.2020, c.156 (C.34:1B-322
44 through C.34:1B-335). If the authority does not receive periodic
45 progress reports, or if the progress reports demonstrate unsatisfactory
46 progress, then the authority may rescind the incentive award. If the
47 authority rescinds an incentive award in the same calendar year in which
48 the authority approved the incentive award, then the authority may

1 assign the incentive award to another applicant. The incentive award
2 agreement may also provide for a verification of the financing gap at the
3 time the developer provides executed financing commitments to the
4 authority and a verification of the developer's projected cash flow at the
5 time of certification that the project is completed.

6 c. To ensure the protection of taxpayer money, if the authority
7 determines at project certification that the actual capital financing
8 approach utilized by the project has resulted in a financing gap that is
9 smaller than the financing gap determined at board approval, the
10 authority shall reduce the amount of the tax credit or accept payment
11 from the developer on a pro rata basis. If there is no project financing
12 gap due to the actual capital financing approach utilized by the project,
13 then the developer shall forfeit the incentive award. At the end of the
14 seventh year of the eligibility period, the authority shall evaluate the
15 developer's rate of return on investment and compare that rate of return
16 on investment to the reasonable and appropriate rate of return at the time
17 of board approval. If the actual rate of return on investment exceeds the
18 reasonable and appropriate rate of return on investment at the time of
19 board approval by more than 15 percent, the authority shall require the
20 developer to pay up to 20 percent of the amount in excess of the
21 reasonable and appropriate rate of return on investment. The authority
22 shall require an escrow account to be held by the authority until the end
23 of the eligibility period. Following the final year of the eligibility
24 period, the authority shall determine if the developer's rate of return
25 exceeded the reasonable and appropriate rate of return determined at
26 board approval. If the final rate of return does not exceed the reasonable
27 and appropriate rate of return determined at board approval, the
28 authority shall release to the developer the escrowed funds. If the
29 project final rate of return exceeds the reasonable and appropriate rate
30 of return determined at board approval, the authority shall require the
31 developer to pay up to 20 percent of the amount of the excess, which
32 shall include the funds held in escrow, and such funds shall be deposited
33 in the State General Fund.

34 d. The incentive award agreement shall include a requirement that
35 the authority confirm with the Department of Environmental Protection,
36 the Department of Labor and Workforce Development, and the
37 Department of the Treasury that the developer is in substantial good
38 standing with the respective department, or the developer has entered
39 into an agreement with the respective department that includes a
40 practical corrective action for the developer, and the developer shall
41 confirm that each contractor or subcontractor performing work at the
42 redevelopment project: (1) is registered as required by "The Public
43 Works Contractor Registration Act," P.L.1999, c.238 (C.34:11-56.48 et
44 seq.); (2) has not been debarred, suspended, or disqualified by the
45 Department of Labor and Workforce Development from engaging in or
46 bidding on Public Works Contracts in the State, or been debarred,
47 suspended, or disqualified by a federal agency from engaging in
48 federally-funded construction projects or bidding on federal contracting

1 opportunities; and (3) possesses a tax clearance certificate issued by the
2 Division of Taxation in the Department of the Treasury. The incentive
3 award agreement shall also include a provision that the developer shall
4 forfeit the incentive award in any year in which the developer is neither
5 in substantial good standing with each department nor has entered into
6 a practical corrective action. The incentive award agreement shall also
7 require a developer to engage in on-site consultations with the Division
8 of Workplace Safety and Health in the Department of Health.

9 e. (1) Except as provided in paragraph (2) of this subsection, the
10 authority shall not enter into an incentive award agreement for a
11 redevelopment project that includes at least one retail establishment
12 which will have more than 10 employees, at least one distribution center
13 which will have more than 20 employees, or at least one hospitality
14 establishment which will have more than 10 employees, unless the
15 incentive award agreement includes a precondition that any business
16 that serves as the owner or operator of the retail establishment,
17 distribution center, or hospitality establishment enters into a labor
18 harmony agreement with a labor organization or cooperating labor
19 organizations which represent retail establishment, hospitality
20 establishment, or distribution center employees in the State.

21 (2) A labor harmony agreement shall be required only if the State
22 has a proprietary interest in the redevelopment project and shall remain
23 in effect for as long as the State acts as a market participant in the
24 redevelopment project. The authority may enter into an incentive award
25 agreement with a developer without the labor harmony agreement
26 required under paragraph (1) of this subsection if the authority
27 determines that the redevelopment project would not be able to go
28 forward if a labor harmony agreement is required. The authority shall
29 support the determination by a written finding, which provides the
30 specific basis for the determination.

31 (3) (Deleted by amendment, P.L.2023, c.98)

32 f. (1) Except for a residential project that is located in a government-
33 restricted municipality, and in which 100 percent of the residential units
34 constructed in the residential project are reserved for occupancy by low-
35 and moderate-income households, for a redevelopment project whose
36 total project cost equals or exceeds \$10 million, in addition to the
37 incentive award agreement, a developer shall enter into a community
38 benefits agreement with the authority and the county or municipality in
39 which the redevelopment project is located. The agreement may
40 include, but shall not be limited to, requirements for training,
41 employment, and youth development and free services to underserved
42 communities in and around the community in which the redevelopment
43 project is located. Prior to entering a community benefits agreement,
44 the governing body of the county or municipality in which the
45 redevelopment project is located shall hold at least one public hearing
46 at which the governing body shall hear testimony from residents,
47 community groups, and other stakeholders on the needs of the
48 community that the agreement should address.

1 (2) The community benefits agreement shall provide for the creation
2 of a community advisory committee to oversee the implementation of
3 the agreement, monitor successes, ensure compliance with the terms of
4 the agreement, and produce an annual public report. The community
5 advisory committee created pursuant to this paragraph shall be
6 comprised of representatives of diverse community groups and residents
7 of the county or municipality in which the redevelopment project is
8 located.

9 (3) At the time the developer submits the annual report required
10 pursuant to section 62 of P.L.2020, c.156 (C.34:1B-330) to the
11 authority, the developer shall certify, under the penalty of perjury, that
12 it is in compliance with the terms of the community benefits agreement.
13 If the developer fails to provide the certification required pursuant to
14 this paragraph or the authority determines that the developer is not in
15 compliance with the terms of the community benefits agreement based
16 on the reports submitted by the community advisory committee
17 pursuant to paragraph (2) of this subsection, then the authority may
18 rescind an award or recapture all or part of any tax credits awarded.

19 (4) Notwithstanding any requirement of this subsection to the
20 contrary, a developer shall be considered to have met the requirements
21 of a community benefits agreement **【pursuant to this subsection】**, and
22 the requirements of paragraphs (2) and (3) of this subsection shall not
23 apply, if the developer submits to the authority:

24 (a) a copy of either the developer's approval letter from the authority
25 or a redevelopment agreement applicable to the qualified business
26 facility, provided that the approval letter is certified by the municipality
27 or the redevelopment agreement is **【certified】** adopted by resolution at
28 a public meeting by the municipality in which the redevelopment project
29 is located, and includes provisions that meet **【or exceed】** the
30 **【standards】** community benefit required **【for】** under a community
31 benefits agreement in this subsection **【**, as determined by the chief
32 executive officer pursuant to rules adopted by the authority**】**; or

33 (b) a resolution adopted by the governing body of the municipality
34 in which the redevelopment project is located, which resolution shall be
35 adopted after at least one public hearing at which the governing body
36 provides an opportunity for residents, community groups, and other
37 stakeholders to testify, and which resolution shall state that the
38 governing body has determined that the redevelopment project will
39 provide economic and social benefits to the community that fulfill the
40 purposes of this subsection, which benefits render a separate community
41 benefit agreement unnecessary, and explain the reasons supporting the
42 governing body's determination.

43 g. A developer shall submit, prior to the first disbursement of tax
44 credits under the incentive award agreement, but no later than six
45 months following project completion, satisfactory evidence of actual
46 project costs, as certified by a certified public accountant, evidence of a
47 temporary certificate of occupancy, or other event evidencing project

1 completion that begins the eligibility period indicated in the incentive
2 award agreement. The developer, or an authorized agent of the
3 developer, shall certify that the information provided pursuant to this
4 subsection is true under the penalty of perjury. Claims, records, or
5 statements submitted by a developer to the authority in order to receive
6 tax credits shall not be considered claims, records, or statements made
7 in connection with State tax laws.

8 h. The incentive award agreement shall include a provision
9 allowing the authority to extend, in individual cases, the deadline for
10 any annual reporting or certification requirement.

11 i. The incentive award agreement shall include one or more
12 provisions, as determined by the authority, concerning the terms and
13 conditions for default and the remedies for the developer of a
14 redevelopment project in the event of default. The incentive award
15 agreement shall not allow the authority to declare a cross-default when
16 the developer of a redevelopment project, including any business
17 affiliate of the developer or any other entity with common principals as
18 the developer, is in default with any other assistance program
19 administered by the authority.

20 (cf: P.L.2023, c.98, s.6)

21
22 5. Section 61 of P.L.2020, c.156 (C.34:1B-329) is amended to read
23 as follows:

24 61. a. Up to the limits established in subsection b. of this section and
25 in accordance with an incentive award agreement, beginning upon the
26 receipt of occupancy permits for any portion of the redevelopment
27 project, or upon any other event evidencing project completion as set
28 forth in the incentive award agreement, a developer shall be allowed a
29 total tax credit **that shall not exceed** as follows, subject to the
30 enhancements set forth in subsection c. of this section:

31 (1) 80 percent of the total project cost for a redevelopment project
32 that is located in a government-restricted municipality;

33 (2) 60 percent of the total project cost for a residential project that
34 receives a four-percent allocation from the federal Low Income Housing
35 Tax Credit Program administered by the agency, or a redevelopment
36 project that is located in a qualified incentive tract, enhanced area, or a
37 municipality with a Municipal Revitalization Index score of at least 50;
38 or

39 (3) 50 percent of the total project cost for any other redevelopment
40 project.

41 b. The value of all tax credits approved by the authority under the
42 program for a redevelopment project phase shall not exceed:

43 (1) \$120,000,000 per redevelopment project or phase for a
44 redevelopment project that is located in a government-restricted
45 municipality;

46 (2) \$90,000,000 per redevelopment project or phase for a
47 redevelopment project that is allowed a tax credit under paragraph (2)
48 of subsection a. of this section; and

1 (3) \$60,000,000 for any other redevelopment project or phase.

2 c. Notwithstanding the limitations set forth in subsection a. of this
3 section, but subject to the limitations of subsections b. and d. of this
4 section and the demonstration of a financing gap, a developer shall be
5 eligible for each of the following enhancements to the total tax credit
6 award:

7 (1) for a redevelopment project that includes the redevelopment of
8 a stranded asset, an enhancement of up to 10 percent of the project cost
9 of the redevelopment project;

10 (2) for a residential project that meets the three-bedroom
11 distribution requirement under the Uniform Housing Affordability
12 Controls, an enhancement of up to five percent of the project cost of the
13 residential project; and

14 (3) for a redevelopment project that meets local first source hiring
15 requirements for residents in the municipality or county in which the
16 project is located and in surrounding municipalities, as appropriate, an
17 enhancement of up to three percent of the project cost of the
18 redevelopment project.

19 d. Except for a redevelopment project that is located in a
20 government restricted municipality:

21 (1) the total tax credits awarded for the redevelopment project,
22 together with all tax credits awarded under any other program
23 administered by the authority, shall not exceed 80 percent of the project
24 cost of the redevelopment project; and

25 (2) for a redevelopment project that receives tax credits under the
26 Federal Low-Income Housing Tax Credit Program, the total tax credits
27 awarded for the redevelopment project, together with all tax credits
28 awarded under any other program administered by the authority and
29 under the Federal Low-Income Housing Tax Credit Program, shall not
30 exceed 90 percent of the project cost.

31 (cf: P.L.2023, c.98, s.7)

32
33 6. Section 62 of P.L.2020, c.156 (C.34:1B-330) is amended to
34 read as follows:

35 62. a. A developer approved for an incentive award pursuant to
36 sections 58 and 59 of P.L.2020, c.156 (C.34:1B-326 and C.34:1B-
37 327) and that enters an incentive award agreement pursuant to section
38 60 of P.L.2020, c.156 (C.34:1B-328) shall submit annually,
39 commencing in the year in which the incentive award is issued and
40 for the remainder of the eligibility period, a report indicating whether
41 the developer is aware of any condition, event, or act that would
42 cause the developer not to be in compliance with the incentive award
43 agreement or the provisions of sections 54 through 67 of P.L.2020,
44 c.156 (C.34:1B-322 through C.34:1B-335) and any additional
45 reporting requirements contained in the incentive award agreement
46 or tax credit certificate. The developer, or an authorized agent of the
47 developer, shall certify that the information provided pursuant to this
48 subsection is true under the penalty of perjury.

1 b. (1) Upon receipt and review of each report submitted during
2 the eligibility period, the authority shall provide to the developer and
3 the director a certificate of compliance indicating the amount of tax
4 credits that the developer may apply against the developer's tax
5 liability.

6 (2) Upon receipt by the director of the certificate of compliance,
7 the director shall allow the developer a credit against the tax imposed
8 pursuant to section 5 of P.L.1945, c.162 (C.54:10A-5). A developer
9 shall apply the credit awarded against the developer's liability under
10 section 5 of P.L.1945, c.162 (C.54:10A-5), sections 2 and 3 of
11 P.L.1945, c.132 (C.54:18A-2 and C.54:18A-3), section 1 of
12 P.L.1950, c.231 (C.17:32-15), or N.J.S.17B:23-5 for the privilege
13 period **[during]** identified in the tax credit certificate which the
14 director **[allows]** issues to the developer **[a tax credit]** pursuant to
15 this subsection, or within the three successive tax periods
16 immediately following the tax period in which the tax credit
17 certificate is received by the developer. A developer may carry
18 forward an unused credit resulting from the limitations of paragraph
19 (3) of this subsection, if necessary, for use in the seven privilege
20 periods next following the privilege period for which the credits are
21 **[awarded]** applied. Credits granted to a partnership shall be passed
22 through to the partners, members, or owners, respectively, pro-rata,
23 or pursuant to an executed agreement among the partners, members,
24 or owners documenting an alternate distribution method provided to
25 the director accompanied by any additional information as the
26 director may prescribe.

27 (3) The director shall prescribe the order of priority of the
28 application of the credit allowed under this section and any other
29 credits allowed by law against the tax imposed under section 5 of
30 P.L.1945, c.162 (C.54:10A-5). The amount of the credit applied
31 under this section against the tax imposed pursuant to section 5 of
32 P.L.1945, c.162 (C.54:10A-5) for a privilege period, together with
33 any other credits allowed by law, shall not reduce the tax liability to
34 an amount less than the statutory minimum provided in subsection
35 (e) of section 5 of P.L.1945, c.162 (C.54:10A-5).
36 (cf: P.L.2022, c.46, s.1)
37

38 7. Section 63 of P.L.2020, c.156 (C.34:1B-331) is amended to
39 read as follows:

40 63. a. A developer may apply to the director and the chief
41 executive officer of the authority for a tax credit transfer certificate,
42 covering one or more years, in lieu of the developer being allowed
43 any amount of the credit against the tax liability of the developer.
44 The tax credit transfer certificate, upon receipt thereof by the
45 developer from the director and the chief executive officer of the
46 authority, may be sold or assigned, in full or in part in an amount not
47 less than \$25,000, in the privilege period during which the developer
48 receives the tax credit transfer certificate from the director, to another

1 person, who may apply the credit against a tax liability pursuant to
2 section 5 of P.L.1945, c.162 (C.54:10A-5), sections 2 and 3 of
3 P.L.1945, c.132 (C.54:18A-2 and C.54:18A-3), section 1 of
4 P.L.1950, c.231 (C.17:32-15), or N.J.S.17B:23-5. The certificate
5 provided to the developer shall include a statement waiving the
6 developer's right to claim the amount of the credit that the developer
7 has elected to sell or assign against the developer's tax liability.

8 b. The developer shall not sell or assign, including a collateral
9 assignment, a tax credit transfer certificate allowed under this section
10 for consideration received by the developer of less than 85 percent of
11 the transferred credit amount before considering any further
12 discounting to present value which shall be permitted, except a
13 developer of a residential project consisting of newly-constructed
14 residential units may assign a tax credit transfer certificate for
15 consideration of less than 85 percent subject to the submission of a
16 plan to the authority and the agency to use the proceeds derived from
17 the assignment of tax credits to complete the residential project,
18 except a developer of a residential project consisting of newly-
19 constructed residential units that has received federal low income
20 housing tax credits under 26 U.S.C. s.42(b)(1)(B)(i) may assign a tax
21 credit transfer certificate for consideration of no less than 65 percent
22 subject to the submission of a plan to the authority and the New
23 Jersey Housing and Mortgage Finance Agency to use the proceeds
24 derived from the assignment of tax credits to complete the residential
25 project. The tax credit transfer certificate issued to a developer by
26 the director shall be subject to any limitations and conditions
27 imposed on the application of State tax credits pursuant to sections
28 54 through 67 of P.L.2020, c.156 (C.34:1B-322 through 34:1B-335)
29 and any other terms and conditions that the director may prescribe;
30 provided, however, that the holder of a tax credit certificate may
31 transfer all or part of the tax credit amount, within the three
32 successive tax periods immediately following the tax period in which
33 the tax credit certificate is received by the developer, on or after the
34 date of issuance of the tax credit transfer certificate, for use by the
35 transferee in the tax period for which it was issued or within the three
36 successive tax periods immediately following the tax period in which
37 the tax credit transfer certificate is received by the transferee, and the
38 transferee may carry forward all or part of the tax credit amount in
39 any of the next five successive tax periods after the tax period for
40 which it was used. Notwithstanding any provision of this section to
41 the contrary, the amount of tax credits that may be claimed by the
42 transferee in any tax period shall not exceed the total tax credit
43 amount divided by the duration of the eligibility period in years.

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

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

- 4 (1) the name of the transferor;
5 (2) the name of the transferee;
6 (3) the value of the tax credit transfer certificate; and
7 (4) the consideration received by the transferor.

8 e. When a tax credit certificate is issued to a developer after the
9 tax period in which all or part of the tax credits may be used by the
10 developer or a holder of the credit transfer certificate, the developer
11 or transferee shall be allowed to use the tax credit for the same tax
12 period specified in the tax credit certificate, or within the three
13 successive tax periods immediately following the tax period in which
14 the certificate is received by the developer or transferee. In this
15 circumstance, the developer or transferee shall not be required to
16 amend its tax return for the tax period in which it applies the tax
17 credit or for a tax period preceding the tax period in which the tax
18 credit is applied.

19 (cf: P.L.2023, c.98, s.8)

20
21 8. Section 65 of P.L.2020, c.156 (C.34:1B-333) is amended to read
22 as follows:

23 65. a. As used in this section, "transformative project" means a
24 redevelopment project: that has a project financing gap; that has a total
25 project cost of at least \$150,000,000; that, subject to the provisions of
26 subsection h. of this section, includes 200,000 or more square feet of
27 new or substantially renovated industrial, commercial, or residential
28 space for a project located in a government-restricted municipality, that
29 includes 250,000 or more square feet of film studios, professional
30 stages, television studios, recording studios, screening rooms, or other
31 infrastructure for film production, that includes 300,000 or more square
32 feet of new or substantially renovated industrial, commercial, or
33 residential space for a project located in an enhanced area, or that
34 includes 500,000 or more square feet of new or substantially renovated
35 industrial, commercial, or residential space for any other project; and,
36 for a commercial project, that is of special economic importance as
37 measured by the level of new jobs, new capital investment,
38 opportunities to leverage leadership in a high-priority targeted industry,
39 or other state priorities as determined by the authority pursuant to rules
40 and regulations promulgated to implement this section.
41 Notwithstanding the provisions of subsection b. of section 14 of
42 P.L.2023, c.98 (C.34:1B-335.1) to the contrary, for applications
43 submitted on and after the effective date of P.L.2023, c.98 (C.34:1B-
44 335.1 et al.), if the redevelopment project is located entirely on land
45 designated by the Department of Environmental Protection as a
46 brownfield development area pursuant to section 7 of P.L.2005, c.223
47 (C.58:10B-25.1), and the project cost of the redevelopment project
48 includes at least \$15,000,000 in environmental remediation costs, the

1 redevelopment project shall constitute a project of special economic
2 importance. A transformative project may be completed in phases,
3 which phases may be determined by the authority based on factors such
4 as written architectural plans and specifications completed before or
5 during the physical work, certificates of occupancy, or financial and
6 operational plans. The criteria developed by the authority shall include,
7 but shall not be limited to:

8 (1) the extent to which the proposed transformative project would
9 create modern facilities that enhance the State's competitiveness in
10 attracting targeted industries;

11 (2) (a) for a residential project, the construction of 700 or more new
12 residential units; or

13 (b) for a residential project containing ~~less~~ fewer than 700 new
14 residential units, the construction of 200 or more new residential units
15 if the project is located in a government-restricted municipality, 300 or
16 more residential units if the project is located in an enhanced area, or
17 400 or more residential units for all other mixed-use projects; or

18 (c) for a residential project containing ~~less~~ fewer than 700 new
19 residential units, the construction of ~~50,000~~ 20,000 square feet or
20 more of commercial space, which commercial space may include retail
21 space; and

22 (d) for a residential project, 20 percent of the new residential units
23 shall be constructed for occupancy by low- and moderate-income
24 households with affordability controls as adopted by the authority, in
25 consultation with the agency, in accordance with paragraph (2) of
26 subsection a. of section 56 of P.L.2020, c.156 (C.34:1B-324), except
27 that a residential project receiving a federal historic rehabilitation tax
28 credit pursuant to section 47 of the federal Internal Revenue Code of
29 1986, 26 U.S.C. s.47, or a tax credit pursuant to the "Historic Property
30 Reinvestment Act," sections 2 through 8 of P.L.2020, c.156 (C.34:1B-
31 270 through 34:1B-276), shall be exempt from the affordability controls
32 related to bedroom distribution; and

33 (3) the extent to which the proposed project would leverage the
34 competitive economic development advantages of the State's mass
35 transit assets, higher education assets, and other economic development
36 assets in attracting or retaining both employers and skilled workers
37 generally or in targeted industries.

38 A "transformative project" shall not include a redevelopment
39 project at which more than 50 percent of the premises is occupied by
40 one or more businesses engaged in final point of sale retail.

41 b. (1) The authority may award incentive awards to transformative
42 projects in accordance with the provisions of sections 55 through 67 of
43 P.L.2020, c.156 (C.34:1B-323 through 34:1B-335).

44 (2) (a) For transformative projects completed in phases, the
45 developer shall enter into a transformative phase agreement with the
46 authority.

47 (b) As used in this subsection, "transformative phase agreement"
48 shall mean a sub-agreement of the incentive award agreement that

1 governs the timing, capital investment, and other applicable details of
2 the respective phase of a phased project.

3 (3) Notwithstanding the provisions of section 57 of P.L.2020, c.156
4 (C.34:1B-325), or any other section of P.L.2020, c.156 (C.34:1B-269 et
5 al.) to the contrary, a transformative project shall be completed, and the
6 developer shall be issued a certificate of occupancy for the
7 transformative project facilities by the applicable enforcing agency,
8 within five years of executing the incentive award agreement, except
9 that the authority may, in its discretion, extend this deadline by up to
10 one additional year. For transformative projects completed in phases,
11 the transformative project shall be completed, and the developer shall
12 be issued certificates of occupancy for all phases of the transformative
13 project facilities by the applicable enforcing agency, within 10 years of
14 executing either the incentive award agreement or the first
15 transformative phase agreement corresponding to the transformative
16 project.

17 (4) Notwithstanding the provisions of sections 55 and 60 of
18 P.L.2020, c.156 (C.34:1B-323 and C.34:1B-328), or any other section
19 of P.L.2020, c.156 (C.34:1B-269 et al.) to the contrary, each phase of a
20 transformative project completed in phases shall have a separate
21 eligibility period. After completing each phase, the developer shall
22 submit a certification that the phase is completed. If the authority
23 approves the certification, the tax credit allowed to the developer shall
24 be increased by the tax credit amount corresponding to that phase.
25 Notwithstanding the different eligibility periods for each phase, all
26 conditions and requirements applicable during an eligibility period
27 pursuant to sections 55 through 67 of P.L.2020, c.156 (C.34:1B-323
28 through 34:1B-335) shall apply to the entire transformative project until
29 the end of the eligibility period for the last phase.

30 (5) Notwithstanding the provisions of section 60 of P.L.2020, c.156
31 (C.34:1B-328), or any other section of P.L.2020, c.156 (C.34:1B-269 et
32 al.) to the contrary, for a transformative project completed in phases, a
33 review of the project financing gap shall be performed at the
34 certification of completion of each phase, and the authority shall re-
35 evaluate the developer's rate of return in the seventh year and at the end
36 of the eligibility period for the last phase, provided that the authority
37 may also re-evaluate the developer's rate of return during the fifth year
38 of any earlier phase.

39 (6) A transformative project receiving an incentive award pursuant
40 to this section, other than a project that includes 250,000 or more square
41 feet of film studios, professional stages, television studios, recording
42 studios, screening rooms or other infrastructure for film production,
43 shall be located in an incentive area, a distressed municipality, a
44 government-restricted municipality, or an enhanced area. A
45 transformative project receiving an incentive award pursuant to this
46 section that includes 250,000 or more square feet of film studios,
47 professional stages, television studios, recording studios, screening
48 rooms or other infrastructure for film production may be located

1 anywhere in the State. The authority shall not consider an application
2 for a transformative project unless the applicant submits with its
3 application a letter evidencing support for the transformative project
4 from the governing body of the municipality in which the transformative
5 project is located.

6 c. The authority shall review the transformative project cost,
7 evaluate and validate the project financing gap estimated by the
8 developer, and conduct a State fiscal impact analysis to ensure that the
9 overall public assistance provided to the transformative project will
10 result in a net positive benefit to the State. In determining whether a
11 transformative project will result in a net positive benefit to the State,
12 the authority shall not consider the value of any taxes exempted, abated,
13 rebated, or retained under the "Five-Year Exemption and Abatement
14 Law," P.L.1991, c.441 (C.40A:21-1 et seq.), the "Long Term Tax
15 Exemption Law," P.L.1991, c.431 (C.40A:20-1 et al.), the "New Jersey
16 Urban Enterprise Zones Act," P.L.1983, c.303 (C.52:27H-60 et seq.), or
17 any other law that has the effect of lowering or eliminating the
18 developer's State or local tax liability. The determination made pursuant
19 to this subsection shall be based on the potential tax liability of the
20 developer without regard for potential tax losses if the developer were
21 to locate in another state. The authority shall assess the cost of these
22 reviews to the applicant. A developer shall pay to the authority the full
23 amount of the direct costs of an analysis concerning the developer's
24 application for an incentive award that a third party retained by the
25 authority performs, if the authority deems such retention to be
26 necessary. The authority shall evaluate the net economic benefits on a
27 present value basis under which the requested tax credit allocation
28 amount is discounted to present value at the same discount rate as the
29 projected benefits from the implementation of the proposed
30 transformative project for which an award of tax credits is being sought.
31 Projects that are predominantly residential shall be excluded from the
32 calculation of the net benefit test required pursuant to this subsection.

33 d. In determining net benefits for any business or person
34 considering locating in a transformative project and applying to receive
35 from the authority any other economic development incentive
36 subsequent to the award of transformative project tax credits pursuant
37 to section 65 of P.L.2020, c.156 (C.34:1B-333), the authority shall not
38 credit the business or person with any benefit that was previously
39 credited to the transformative project pursuant to section 65 of
40 P.L.2020, c.156 (C.34:1B-333).

41 e. The authority shall administer the credits awarded pursuant to
42 this section in accordance with the provisions of sections 62 and 63 of
43 P.L.2020, c.156 (C.34:1B-330 and C.34:1B-331).

44 f. Prior to allocating an incentive award to a developer, the
45 authority shall confirm with the Department of Labor and Workforce
46 Development, the Department of Environmental Protection, and the
47 Department of the Treasury that the developer is in substantial good
48 standing with the respective department, or the developer has entered

1 into an agreement with the respective department that includes a
2 practical corrective action plan, and the developer shall certify that each
3 contractor or subcontractor performing work at the transformative
4 project: (1) is registered as required by "The Public Works Contractor
5 Registration Act," P.L.1999, c.238 (C.34:11-56.48 et seq.); (2) has not
6 been debarred by the Department of Labor and Workforce Development
7 from engaging in or bidding on Public Works Contracts in the State; and
8 (3) possesses a tax clearance certificate issued by the Division of
9 Taxation in the Department of the Treasury. The authority may also
10 contract with an independent third party to perform a background check
11 on the developer.

12 g. Notwithstanding the limitation on incentive awards set forth in
13 subsection b. of section 61 and section 98 of P.L.2020, c.156 (C.34:1B-
14 329 and C.34:1B-362) to the contrary, the authority may allow a
15 developer of a transformative project a tax credit in an amount not to
16 exceed the lesser of:

17 (1) (a) 80 percent of the total project cost for a transformative
18 project that is located in a government-restricted municipality;

19 (b) 60 percent of the total project cost for a residential
20 transformative project that receives a four-percent allocation from the
21 federal Low Income Housing Tax Credit Program administered by the
22 agency or a transformative project that is located in a qualified incentive
23 tract, enhanced area, or a municipality with a Municipal Revitalization
24 Index score of at least 50; or

25 (c) 50 percent of the total project cost for any other transformative
26 project;

27 (2) the total value of the project financing gap; or

28 (3) \$400,000,000 except that for a transformative project that is
29 developed in phases, the \$400,000,000 limitation on incentive awards
30 set forth in this paragraph shall apply to the total aggregate award for all
31 phases of the transformative project.

32 h. Notwithstanding the limitations set forth in subsection g. of this
33 section, a developer of a transformative project shall be eligible for each
34 of the following enhancements to the total tax credit award:

35 (1) for a transformative project that includes the redevelopment of a
36 stranded asset, an enhancement of up to 10 percent of the project cost of
37 the transformative project;

38 (2) for a residential transformative project that meets the three-
39 bedroom distribution requirement under the Uniform Housing
40 Affordability Controls, an enhancement of up to five percent of the
41 project cost of the residential transformative project; and

42 (3) for a transformative project that meets local first source hiring
43 requirements for residents in the municipality or county in which the
44 project is located and in surrounding municipalities, as appropriate, an
45 enhancement of up to three percent of the project cost of the
46 transformative project.

47 i. (1) The parking component of a transformative project shall be
48 included in the calculation of the total square footage of the project,

provided that the parking component shall be constructed in conformity with local zoning, planning, or similar requirements, or up to the amount required by the Residential Site Improvement Standards, regardless of whether the Residential Site Improvement Standards apply to the parking component. Any portion of the parking component that exceeds the local parking requirements or the Residential Site Improvement Standards shall not be included in the calculation of the total square footage of the project.

(2) Notwithstanding any provision of paragraph (1) of this subsection to the contrary, the entire parking component of a project located in a government restricted municipality shall be included in the calculation of the total square footage of the project.

(cf: P.L.2023, c.98, s.9)

9. Section 14 of P.L.2023, c.98 (C.34:1B-335.1) is amended to read as follows:

14. a. (1) Except as otherwise provided in subsection b. of this section, all program applications **【completed after】** submitted to the authority on or after the date six months prior to the effective date of **【P.L.2023, c.98 (C.34:1B-335.1 et al.)】** P.L. , c. (C.) (pending before the Legislature as this bill) shall be subject to the "New Jersey Aspire Program Act," sections 54 through 67 of P.L.2020, c.156 (C.34:1B-322 through 34:1B-335), as amended as supplemented by P.L.2023, c.98 (C.34:1B-335.1 et al.), and as further amended and supplemented by P.L. , c. (C.) (pending before the Legislature as this bill), including the rules and regulations adopted pursuant to subsection b. of section 67 of P.L.2020, c.156 (C.34:1B-335), except that applications submitted to the authority prior to the effective date of P.L. , c. (C.) (pending before the Legislature as this bill) shall be subject to the rules and regulations concerning application fees that were in effect immediately before the effective date of P.L. , c. (C.) (pending before the Legislature as this bill).

(2) **【Except as otherwise provided in subsection b. of this section, all program applications completed on or before the effective date of P.L.2023, c.98 (C.34:1B-335.1 et al.) shall be subject to the provisions of the "New Jersey Aspire Program Act," sections 54 through 67 of P.L.2020, c.156 (C.34:1B-322 through 34:1B-335), as such provisions remained in effect immediately before the effective date of P.L.2023, c.98 (C.34:1B-335.1 et al.), including the rules and regulations adopted pursuant to subsection a. of section 67 of P.L.2020, c.156 (C.34:1B-335).】** (Deleted by amendment, P.L. , c. (pending before the Legislature as this bill)

b. Notwithstanding any provision of P.L.2020, c.156 (C.34:1B-269 et al.) to the contrary, if a completed application for a residential project is submitted to the authority on or before the 121st calendar day next following effective date of P.L.2023, c.98 (C.34:1B-335.1 et al.), the applicant for the residential project has received all

1 applicable approvals pursuant to the "Municipal Land Use Law,"
2 P.L.1975, c.291 (C.40:55D-1 et seq.) on or before the 121st calendar
3 day next following the effective date of P.L.2023, c.98 (C.34:1B-
4 335.1 et al.), and the applicant submits written notice to the authority,
5 before the authority's approval or denial of the application, electing
6 for the application to be governed under the provisions of this
7 subsection, then the residential units constructed for occupancy by
8 low- and moderate-income households within the residential project
9 shall not be subject to the affordability controls adopted by the
10 authority, in consultation with the agency, pursuant to paragraph (2)
11 of subsection a. of section 56 of P.L.2020, c.156 (C.34:1B-324) and
12 subsection b. of section 67 of P.L.2020, c.156 (C.34:1B-335). In this
13 event, the application for the residential project shall be reviewed,
14 approved, and administered in accordance with the provisions of the
15 "New Jersey Aspire Program Act," sections 54 through 67 of
16 P.L.2020, c.156 (C.34:1B-322 through 34:1B-335), as such
17 provisions remained in effect immediately before the effective date
18 of P.L.2023, c.98 (C.34:1B-335.1 et al.), including the rules and
19 regulations adopted pursuant to subsection a. of section 67 of
20 P.L.2020, c.156 (C.34:1B-335), except that the application shall be
21 subject to:

22 (1) the determination of a reasonable and appropriate return on
23 investment, as defined in section 55 of P.L.2020, c.156 (C.34:1B-
24 323), as amended by P.L.2023, c.98 (C.34:1B-335.1 et al.); and

25 (2) the limitation on tax credit awards set forth in subsection b.
26 of section 61 of P.L.2020, c.156 (C.34:1B-329) and subsection g. of
27 section 65 of P.L.2020, c.156 (C.34:1B-333), respectively, as
28 amended by P.L.2023, c.98 (C.34:1B-335.1 et al.).
29 (cf: P.L.2023, c.98, s.14)

30

31 10. (New section) The authority shall promulgate a schedule of
32 application and other fees imposed under the program, which fees
33 shall be limited to the coverage of actual direct costs of administering
34 the program, the coverage of reasonable indirect costs of
35 administering the program, and the maintenance of reasonable
36 reserves for administering the program. Any application fee or other
37 fee charged by the authority shall be proportional to the tax credit
38 amount awarded for a redevelopment project under the program.

39

40 11. (New section) a. The authority shall establish, as part of the
41 program, a "Redevelopment Project Bridge Financing Program" to
42 facilitate the ability of a developer to secure financing for a
43 redevelopment project until such time as tax credits are issued pursuant
44 to the "New Jersey Aspire Program Act," sections 54 through 67 of
45 P.L.2020, c.156 (C.34:1B-322 through C.34:1B-335), as amended as
46 supplemented. Through the program, the authority shall provide full or
47 partial loans or loan guarantees, at the authority's discretion, to the
48 developers of redevelopment projects for the purpose of ensuring the

1 completion of the redevelopment projects. As determined by the
2 authority, the Redevelopment Project Bridge Financing Program may
3 consist of:

4 (1) the issuance of redevelopment project bridge financing loans,
5 subject to the provisions of subsection b. of this section; and

6 (2) the provision of redevelopment project loan guarantees, subject
7 to the provisions of subsection c. of this section.

8 b. (1) The authority may issue a redevelopment project bridge
9 financing loan to the developer of an approved redevelopment project,
10 upon application by the developer, provided that the authority
11 determines that:

12 (a) a project financing gap continues to exist after the award of tax
13 credits to the developer of the redevelopment project; and

14 (b) the redevelopment project bridge financing loan will enable the
15 completion of the redevelopment project.

16 (2) A developer who seeks a redevelopment project bridge
17 financing loan shall submit an application to the authority, which
18 application shall include:

19 (a) a proposed loan principle and interest amount;

20 (b) a proposed repayment schedule;

21 (c) an accounting of the remaining project financing gap; and

22 (d) any other information as the authority shall require.

23 (3) The authority may issue the redevelopment project bridge
24 financing loan in such amount as it deems appropriate, subject to such
25 terms, including, but not limited to, interest rates, collateral, and
26 repayment or release schedules, as the authority shall deem reasonable
27 and appropriate, except that each worker employed to perform
28 construction work on the redevelopment project shall be paid not less
29 than the prevailing wage rate for the worker's craft or trade, as
30 determined by the Commissioner of Labor and Workforce Development
31 pursuant to P.L.1963, c.150 (C.34:11-56.25 et seq.) and P.L.2005, c.379
32 (C.34:11-56.58 et seq.).

33 c. (1) The authority may provide a loan guarantee to the developer
34 of an approved redevelopment project, upon application by the
35 developer, provided that the authority determines that:

36 (a) a project financing gap continues to exist after the initial award
37 of tax credits to the developer of the redevelopment project; and

38 (b) the loan guarantee will enable the developer to access the
39 financing needed to complete the redevelopment project.

40 (2) A developer who seeks a loan guarantee shall submit an
41 application to the authority, which application shall include:

42 (a) a proposed loan guarantee amount and terms;

43 (b) an accounting of the remaining project financing gap; and

44 (c) any other information as the authority shall require.

45 (3) The authority may issue the loan guarantees in such amounts as
46 it deems appropriate, subject to such terms as the authority deems
47 reasonable and appropriate, except that each worker employed to
48 perform construction work on the redevelopment project shall be paid

1 not less than the prevailing wage rate for the worker's craft or trade, as
2 determined by the Commissioner of Labor and Workforce Development
3 pursuant to P.L.1963, c.150 (C.34:11-56.25 et seq.) and P.L.2005, c.379
4 (C.34:11-56.58 et seq.).

5 d. (1) The authority shall establish a Redevelopment Project Bridge
6 Financing Revolving Fund from which the authority shall provide all
7 loans issued pursuant to subsection b. of this section and provide all loan
8 guarantees issued pursuant to subsection c. of this section. All monies
9 received from payments of the principle and interest for loans issued
10 pursuant to this section shall be deposited into the Redevelopment
11 Project Bridge Financing Revolving Fund, which fund shall remain until
12 the authority determines that there no longer remains a need for bridge
13 financing or until December 31, 2028, whichever occurs first. After the
14 fund is no longer needed, or upon its expiration, all monies in the fund
15 shall be deposited into the General Fund.

16 (2) Within 90 days after the effective date of P.L. , c. (C.)
17 (pending before the Legislature as this bill), the authority shall submit a
18 recommendation to the Governor and to the Legislature, pursuant to
19 section 2 of P.L.1991, c.164 (C.52:14-19.1), for the amount of
20 appropriations needed to fund the Redevelopment Project Bridge
21 Financing Program.

22
23 12. (New section) a. To facilitate the efficient monetization of tax
24 credits awarded under the program, the Department of the Treasury
25 shall, at such times as the department deems necessary, redeem the
26 tax credits awarded to a developer for a redevelopment project at a
27 discount from face value. The tax credit redemptions shall be made
28 at such discounts as the State Treasurer deems appropriate, except
29 that the discount shall not exceed 10 percent of the face value of the
30 tax credits.

31 b. The tax credit redemptions shall be paid in the same manner
32 as refunds of tax payable under section 5 of P.L.1945, c.162
33 (C.54:10A-5), sections 2 and 3 of P.L.1945, c.132 (C.54:18A-2 and
34 C.54:18A-3), section 1 of P.L.1950, c.231 (C.17:32-15), or
35 N.J.S.17B:23-5, notwithstanding that such tax is not applicable to the
36 person or entity seeking the redemption. The State Treasurer shall
37 allow the proceeds of the tax credit redemption to be issued over one
38 or more tax periods, but not to exceed the applicable eligibility
39 period.

40
41 13. Section 89 of P.L.2020, c.156 (C.52:18A-263) is amended to
42 read as follows:

43 89. a. The Director of the Division of Taxation in the Department
44 of the Treasury may purchase unused tax credits awarded under a
45 program listed in subsection b. of this section, including tax credit
46 transfer certificates issued by the director in lieu of a tax credit
47 allowed under such programs. The director shall not pay

consideration in excess of 75 percent of the credit amount to be purchased, except for a credit awarded under:

(1) the "Emerge Program Act," sections 68 through 81 of P.L.2020, c.156 (C.34:1B-336 et al.), which shall be subject to the provisions of paragraph (4) of subsection d. of section 77 of P.L.2020, c.156 (C.34:1B-345); or

(2) the "New Jersey Aspire Program Act," sections 54 through 67 (C.34:1B-222 through C.34:1B-335), as amended and supplemented, which shall be subject to the provisions of section 12 of P.L. , c. (C.) (pending before the Legislature as this bill).

b. The Director of the Division of Taxation in the Department of the Treasury may purchase tax credits awarded under the following:

(1) the "Historic Property Reinvestment Act," sections 1 through 8 of P.L.2020, c.156 (C.34:1B-269 through C.34:1B-276);

(2) the "Brownfield Redevelopment Incentive Program Act," sections 9 through 19 of P.L.2020, c.156 (C.34:1B-277 through C.34:1B-287);

(3) the "New Jersey Innovation Evergreen Act," sections 20 through 34 of P.L.2020, c.156 (C.34:1B-288 through C.34:1B-302);

(4) the "Food Desert Relief Act," sections 35 through 42 of P.L.2020, c.156 (C.34:1B-303 through C.34:1B-310);

(5) the "New Jersey Community-Anchored Development Act," sections 43 through 53 of P.L.2020, c.156 (C.34:1B-311 through C.34:1B-321);

(6) the "New Jersey Aspire Program Act," sections 54 through 67 of P.L.2020, c.156 (C.34:1B-322 through C.34:1B-335);

(7) the " Emerge Program Act," sections 68 through 81 of P.L.2020, c.156 (C.34:1B-336 et al.);

(8) the Grow New Jersey Assistance Program established pursuant to section 3 of P.L.2011, c.149 (C.34:1B-244);

(9) section 6 of P.L.2010, c.57 (C.34:1B-209.4);

(10)the State Economic Redevelopment and Growth Grant program established pursuant to section 5 of P.L.2009, c.90 (C.52:27D-489e);

(11)section 1 of P.L.2018, c.56 (C.54:10A-5.39b); and

(12)section 2 of P.L.2018, c.56 (C.54A:4-12b).

(cf: P.L.2020, c.156, s.89)

14. Section 4 of P.L.1945, c.162 (C.54:10A-4) is amended to read as follows:

4. For the purposes of this act, unless the context requires a different meaning:

(a) "Commissioner" or "director" shall mean the Director of the Division of Taxation of the State Department of the Treasury.

(b) "Allocation factor" shall mean the proportionate part of a taxpayer's net worth or entire net income used to determine a measure of its tax under this act.

1 (c) "Corporation" shall mean any corporation, joint-stock
2 company or association and any business conducted by a trustee or
3 trustees wherein interest or ownership is evidenced by a certificate of
4 interest or ownership or similar written instrument, any other entity
5 classified as a corporation for federal income tax purposes, and any
6 state or federally chartered building and loan association or savings
7 and loan association.

8 (d) "Net worth" shall mean the aggregate of the values disclosed
9 by the books of the corporation for (1) issued and outstanding capital
10 stock, (2) paid-in or capital surplus, (3) earned surplus and undivided
11 profits, and (4) surplus reserves which can reasonably be expected to
12 accrue to holders or owners of equitable shares, not including
13 reasonable valuation reserves, such as reserves for depreciation or
14 obsolescence or depletion. Notwithstanding the foregoing, net worth
15 shall not include any deduction for the amount of the excess
16 depreciation described in paragraph (2) (F) of subsection (k) of this
17 section. The foregoing aggregate of values shall be reduced by 50%
18 of the amount disclosed by the books of the corporation for
19 investment in the capital stock of one or more subsidiaries, which
20 investment is defined as ownership (1) of at least 80% of the total
21 combined voting power of all classes of stock of the subsidiary
22 entitled to vote and (2) of at least 80% of the total number of shares
23 of all other classes of stock except nonvoting stock which is limited
24 and preferred as to dividends. In the case of investment in an entity
25 organized under the laws of a foreign country, the foregoing requisite
26 degree of ownership shall effect a like reduction of such investment
27 from the net worth of the taxpayer, if the foreign entity is considered
28 a corporation for any purpose under the United States federal income
29 tax laws, such as (but not by way of sole examples) for the purpose
30 of supplying deemed paid foreign tax credits or for the purpose of
31 status as a controlled foreign corporation. In calculating the net
32 worth of a taxpayer entitled to reduction for investment in
33 subsidiaries, the amount of liabilities of the taxpayer shall be reduced
34 by such proportion of the liabilities as corresponds to the ratio which
35 the excluded portion of the subsidiary values bears to the total assets
36 of the taxpayer.

37 In the case of banking corporations which have international
38 banking facilities as defined in subsection (n), the foregoing
39 aggregate of values shall also be reduced by retained earnings of the
40 international banking facility. Retained earnings means the earnings
41 accumulated over the life of such facility and shall not include the
42 distributive share of dividends paid and federal income taxes paid or
43 payable during the tax year.

44 If in the opinion of the director, the corporation's books do not
45 disclose fair valuations the director may make a reasonable
46 determination of the net worth which, in his opinion, would reflect
47 the fair value of the assets, exclusive of subsidiary investments as
48 defined aforesaid, carried on the books of the corporation, in

1 accordance with sound accounting principles, and such determination
2 shall be used as net worth for the purpose of this act.

3 (e) (Deleted by amendment, P.L.1998, c.114.)

4 (f) "Investment company" shall mean any corporation whose
5 business during the period covered by its report consisted, to the
6 extent of at least 90 percent thereof of holding, investing and
7 reinvesting in stocks, bonds, notes, mortgages, debentures, patents,
8 patent rights and other securities for its own account, but this shall
9 not include any corporation which: (1) is a merchant or a dealer of
10 stocks, bonds and other securities, regularly engaged in buying the
11 same and selling the same to customers; or (2) had less than 90
12 percent of its average gross assets in New Jersey, at cost, invested in
13 stocks, bonds, debentures, mortgages, notes, patents, patent rights or
14 other securities or consisting of cash on deposit during the period
15 covered by its report; or (3) is a banking corporation, a savings
16 institution, or a financial business corporation as defined in the
17 Corporation Business Tax Act.

18 (g) "Regulated investment company" shall mean any corporation
19 which for a period covered by its report, is registered and regulated
20 under the Investment Company Act of 1940 (54 Stat. 789), as
21 amended.

22 (h) "Taxpayer" shall mean any corporation, any combined group
23 filing a mandatory or elective New Jersey combined return, and any
24 partnership required, or consenting, to report or to pay taxes, interest
25 or penalties under this act. "Taxpayer" shall not include a partnership
26 that is listed on a United States national stock exchange.

27 (i) "Fiscal year" shall mean an accounting period ending on any
28 day other than the last day of December on the basis of which the
29 taxpayer is required to report for federal income tax purposes.

30 (j) Except as herein provided, "privilege period" shall mean the
31 calendar or fiscal accounting period for which a tax is payable under
32 this act.

33 (k) "Entire net income" shall mean total net income from all
34 sources, whether within or without the United States, and shall
35 include the gain derived from the employment of capital or labor, or
36 from both combined, as well as profit gained through a sale or
37 conversion of capital assets.

38 For the purpose of this act, the amount of a taxpayer's entire net
39 income shall be deemed prima facie to be equal in amount to the
40 taxable income, before net operating loss deduction and special
41 deductions, which the taxpayer is required to report, or, if the
42 taxpayer is classified as a partnership for federal tax purposes, would
43 otherwise be required to report, to the United States Treasury
44 Department for the purpose of computing its federal income tax,
45 provided however, that in the determination of such entire net
46 income,

47 (1) Entire net income shall exclude for the periods set forth in
48 paragraph (2)(F)(i) of this subsection, any amount, except with

1 respect to qualified mass commuting vehicles as described in section
2 168(f)(8)(D)(v) of the Internal Revenue Code as in effect
3 immediately prior to January 1, 1984, which is included in a
4 taxpayer's federal taxable income solely as a result of an election
5 made pursuant to the provisions of paragraph (8) of that section.

6 (2) Entire net income shall be determined without the exclusion,
7 deduction or credit of:

8 (A) The amount of any exemption or credit allowed in any law of
9 the United States imposing any tax on or measured by the income of
10 corporations.

11 (B) Any part of any income from dividends or interest on any kind
12 of stock, securities or indebtedness, except as provided in paragraph
13 (5) of subsection (k) of this section.

14 (C) Taxes paid or accrued to the United States, a possession or
15 territory of the United States, a state, a political subdivision thereof,
16 or the District of Columbia, or to any foreign country, state, province,
17 territory or subdivision thereof, on or measured by profits or income,
18 or business presence or business activity, or the tax imposed by this
19 act, or any tax paid or accrued with respect to subsidiary dividends
20 excluded from entire net income as provided in paragraph (5) of
21 subsection (k) of this section.

22 (D) (Deleted by amendment, P.L.1985, c.143.)

23 (E) (Deleted by amendment, P.L.1995, c.418.)

24 (F) (i) The amount by which depreciation reported to the United
25 States Treasury Department for property placed in service on and
26 after January 1, 1981, but prior to taxpayer fiscal or calendar
27 accounting years beginning on and after the effective date of
28 P.L.1993, c.172, for purposes of computing federal taxable income
29 in accordance with section 168 of the Internal Revenue Code in effect
30 after December 31, 1980, exceeds the amount of depreciation
31 determined in accordance with the Internal Revenue Code provisions
32 in effect prior to January 1, 1981, but only with respect to a taxpayer's
33 accounting period ending after December 31, 1981; provided,
34 however, that where a taxpayer's accounting period begins in 1981
35 and ends in 1982, no modification shall be required with respect to
36 this paragraph (F) for the report filed for such period with respect to
37 property placed in service during that part of the accounting period
38 which occurs in 1981. The provisions of this subparagraph shall not
39 apply to assets placed in service prior to January 1, 1998 of a gas, gas
40 and electric, and electric public utility that was subject to the
41 provisions of P.L.1940, c.5 (C.54:30A-49 et seq.) prior to 1998.

42 (ii) For the periods set forth in subparagraph (F)(i) of paragraph
43 (2) of this subsection, any amount, except with respect to qualified
44 mass commuting vehicles as described in section 168(f)(8)(D)(v) of
45 the Internal Revenue Code as in effect immediately prior to January
46 1, 1984, which the taxpayer claimed as a deduction in computing
47 federal income tax pursuant to a qualified lease agreement under
48 paragraph (8) of that section.

1 The director shall promulgate rules and regulations necessary to
2 carry out the provisions of this section, which rules shall provide,
3 among others, the manner in which the remaining life of property
4 shall be reported.

5 (G) (i) The amount of any civil, civil administrative, or criminal
6 penalty or fine, including a penalty or fine under an administrative
7 consent order, assessed and collected for a violation of a State or
8 federal environmental law, an administrative consent order, or an
9 environmental ordinance or resolution of a local governmental entity,
10 and any interest earned on the penalty or fine, and any economic
11 benefits having accrued to the violator as a result of a violation,
12 which benefits are assessed and recovered in a civil, civil
13 administrative, or criminal action, or pursuant to an administrative
14 consent order. The provisions of this paragraph shall not apply to a
15 penalty or fine assessed or collected for a violation of a State or
16 federal environmental law, or local environmental ordinance or
17 resolution, if the penalty or fine was for a violation that resulted from
18 fire, riot, sabotage, flood, storm event, natural cause, or other act of
19 God beyond the reasonable control of the violator, or caused by an
20 act or omission of a person who was outside the reasonable control
21 of the violator.

22 (ii) The amount of treble damages paid to the Department of
23 Environmental Protection pursuant to subsection a. of section 7 of
24 P.L.1976, c.141 (C.58:10-23.11f), for costs incurred by the
25 department in removing, or arranging for the removal of, an
26 unauthorized discharge upon failure of the discharger to comply with
27 a directive from the department to remove, or arrange for the removal
28 of, the discharge.

29 (H) The amount of any sales and use tax paid by a utility vendor
30 pursuant to section 71 of P.L.1997, c.162.

31 (I) With respect to privilege periods ending before July 31, 2023,
32 interest paid, accrued or incurred for the privilege period to a related
33 member, as defined in section 5 of P.L.2002, c.40 (C.54:10A-4.4),
34 except that a deduction shall be permitted to the extent that the
35 taxpayer establishes by clear and convincing evidence, as determined
36 by the director, that: (i) a principal purpose of the transaction giving
37 rise to the payment of the interest was not to avoid taxes otherwise
38 due under Title 54 of the Revised Statutes or Title 54A of the New
39 Jersey Statutes, (ii) the interest is paid pursuant to arm's length
40 contracts at an arm's length rate of interest, and (iii)(aa) the related
41 member was subject to a tax on its net income or receipts in this State
42 or another state or possession of the United States or in a foreign
43 nation, (bb) a measure of the tax includes the interest received from
44 the related member, and (cc) the rate of tax applied to the interest
45 received by the related member is equal to or greater than a rate three
46 percentage points less than the rate of tax applied to taxable interest
47 by this State pursuant to section 5 of P.L.1945, c.162 (C.54:10A-5).

1 With respect to privilege periods ending before July 31, 2023, a
2 deduction shall also be permitted if the taxpayer establishes by clear
3 and convincing evidence, as determined by the director, that the
4 disallowance of a deduction is unreasonable, or the taxpayer and the
5 director agree in writing to the application or use of an alternative
6 method of apportionment under section 8 of P.L.1945, c.162
7 (C.54:10A-8); nothing in this subsection shall be construed to limit
8 or negate the director's authority to otherwise enter into agreements
9 and compromises otherwise allowed by law.

10 With respect to privilege periods ending before July 31, 2023, a
11 deduction shall also be permitted to the extent that the taxpayer
12 establishes by a preponderance of the evidence, as determined by the
13 director, that the interest is directly or indirectly paid, accrued or
14 incurred to (i) a related member in a foreign nation which has in force
15 a comprehensive income tax treaty with the United States and the
16 related member (aa) was subject to tax in the foreign nation on a tax
17 base that included the payment paid, accrued, or incurred; and (bb)
18 under which the related member's income received from the
19 transaction was taxed at an effective tax rate equal to or greater than
20 a rate of three percentage points less than the rate of tax applied to
21 taxable interest by the State of New Jersey pursuant to section 5 of
22 P.L.1945, c.162 (C.54:10A-5), provided however that the taxpayer
23 shall disclose on its return for the privilege period the name of the
24 related member, the amount of the interest, the relevant foreign
25 nation, and such other information as the director may prescribe or
26 (ii) to an independent lender and the taxpayer guarantees the debt on
27 which the interest is required. The adjustments required by this
28 subparagraph shall not apply to transactions between related
29 members included in a combined group reported on a New Jersey
30 combined return.

31 (J) (i) Amounts deducted for federal tax purposes pursuant to
32 section 199 of the federal Internal Revenue Code of 1986, 26 U.S.C.
33 s.199, except that this exclusion shall not apply to amounts deducted
34 pursuant to that section that are exclusively based upon domestic
35 production gross receipts of the taxpayer which are derived only from
36 any lease, rental, license, sale, exchange, or other disposition of
37 qualifying production property which the taxpayer demonstrates to
38 the satisfaction of the director was manufactured or produced by the
39 taxpayer in whole or in significant part within the United States but
40 not qualified production property that was grown or extracted by the
41 taxpayer. "Manufactured or produced" as used in this paragraph shall
42 be limited to performance of an operation or series of operations the
43 object of which is to place items of tangible personal property in a
44 form, composition, or character different from that in which they
45 were acquired. The change in form, composition, or character shall
46 be a substantial change, and result in a transformation of property
47 into a different or substantially more usable product.

1 (ii) For privilege periods beginning after December 31, 2017,
2 notwithstanding the provisions of P.L.1945, c.162 (C.54:10A-1 et
3 seq.) or any other law to the contrary, for the purposes of determining
4 the amount of income pursuant to P.L.1945, c.162 (C.54:10A-1 et
5 seq.) that is net of expenses, no amounts shall be taken as a deduction
6 pursuant to section 199A of the Internal Revenue Code (26 U.S.C.
7 s.199A).

8 (K) (i) For privilege periods beginning after December 31, 2017
9 and ending before July 31, 2022, the interest deduction limitation in
10 subsection (j) of section 163 of the Internal Revenue Code (26 U.S.C.
11 s.163), shall apply on a pro-rata basis to interest paid to both related
12 and unrelated parties, regardless of whether the related parties are
13 subject to the add-back provision of either subparagraph (I) of
14 paragraph (2) of this subsection or in section 5 of P.L.2002, c.40
15 (C.54:10A-4.4).

16 (ii) For privilege periods beginning after December 31, 2017 and
17 ending on and after July 31, 2022, the interest deduction limitation in
18 subsection (j) of section 163 of the Internal Revenue Code (26 U.S.C.
19 s.163), shall apply to a combined group as though the combined
20 group filed a federal consolidated return; provided, however, for the
21 purposes of applying the limitation in subsection (j) of section 163 of
22 the Internal Revenue Code (26 U.S.C. s.163), with regard to affiliates
23 that were members of the federal consolidated return but were not
24 members of the combined group included on the New Jersey
25 combined return, the combined group and the affiliates will also be
26 treated as having filed one federal consolidated return.

27 (3) The director may, whenever necessary to properly reflect the
28 entire net income of any taxpayer, determine the year or period in
29 which any item of income or deduction shall be included, without
30 being limited to the method of accounting employed by the taxpayer.

31 (4) There shall be allowed as a deduction from entire net income
32 of a banking corporation, to the extent not deductible in determining
33 federal taxable income, the eligible net income of an international
34 banking facility determined as follows:

35 (A) The eligible net income of an international banking facility
36 shall be the amount remaining after subtracting from the eligible
37 gross income the applicable expenses;

38 (B) Eligible gross income shall be the gross income derived by an
39 international banking facility, which shall include, but not be limited
40 to, gross income derived from:

41 (i) Making, arranging for, placing or carrying loans to foreign
42 persons, provided, however, that in the case of a foreign person which
43 is an individual, or which is a foreign branch of a domestic
44 corporation (other than a bank), or which is a foreign corporation or
45 foreign partnership which is controlled by one or more domestic
46 corporations (other than banks), domestic partnerships or resident
47 individuals, all the proceeds of the loan are for use outside of the
48 United States;

- 1 (ii) Making or placing deposits with foreign persons which are
2 banks or foreign branches of banks (including foreign subsidiaries)
3 or foreign branches of the taxpayers or with other international
4 banking facilities;
- 5 (iii) Entering into foreign exchange trading or hedging
6 transactions related to any of the transactions described in this
7 paragraph; or
- 8 (iv) Such other activities as an international banking facility may,
9 from time to time, be authorized to engage in;
- 10 (C) Applicable expenses shall be any expense or other deductions
11 attributable, directly or indirectly, to the eligible gross income
12 described in subparagraph (B) of this paragraph.
- 13 (5) (A) (i) Entire net income shall exclude 100% of dividends
14 which were included in computing such taxable income for federal
15 income tax purposes, paid to the taxpayer by one or more subsidiaries
16 owned by the taxpayer to the extent of the 80% or more ownership
17 of investment described in subsection (d) of this section for privilege
18 periods beginning on or before December 31, 2016.
- 19 (ii) For privilege periods beginning after December 31, 2016 and
20 before January 1, 2019, entire net income shall exclude 95% of
21 dividends which were included in computing such taxable income for
22 federal income tax purposes, paid or deemed paid, to the taxpayer by
23 one or more subsidiaries owned by the taxpayer to the extent of the
24 80% or more ownership of investment described in subsection (d) of
25 this section. For the purposes of calculating the tax liability owed for
26 the paid or deemed paid dividends included in entire net income by
27 this subsubparagraph (ii), the taxpayer shall use either their three-
28 year average allocation factor for the taxpayer's 2014 through 2016
29 tax years reported on the taxpayer's tax returns or 3.5 percent,
30 whichever is lower.
- 31 (iii) For privilege periods beginning on and after January 1, 2019
32 and ending before July 31, 2023, entire net income shall exclude 95%
33 of dividends which were included in computing such taxable income
34 for federal income tax purposes, paid or deemed paid to the taxpayer
35 by one or more subsidiaries owned by the taxpayer to the extent of
36 the 80% or more ownership of investment described in subsection (d)
37 of this section.
- 38 (iv) For privilege periods ending on and after July 31, 2023, entire
39 net income shall exclude 100 percent of dividends and deemed
40 dividends that were included in computing such taxable income for
41 federal income tax purposes, paid or deemed paid to the taxpayer by
42 one or more subsidiaries owned by the taxpayer to the extent of the
43 80 percent or more ownership of investment described in subsection
44 (d) of this section.
- 45 (B) Entire net income shall exclude 50% of dividends which were
46 included in computing such taxable income for federal income tax
47 purposes, paid or deemed paid to the taxpayer by one or more
48 subsidiaries owned by the taxpayer to the extent of 50% or more

1 ownership of investment, such ownership of investment calculated in
2 the same manner as the 80% or more of ownership of investment is
3 calculated as described in subsection (d) of this section.

4 (C) To the extent a subsidiary received dividends from other
5 subsidiaries and included those dividends in its entire net income for
6 the purposes of determining its tax liability pursuant to section 5 of
7 P.L.1945, c.162 (C.54:10A-5) and paid tax on those dividends, the
8 taxpayer receiving those same dividends from the subsidiary shall
9 exclude those dividends from its entire net income based on the
10 subsidiary's allocation factor used by the subsidiary in determining
11 its tax liability pursuant to section 5 of P.L.1945, c.162 (C.54:10A-
12 5). This subparagraph (C) shall not apply to privilege periods ending
13 on and after July 31, 2019.

14 (D) For privilege periods ending on and after July 31, 2019 but
15 before July 31, 2020, to the extent a subsidiary received dividends
16 from other subsidiaries and included those dividends in its entire net
17 income for the purposes of determining its tax liability pursuant to
18 section 5 of P.L.1945, c.162 (C.54:10A-5) and paid tax on those
19 dividends, the taxpayer receiving those same dividends from the
20 subsidiary shall exclude those dividends from its entire net income.

21 (E) For privilege periods ending on and after July 31, 2020, for
22 purposes of this paragraph (5), the members of a combined group
23 filing a New Jersey combined return shall be treated as one taxpayer
24 with regard to dividends and deemed dividends that were received as
25 part of the unitary business of the combined group.

26 (F) For privilege periods ending on and after July 31, 2023:

27 (i) The exclusion provided by this paragraph (5) shall be
28 deducted from entire net income after the State modifications that
29 increase federal entire net income but before the other State
30 modifications that reduce entire net income and before the allocation
31 of entire net income to this State.

32 (ii) In computing the total amount of the dividends and deemed
33 dividends excluded by this paragraph (5) for privilege periods ending
34 on and after July 31, 2023, the amount of dividends and deemed
35 dividends excluded shall be reduced by the amount of the expenses
36 and deductions that are attributable to those dividends and deemed
37 dividends. For purposes of this paragraph (5), expenses and
38 deductions related to dividends shall equal five percent of all
39 dividends and deemed dividends received by a taxpayer during an
40 income year.

41 (G) For privilege periods ending on and after July 31, 2023, for
42 the purposes of this paragraph (5) and for subsection d. of section 18
43 of P.L.2018, c.48 (C.54:10A-4.6), the income amounts required to be
44 included in federal taxable income pursuant to 26 U.S.C. s.951A,
45 shall be considered a dividend.

46 (6) (A) Net operating loss deduction. For privilege periods ending
47 before July 31, 2019, there shall be allowed as a deduction for the
48 privilege period the net operating loss carryover to that period.

1 (B) Net operating loss carryover. A net operating loss for any
2 privilege period ending after June 30, 1984 shall be a net operating
3 loss carryover to each of the seven privilege periods following the
4 period of the loss and a net operating loss for any privilege period
5 ending after June 30, 2009 shall be a net operating loss carryover to
6 each of the twenty privilege periods following the period of the loss.
7 The entire amount of the net operating loss for any privilege period
8 (the "loss period") shall be carried to the earliest of the privilege
9 periods to which the loss may be carried. The portion of the loss
10 which shall be carried to each of the other privilege periods shall be
11 the excess, if any, of the amount of the loss over the sum of the entire
12 net income, computed without the exclusions permitted in paragraphs
13 (4) and (5) of this subsection or the net operating loss deduction
14 provided by subparagraph (A) of this paragraph, for each of the prior
15 privilege periods to which the loss may be carried.

16 (C) Net operating loss. For purposes of this paragraph the term
17 "net operating loss" means the excess of the deductions over the gross
18 income used in computing entire net income without the net
19 operating loss deduction provided for in subparagraph (A) of this
20 paragraph and the exclusions in paragraphs (4) and (5) of this
21 subsection.

22 (D) Change in ownership. Where there is a change in 50% or more
23 of the ownership of a corporation because of redemption or sale of
24 stock and the corporation changes the trade or business giving rise to
25 the loss, no net operating loss sustained before the changes may be
26 carried over to be deducted from income earned after such changes.
27 In addition where the facts support the premise that the corporation
28 was acquired under any circumstances for the primary purpose of the
29 use of its net operating loss carryover, the director may disallow the
30 carryover.

31 (E) Notwithstanding the provisions of this paragraph (6) of
32 subsection (k) of this section to the contrary, for privilege periods
33 beginning during calendar year 2002 and calendar year 2003, no
34 deduction for any net operating loss carryover shall be allowed and
35 for privilege periods beginning during calendar year 2004 and
36 calendar year 2005, there shall be allowed as a deduction for the
37 privilege period so much of the net operating loss carryover as
38 reduces entire net income otherwise calculated by 50%. If and only
39 to the extent that any net operating loss carryover deduction is
40 disallowed by reason of this subparagraph (E), the date on which the
41 amount of the disallowed net operating loss carryover deduction
42 would otherwise expire shall be extended by a period equal to the
43 period for which application of the net operating loss was disallowed
44 by this subparagraph.

45 Provided, that this subparagraph (E) shall not restrict the surrender
46 or acquisition of corporation business tax benefit certificates
47 pursuant to section 1 of P.L.1997, c.334 (C.34:1B-7.42a) and shall

1 not restrict the application of corporation business tax benefit
2 certificates pursuant to section 2 of P.L.1997, c.334 (C.54:10A-4.2).

3 (F) Reduction for discharge of indebtedness. A net operating loss
4 for any privilege period ending after June 30, 2014, and any net
5 operating loss carryover to such privilege period, shall be reduced by
6 the amount excluded from federal taxable income under
7 subparagraph (A), (B), or (C) of paragraph (1) of subsection (a) of
8 section 108 of the federal Internal Revenue Code (26 U.S.C. s.108),
9 for the privilege period of the discharge of indebtedness.

10 (7) The entire net income of gas, electric and gas and electric
11 public utilities that were subject to, or would have been subject to tax
12 if doing business in this State, the provisions of P.L.1940, c.5
13 (C.54:30A-49 et seq.) prior to 1998, shall be adjusted by substituting
14 the New Jersey depreciation allowance for federal tax depreciation
15 with respect to assets placed in service prior to January 1, 1998. For
16 gas, electric, and gas and electric public utilities that were subject to,
17 or would have been subject to tax if doing business in this State, the
18 provisions of P.L.1940, c.5 (C.54:30A-49 et seq.) prior to 1998, the
19 New Jersey depreciation allowance shall be computed as follows: All
20 depreciable assets placed in service prior to January 1, 1998 shall be
21 considered a single asset account. The New Jersey tax basis of this
22 depreciable asset account shall be an amount equal to the carryover
23 adjusted basis for federal income tax purposes on December 31, 1997
24 of all depreciable assets in service on December 31, 1997, increased
25 by the excess, of the "net carrying value," defined to be adjusted book
26 basis of all assets and liabilities, excluding deferred income taxes,
27 recorded on the public utility's books of account on December 31,
28 1997, over the carryover adjusted basis for federal income tax
29 purposes on December 31, 1997 of all assets and liabilities owned by
30 the gas, electric, or gas and electric public utility as of December 31,
31 1997. "Books of account" for gas, gas and electric, and electric public
32 utilities means the uniform system of accounts as promulgated by the
33 Federal Energy Regulatory Commission and adopted by the Board of
34 Public Utilities. The following adjustments to entire net income shall
35 be made pursuant to this section:

36 (A) Depreciation for property placed in service prior to January 1,
37 1998 shall be adjusted as follows:

38 (i) Depreciation for federal income tax purposes shall be
39 disallowed in full.

40 (ii) A deduction shall be allowed for the New Jersey depreciation
41 allowance. The New Jersey depreciation allowance shall be
42 computed for the single asset account described above based on the
43 New Jersey tax basis as adjusted above as if all assets in the single
44 asset account were first placed in service on January 1, 1998.
45 Depreciation shall be computed using the straight line method over a
46 thirty-year life. A full year's depreciation shall be allowed in the
47 initial tax year. No half-year convention shall apply. The depreciable
48 basis of the single account shall be reduced by the adjusted federal

1 tax basis of assets sold, retired, or otherwise disposed of during any
2 year on which gain or loss is recognized for federal income tax
3 purposes as described in subparagraph (B) of this paragraph.

4 (B) Gains and losses on sales, retirements and other dispositions
5 of assets placed in service prior to January 1, 1998 shall be
6 recognized and reported on the same basis as for federal income tax
7 purposes.

8 (C) The Director of the Division of Taxation shall promulgate
9 regulations describing the methodology for allocating the single asset
10 account in the event that a portion of the utility's operations are
11 separated, spun-off, transferred to a separate company or otherwise
12 desegregated.

13 (8) In the case of taxpayers that are gas, electric, gas and electric,
14 or telecommunications public utilities as defined pursuant to
15 subsection (q) of this section, the director shall have authority to
16 promulgate rules and issue guidance correcting distortions and
17 adjusting timing differences resulting from the adoption of P.L.1997,
18 c.162 (C.54:10A-5.25 et al.).

19 (9) Notwithstanding paragraph (1) of this subsection, entire net
20 income shall not include the income derived by a corporation
21 organized in a foreign country from the international operation of a
22 ship or ships, or from the international operation of aircraft, if such
23 income is exempt from federal taxation pursuant to section 883 of the
24 federal Internal Revenue Code of 1986, 26 U.S.C. s.883.

25 (10) Entire net income shall exclude all income of an alien
26 corporation the activities of which are limited in this State to
27 investing or trading in stocks and securities for its own account,
28 investing or trading in commodities for its own account, or any
29 combination of those activities, within the meaning of section 864 of
30 the federal Internal Revenue Code of 1986, 26 U.S.C. s.864, as in
31 effect on December 31, 1998. Notwithstanding the previous sentence,
32 if an alien corporation undertakes one or more infrequent,
33 extraordinary or non-recurring activities, including but not limited to
34 the sale of tangible property, only the income from such infrequent,
35 extraordinary or non-recurring activity shall be subject to the tax
36 imposed pursuant to P.L.1945, c.162 (C.54:10A-1 et seq.), and that
37 amount of income subject to tax shall be determined without regard
38 to the allocation to that specific transaction of any general business
39 expense of the taxpayer and shall be specifically assigned to this State
40 for taxation by this State without regard to section 6 of P.L.1945,
41 c.162 (C.54:10A-6). For the purposes of this paragraph, "alien
42 corporation" means a corporation organized under the laws of a
43 jurisdiction other than the United States or its political subdivisions.

44 (11) No deduction shall be allowed for research and experimental
45 expenditures, to the extent that those research and experimental
46 expenditures are qualified research expenses or basic research
47 payments for which an amount of credit is claimed pursuant to
48 section 1 of P.L.1993, c.175 (C.54:10A-5.24) unless those research

1 and experimental expenditures are also used to compute a federal
2 credit claimed pursuant to section 41 of the federal Internal Revenue
3 Code of 1986, 26 U.S.C. s.41; provided, however, for privilege
4 periods beginning on and after January 1, 2022, a deduction for
5 research and experimental expenditures shall be allowed during the
6 same privilege period for which a credit is claimed pursuant to
7 section 1 of P.L.1993, c.175 (C.54:10A-5.24), notwithstanding the
8 timing schedule required by the federal Internal Revenue Code of
9 1986, 26 U.S.C. s.174, for the deduction of specified research and
10 experimental expenditures.

11 (12)(A) Notwithstanding the provisions of subsection (k) of
12 section 168 of the federal Internal Revenue Code of 1986, 26 U.S.C.
13 s.168, subsection (b) of section 1400L of the federal Internal Revenue
14 Code of 1986, 26 U.S.C. s.1400L, or any other federal law, for
15 property acquired after September 10, 2001, the depreciation
16 deduction otherwise allowed pursuant to section 167 of the federal
17 Internal Revenue Code of 1986, 26 U.S.C. s.167, shall be determined
18 pursuant to the provisions of the federal Internal Revenue Code of
19 1986 (26 U.S.C. s.1 et seq.) in effect on December 31, 2001.

20 (B) The director shall prescribe the rules and regulations
21 necessary to carry out the provisions of this paragraph, including,
22 among others, those for determining the adjusted basis of the
23 acquired property for the purposes of the Corporation Business Tax
24 Act (1945), P.L.1945, c.162.

25 (13)(A) Notwithstanding the provisions of section 179 of the
26 federal Internal Revenue Code of 1986, 26 U.S.C. s.179, for property
27 placed in service on or after January 1, 2004, the costs that a taxpayer
28 may otherwise elect to treat as an expense which is not chargeable to
29 a capital account shall be determined pursuant to the provisions of
30 the federal Internal Revenue Code of 1986 (26 U.S.C. s.1 et seq.) in
31 effect on December 31, 2002.

32 (B) The director shall prescribe the rules and regulations
33 necessary to carry out the provisions of this paragraph, including,
34 among others, those for determining the adjusted basis of the
35 acquired property for the purposes of the Corporation Business Tax
36 Act (1945), P.L.1945, c.162.

37 (14)Notwithstanding the provisions of subsection (i) of section
38 108 of the federal Internal Revenue Code of 1986 (26 U.S.C. s.108),
39 for privilege periods beginning after December 31, 2008 and before
40 January 1, 2011, entire net income shall include the amount of
41 discharge of indebtedness income excluded for federal income tax
42 purposes pursuant to subsection (i) of section 108 of the federal
43 Internal Revenue Code of 1986 (26 U.S.C. s.108), and for privilege
44 periods beginning on or after January 1, 2014 and before January 1,
45 2019, entire net income shall exclude the amount of discharge of
46 indebtedness income included for federal income tax purposes,
47 pursuant to subsection (i) of section 108 of the federal Internal
48 Revenue Code of 1986 (26 U.S.C. s.108).

1 (15) Entire net income shall exclude the gain or income derived
2 from the sale or assignment of a tax credit transfer certificate
3 pursuant to section 7 of P.L.2011, c.149 (C.34:1B-248) **【and】**,
4 section 10 of P.L.2014, c.63 (C.34:1B-251), or the "New Jersey
5 Economic Recovery Act of 2020," P.L.2020, c.156 (C.34:1B-269 et
6 al.), as amended and supplemented.

7 (16)(A) There shall be allowed as a deduction an amount
8 computed in accordance with this paragraph.

9 (B) For purposes of this paragraph, "net deferred tax liability"
10 means deferred tax liabilities that exceed the deferred tax assets of
11 the combined group, as computed in accordance with generally
12 accepted accounting principles, and "net deferred tax asset" means
13 that deferred tax assets exceed the deferred tax liabilities of the
14 combined group, as computed in accordance with generally accepted
15 accounting principles.

16 (C) Only publicly traded companies, including affiliated
17 corporations participating in the filing of a publicly traded company's
18 financial statements prepared in accordance with generally accepted
19 accounting principles, as of the effective date of this paragraph, shall
20 be eligible for this deduction.

21 (D) If the provisions of sections 18 through 23 of P.L.2018, c.48
22 (C.54:10A-4.6 to C.54:10A-4.11) result in an aggregate increase to
23 the members' net deferred tax liability or an aggregate decrease to the
24 members' net deferred tax asset, or an aggregate change from a net
25 deferred tax asset to a net deferred tax liability, the combined group
26 shall be entitled to a deduction, as determined in this paragraph.

27 (E) (i) Beginning with the combined group's first privilege period
28 on or after January 1 of the fifth year after the effective date of
29 P.L.2018, c.48 (C.54:10A-5.41 et al.), a combined group shall be
30 entitled to a deduction from combined group entire net income equal
31 to one-tenth of the amount necessary to offset the increase in the net
32 deferred tax liability or decrease in the net deferred tax asset, or
33 aggregate change from a net deferred tax asset to a net deferred tax
34 liability, according to the schedule provided by subsubparagraphs (ii)
35 and (iii) of this subparagraph (E). Such increase in the net deferred
36 tax liability or decrease in the net deferred tax asset or the aggregate
37 change from a net deferred tax asset to a net deferred tax liability
38 shall be computed based on the change that would result from the
39 imposition of the unitary reporting requirements under sections 1 and
40 18 through 23 of P.L.2018, c.48 (C.54:10A-5.41 and C.54:10A-4.6
41 to C.54:10A-4.11) but for the deduction provided under this
42 paragraph as of the effective date of this paragraph.

43 (ii) For group privilege periods beginning on and after January 1,
44 2023, but before January 1, 2030, the combined group may deduct
45 one percent of the amount necessary to offset the increase in the net
46 deferred tax liability or decrease in the net deferred tax asset, or
47 aggregate change from a net deferred tax asset to a net deferred tax
48 liability, during a group privilege period. Such increase in the net

1 deferred tax liability or decrease in the net deferred tax asset or the
2 aggregate change from a net deferred tax asset to a net deferred tax
3 liability shall be computed based on the change that would result
4 from the imposition of the unitary reporting requirements under
5 sections 1 and 18 through 23 of P.L.2018, c.48 (C.54:10A-5.41 and
6 C.54:10A-4.6 to C.54:10A-4.11) but for the deduction provided
7 under this paragraph as of the effective date of this paragraph.

8 (iii) For group privilege periods beginning on and after January 1,
9 2030, the combined group may deduct up to five percent of any
10 remaining unused amount of the deduction during the group privilege
11 period, until the group privilege period in which the total deduction
12 amount has been fully utilized. Such increase in the net deferred tax
13 liability or decrease in the net deferred tax asset or the aggregate
14 change from a net deferred tax asset to a net deferred tax liability
15 shall be computed based on the change that would result from the
16 imposition of the unitary reporting requirements under sections 1 and
17 18 through 23 of P.L.2018, c.48 (C.54:10A-5.41 and C.54:10A-4.6
18 to C.54:10A-4.11) but for the deduction provided under this
19 paragraph as of the effective date of this paragraph.

20 (F) The deferred tax impact determined in subparagraph (E) of
21 this paragraph must be converted to the annual Deferred Tax
22 Deduction amount, as follows:

23 (i) the deferred tax impact determined in subparagraph (E) of this
24 paragraph shall be divided by the rate determined under section 5 of
25 P.L.1945, c.162 (C.54:10A-5) at the effective date of P.L.2018, c.48
26 (C.54:10A-5.41 et al.);

27 (ii) the resulting amount shall be further divided by the New
28 Jersey unitary business allocation factor that was used by the
29 combined group in the calculation of the deferred tax assets and
30 deferred tax liabilities as described in subparagraph (E) of this
31 paragraph;

32 (iii) the resulting amount represents the total net Deferred Tax
33 Deduction available over the period as described in subparagraph (E)
34 of this paragraph.

35 (G) The deduction calculated under this paragraph shall not be
36 adjusted as a result of any events happening subsequent to such
37 calculation, including, but not limited to, any disposition or
38 abandonment of assets. Such deduction shall be calculated without
39 regard to the federal tax effect and shall not alter the tax basis of any
40 asset. If the deduction under this section is greater than combined
41 group entire net income, any excess deduction shall be carried
42 forward and applied as a deduction to combined group entire net
43 income in future privilege periods until fully utilized.

44 (H) Any combined group intending to claim a deduction under
45 this paragraph shall file a statement with the director on or before
46 July 1 of the year subsequent to the first privilege period for which a
47 combined return is required. Such statement shall specify the total
48 amount of the deduction which the combined group claims on such

1 form and in such manner as prescribed by the director. No deduction
2 shall be allowed under this paragraph for any privilege period except
3 to the extent claimed on such timely filed statement in accordance
4 with this paragraph.

5 (17)(A) In the case of a taxpayer that is a cannabis licensee, there
6 shall be allowed as a deduction an amount equal to any expenditure
7 that is eligible to be claimed as a federal income tax deduction but is
8 disallowed because cannabis is a controlled substance under federal
9 law, and income shall be determined without regard to section 280E
10 of the Internal Revenue Code (26 U.S.C. s.280E) for cannabis
11 licensees.

12 (B) In the case of a taxpayer that is a cannabis licensee, there shall
13 be allowed as a deduction an amount equal to any expenditure that
14 would qualify as a specified research or experimental expenditure
15 pursuant to section 174 of the Internal Revenue Code but is
16 disallowed as a deduction for federal tax purposes because cannabis
17 is a controlled substance under federal law. Any expenditure that is
18 claimed as a deduction pursuant to this subparagraph may also be
19 claimed as a qualified research expense for purposes of the credit
20 allowed pursuant to section 1 of P.L.1993, c.175 (C.54:10A-5.24).

21 (C) For purposes of this paragraph, "licensee" means the same as
22 that term is defined in section 3 of P.L.2021, c.16 (C.24:6I-33).

23 (18)For privilege periods ending on and after July 31, 2022:

24 (A) Notwithstanding subparagraph (A) of paragraph (2) of this
25 subsection or any other law or treaty to the contrary, for a corporation
26 that is incorporated or formed in a foreign nation with a
27 comprehensive tax treaty with the United States, and that is not a
28 member of a world-wide group combined return filed pursuant to
29 subsection b. of section 23 of P.L.2018, c.48 (C.54:10A-4.11), entire
30 net income shall not include an item of income or loss excluded or
31 exempted from federal taxable income under the terms of the treaty,
32 and no other deduction, exclusion, or elimination shall be permitted
33 for an item of income or loss excluded by this paragraph.

34 (B) For a non-U.S. corporation that files a federal tax return and
35 is not a member of a combined group filing a New Jersey combined
36 return on a world-wide basis pursuant to subsection b. of section 23
37 of P.L.2018, c.48 (C.54:10A-4.11), the non-U.S. corporation shall
38 only include its income or loss included in federal taxable income,
39 which shall be limited to only the non-U.S. corporation's effectively
40 connected income or loss, as modified by the provisions of the
41 Corporation Business Tax Act (1945), P.L.1945, c.162 (C.54:10A-1
42 et seq.), and the items of expense and the allocation factor receipts
43 attributable to such items of income or loss.

44 (l) "Real estate investment trust" shall mean any corporation,
45 trust or association qualifying and electing to be taxed as a real estate
46 investment trust under federal law.

47 (m) "Financial business corporation" shall mean any corporate
48 enterprise which is (1) in substantial competition with the business

1 of national banks and which (2) employs moneyed capital with the
2 object of making profit by its use as money, through discounting and
3 negotiating promissory notes, drafts, bills of exchange and other
4 evidences of debt; buying and selling exchange; making of or dealing
5 in secured or unsecured loans and discounts; dealing in securities and
6 shares of corporate stock by purchasing and selling such securities
7 and stock without recourse, solely upon the order and for the account
8 of customers; or investing and reinvesting in marketable obligations
9 evidencing indebtedness of any person, copartnership, association or
10 corporation in the form of bonds, notes or debentures commonly
11 known as investment securities; or dealing in or underwriting
12 obligations of the United States, any state or any political subdivision
13 thereof, or of a corporate instrumentality of any of them. This shall
14 include, without limitation of the foregoing, business commonly
15 known as industrial banks, dealers in commercial paper and
16 acceptances, sales finance, personal finance, small loan and mortgage
17 financing businesses, as well as any other enterprise employing
18 moneyed capital coming into competition with the business of
19 national banks; provided that the holding of bonds, notes, or other
20 evidences of indebtedness by individual persons not employed or
21 engaged in the banking or investment business and representing
22 merely personal investments not made in competition with the
23 business of national banks, shall not be deemed financial business.
24 Nor shall "financial business" include national banks, production
25 credit associations organized under the Farm Credit Act of 1933 or
26 the Farm Credit Act of 1971, Pub.L.92-181 (12 U.S.C. s.2091 et
27 seq.), stock and mutual insurance companies duly authorized to
28 transact business in this State, security brokers or dealers or
29 investment companies or bankers not employing moneyed capital
30 coming into competition with the business of national banks, real
31 estate investment trusts, or any of the following entities organized
32 under the laws of this State: credit unions, savings banks, savings and
33 loan and building and loan associations, pawnbrokers, and State
34 banks and trust companies.

35 (n) "International banking facility" shall mean a set of asset and
36 liability accounts segregated on the books and records of a depository
37 institution, United States branch or agency of a foreign bank, or an
38 Edge or Agreement Corporation that includes only international
39 banking facility time deposits and international banking facility
40 extensions of credit as such terms are defined in section 204.8(a)(2)
41 and section 204.8(a)(3) of Regulation D of the board of governors of
42 the Federal Reserve System, 12 CFR Part 204, effective December 3,
43 1981. In the event that the United States enacts a law, or the board of
44 governors of the Federal Reserve System adopts a regulation which
45 amends the present definition of international banking facility or of
46 such facilities' time deposits or extensions of credit, the
47 Commissioner of Banking and Insurance shall forthwith adopt
48 regulations defining such terms in the same manner as such terms are

1 set forth in the laws of the United States or the regulations of the
2 board of governors of the Federal Reserve System. The regulations
3 of the Commissioner of Banking and Insurance shall thereafter
4 provide the applicable definitions.

5 (o) "S corporation" means a corporation that has elected to be an
6 "S corporation" pursuant to section 1361 of the federal Internal
7 Revenue Code of 1986, 26 U.S.C. s.1361, for the taxable year.

8 (p) "New Jersey S corporation" means a taxpayer that has made a
9 valid election to be an S corporation for federal tax purposes, and that
10 has not made a valid election pursuant to subsection d. of section 20
11 of P.L.2022, c.133 (C.54:10A-5.22).

12 (q) "Public Utility" means "public utility" as defined in R.S.48:2-
13 13.

14 (r) "Qualified investment partnership" means a partnership under
15 this act that has more than 10 members or partners with no member
16 or partner owning more than a 50% interest in the entity and that
17 derives at least 90% of its gross income from dividends, interest,
18 payments with respect to securities loans, and gains from the sale or
19 other disposition of stocks or securities or foreign currencies or
20 commodities or other similar income (including but not limited to
21 gains from swaps, options, futures or forward contracts) derived with
22 respect to its business of investing or trading in those stocks,
23 securities, currencies or commodities, but "investment partnership"
24 shall not include a "dealer in securities" within the meaning of section
25 1236 of the federal Internal Revenue Code of 1986, 26 U.S.C. s.1236.

26 (s) "Savings institution" means a state or federally chartered
27 building and loan association, savings and loan association, or
28 savings bank.

29 (t) "Partnership" means an entity classified as a partnership for
30 federal income tax purposes.

31 (u) "Prior net operating loss conversion carryover" means a net
32 operating loss incurred in a privilege period ending prior to July 31,
33 2019 and converted from a pre-allocation net operating loss to a post-
34 allocation net operating loss as follows:

35 (1) As used in this subsection:

36 "Base year" means the last privilege period ending prior to July
37 31, 2019.

38 "Base year BAF" means the taxpayer's business allocation factor
39 as provided in sections 6 through 10 of P.L.1945, c.162 (C.54:10A-6
40 through C.54:10A-10) for purposes of calculating entire net income
41 for the base year, as such section was in effect for the last privilege
42 period ending prior to July 31, 2019.

43 "UNOL" means the unabsorbed portion of net operating loss as
44 calculated under paragraph (6) of subsection (k) of this section as
45 such paragraph was in effect for the last privilege period ending prior
46 to July 31, 2019, that was not deductible in previous privilege periods
47 and was eligible for carryover on the last day of the base year subject

1 to the limitations for deduction under such subsection, including any
2 net operating loss sustained by the taxpayer during the base year.

3 (2) The prior net operating loss conversion carryover shall be
4 calculated as follows:

5 (A) The taxpayer shall first calculate the tax value of its UNOL
6 for the base year and for each preceding privilege period for which
7 there is a UNOL. The value of the UNOL for each privilege period is
8 equal to the product of (I) the amount of the taxpayer's UNOL for a
9 privilege period, and (II) the taxpayer's base year BAF. This result
10 shall equal the taxpayer's prior net operating loss conversion
11 carryover.

12 (B) The taxpayer shall continue to carry over its prior net
13 operating loss conversion carryover to offset its allocated entire net
14 income as provided in sections 6 through 10 of P.L.1945, c.162
15 (C.54:10A-6 through C.54:10A-10) for privilege periods ending on
16 and after July 31, 2019. Such carryover periods shall not exceed the
17 twenty privilege periods following the privilege period of the initial
18 loss. The entire amount of the prior net operating loss conversion
19 carryover for any privilege period shall be carried to the earliest of
20 the privilege periods to which the loss may be carried. The portion of
21 the prior net operating loss conversion carryover which shall be
22 carried to each of the other privilege periods shall be the excess, if
23 any, of the amount of the prior net operating loss conversion
24 carryover over the sum of the entire net income, computed without
25 the exclusions permitted in paragraphs (4) and (5) of subsection (k)
26 of this section allocated to this State. For privilege periods ending
27 on and after July 31, 2023, for the purpose of computing taxable net
28 income for a current privilege period, the amount of the prior net
29 operating loss conversion carryover shall be subtracted from entire
30 net income allocated to this State, after the application of paragraphs
31 (4) and (5) of subsection (k) of this section against current privilege
32 period income when the entire net income allocated to this State for
33 the privilege period is greater than zero.

34 (C) The prior net operating loss conversion carryover computed
35 under this subsection shall be applied against the entire net income
36 allocated to this State before the net operating loss carryover
37 computed under subsection (v) of this section.

38 (v) "Net operating loss deduction" means the amount allowed as
39 a deduction for the net operating loss carryover to the privilege
40 period, calculated as follows:

41 (1) Net operating loss carryover. A net operating loss for any
42 privilege period ending on or after July 31, 2019, shall be a net
43 operating loss carryover to each of the twenty privilege periods
44 following the period of the loss. The entire amount of the net
45 operating loss for any privilege period shall be carried to the earliest
46 of the privilege periods to which the loss may be carried. For
47 privilege periods ending before July 31, 2023, the portion of the loss
48 which shall be carried to each of the other privilege periods shall be

1 the excess, if any, of the amount of the loss over the sum of the entire
2 net income, computed without the exclusions permitted in paragraphs
3 (4) and (5) of subsection (k) of this section allocated to this State.
4 For privilege periods ending on and after July 31, 2023, the portion
5 of the loss that shall be carried to each of the other privilege periods
6 shall be the excess, if any, of the amount of the loss over the sum of
7 the entire net income, after the application of paragraphs (4) and (5)
8 of subsection (k) of this section allocated to this State; provided,
9 however, for the purpose of computing taxable net income for the
10 privilege period, the net operating loss carryover shall only be
11 subtracted from entire net income allocated to this State when the
12 entire net income allocated to this State is greater than zero.

13 (2) Net operating loss. For purposes of this paragraph the term
14 "net operating loss" means the excess of the deductions over the gross
15 income used in computing entire net income, without regard to any
16 net operating loss carryover, and for privilege periods ending before
17 July 31, 2023, computed without the exclusions in paragraphs (4) and
18 (5) of subsection (k) of this section, and for privilege periods ending
19 on and after July 31, 2023, computed after the application of
20 paragraphs (4) and (5) of subsection (k) of this section, allocated to
21 this State pursuant to sections 6 through 10 of P.L.1945, c.162
22 (C.54:10A-6 through C.54:10A-10).

23 (3) Reduction for discharge of indebtedness. A net operating loss
24 for any privilege period ending on or after July 31, 2019, and any net
25 operating loss carryover to such privilege period, shall be reduced by
26 the amount excluded from federal taxable income under
27 subparagraph (A), (B), or (C) of paragraph (1) of subsection (a) of
28 section 108 of the federal Internal Revenue Code, 26 U.S.C. s.108,
29 for the privilege period of the discharge of indebtedness.

30 (4) A net operating loss carryover shall not include any net
31 operating loss incurred during any privilege period ending prior to
32 July 31, 2019.

33 (5) Change in ownership. Where there is a change in 50% or more
34 of the ownership of a corporation because of redemption or sale of
35 stock and the corporation changes the trade or business giving rise to
36 the loss, no net operating loss sustained before the changes may be
37 carried over to be deducted from income earned after such changes.
38 In addition, where the facts support the premise that the corporation
39 was acquired under any circumstances for the primary purpose of the
40 use of its net operating loss carryover, the director may disallow the
41 carryover; provided, however, this paragraph shall not apply between
42 members of a combined group reported on a New Jersey combined
43 return.

44 (w) "Taxable net income" means entire net income allocated to
45 this State as calculated pursuant to sections 6 through 8 of P.L.1945,
46 c.162 (C.54:10A-6 through 54:10A-8) as modified by subtracting any
47 prior net operating loss conversion carryforward calculated pursuant
48 to subsection (u) of this section, and any net operating loss calculated

pursuant to subsection (v) of this section; provided, however, for privilege periods ending on and after July 31, 2023, when subtracting any net operating losses calculated pursuant to subsection (v) of this section or the combined group net operating losses calculated pursuant to subsection h. of section 18 of P.L.2018, c.48 (C.54:10A-4.6), the limitation set forth in paragraph (2) of subsection (a) of Internal Revenue Code Section 172 (26 U.S.C. s.172(a)(2)) shall apply, except that August 1, 2023 is substituted for the reference to January 1, 2018 in subparagraph (A) of paragraph (2) of subsection a. of Internal Revenue Code Section 172 (26 U.S.C. s.172), and July 31, 2023 is substituted for the reference to December 31, 2017 in subparagraph (B) of paragraph (2) of subsection (a) of Internal Revenue Code Section 172 (26 U.S.C. s.172). For privilege periods ending on and after July 31, 2023, for a combined group, before subtracting the prior net operating loss conversion carryforwards and subtracting the net operating losses of the combined group when computing the total taxable net income, the combined group shall first add together the allocated entire net income from the unitary business of the combined group and the portion of allocated entire net income of members with activities independent of the group, and then subtract the prior net operating loss conversion carryforwards and then the net operating losses.

(x) "Affiliated group" means, for purposes of section 23 of P.L.2018, c.48 (C.54:10A-4.11), an affiliated group as defined in section 1504 of the federal Internal Revenue Code, 26 U.S.C. s.1504, except such affiliated group shall include all U.S. domestic corporations that are commonly owned, directly or indirectly, by any member of such affiliated group, without regard to whether the affiliated group includes (1) corporations included in more than one federal consolidated return, (2) corporations engaged in one or more unitary businesses, or (3) corporations that are not engaged in a unitary business with any other member of the affiliated group.

For purposes of this subsection:

"U.S. domestic corporations" means: (1) business entities wherever incorporated or formed that are U.S. domestic corporations, are deemed to be, or are treated as U.S. domestic corporations under the provisions of the federal Internal Revenue Code; or (2) any entities incorporated or formed under the laws of a foreign nation that are required to file federal tax returns if such entities have effectively connected income within the meaning of the federal Internal Revenue Code; and

"Commonly owned" means that more than 50 percent of the voting control of each member of an affiliated group is directly or indirectly owned by a common owner or owners, either corporate or non-corporate, whether or not the owner or owners are members of the affiliated group. Whether voting control is indirectly owned shall be determined in accordance with section 318 of the federal Internal Revenue Code (26 U.S.C. s.318).

1 (y) "Combinable captive insurance company" means an entity
2 that is treated as an association taxable as a corporation under the
3 federal Internal Revenue Code:

4 (1) more than 50% of the voting stock of which is owned or
5 controlled, directly or indirectly, by a single entity that is treated as
6 an association taxable as a corporation under the federal Internal
7 Revenue Code, and not exempt from federal income tax;

8 (2) that is licensed as a captive insurance company under the laws
9 of this State or another jurisdiction;

10 (3) whose business includes providing, directly and indirectly,
11 insurance or reinsurance covering the risks of its parent, members of
12 its affiliated group, or both; and

13 (4) 50% or less of whose gross receipts for the privilege period
14 consist of premiums from arrangements that constitute insurance for
15 federal income tax purposes.

16 A combinable captive insurance company shall not be exempt
17 under section 3 of P.L.1945, c.162 (C.54:10A-3). A captive insurance
18 company that does not meet the definition of combinable captive
19 insurance company shall be excluded as provided in subsection k. of
20 section 18 of P.L.2018, c.48 (C.54:10A-4.6) and shall be exempt
21 under section 3 of P.L.1945, c.162 (C.54:10A-3).

22 For purposes of this definition:

23 "Affiliated group" shall have the same meaning as that term is
24 given by section 1504 of the federal Internal Revenue Code, 26
25 U.S.C. s.1504, except that the term "common parent corporation" as
26 used in section 1504 of the federal Internal Revenue Code, 26 U.S.C.
27 s.1504, shall mean any person, as defined in section 7701 of the
28 federal Internal Revenue Code, 26 U.S.C. s.7701, and references to
29 "at least 80%" in section 1504 of the federal Internal Revenue Code,
30 26 U.S.C. s.1504, shall be read as "50% or more." Section 1504 of
31 the federal Internal Revenue Code, 26 U.S.C. s.1504, shall be read
32 without regard to the exclusions provided for in subsection (b) of that
33 section.

34 "Gross receipts" includes the amounts included in gross receipts
35 for purposes of paragraph (15) of subsection (c) of section 501 of the
36 federal Internal Revenue Code, 26 U.S.C. s.501, except that those
37 amounts also include all premiums.

38 "Premiums" includes consideration for annuity contracts and
39 excludes any part of the consideration for insurance, reinsurance, or
40 annuity contracts that do not provide bona fide insurance,
41 reinsurance, or annuity benefits.

42 (z) "Combined group" means the group of all companies that
43 have common ownership and are engaged in a unitary business,
44 where at least one company is subject to tax under this chapter, and
45 shall include all business entities, except as provided for under any
46 section of the Corporation Business Tax Act (1945), P.L.1945, c.162
47 (C.54:10A-1 et seq.).

1 A combined group shall be treated, for privilege periods ending
2 on and after July 31, 2020, as one taxpayer for purposes of paragraph
3 (1) of subsection (c) of section 5 of P.L.1945, c.162 (C.54:10A-5)
4 and section 1 of P.L.2018, c.48 (C.54:10A-5.41) for the income
5 derived from the unitary business; provided however, with regard to
6 the surtax imposed pursuant to section 1 of P.L.2018, c.48
7 (C.54:10A-5.41) and for that purpose only, the portion of income that
8 is attributable to a member which is a public utility exempt from the
9 surtax shall not be included when computing the surtax due.

10 (aa) "Common ownership" means that more than 50% of the
11 voting control of each member of a combined group is directly or
12 indirectly owned by a common owner or owners, either corporate or
13 non-corporate, whether or not the owner or owners are members of
14 the combined group. Whether voting control is indirectly owned shall
15 be determined in accordance with section 318 of the federal Internal
16 Revenue Code, 26 U.S.C. s.318.

17 (bb) "Group privilege period" means, if two or more members in
18 the combined group file in the same federal consolidated tax return,
19 the same income year as that used on the federal consolidated tax
20 return and, in all other cases, the privilege period of the managerial
21 member.

22 (cc) "Managerial member" means if the combined group has a
23 common parent corporation and that common parent corporation is a
24 taxable member, the managerial member shall be the common parent
25 corporation. In other cases, the combined group shall select a taxable
26 member as its managerial member or, in the discretion of the director
27 or upon failure of the combined group to select its managerial
28 member, the director shall designate a taxable member of the
29 combined group as managerial member.

30 (dd) "Member" means a business entity that is a part of a combined
31 group.

32 A corporation exempt pursuant to section 3 of P.L.1945, c.162
33 (C.54:10A-3) from the tax imposed by P.L.1945, c.162 (C.54:10A-1
34 et seq.) shall not be a member of a combined group.

35 (ee) "Nontaxable member" means a member that is: (i) not subject
36 to tax pursuant to the Corporation Business Tax Act (1945),
37 P.L.1945, c.162 (C.54:10A-1 et seq.); or (ii) (deleted by amendment,
38 P.L.2020, c.118 (C.54:10A-5.46 et al.).

39 (ff) "Taxable member" means a member that is subject to tax
40 pursuant to the Corporation Business Tax Act (1945), P.L.1945,
41 c.162 (C.54:10A-1 et seq.).

42 A New Jersey S corporation shall only be included as a taxable
43 member of a combined group filing a New Jersey combined return if
44 the New Jersey S Corporation elects to be included as a member and
45 taxed at the same rate as the other members of the combined group.
46 A New Jersey S corporation that does not elect to be included shall
47 be excluded as a member of the combined return and shall file a
48 separate return.

1 (gg)"Unitary business" means, for privilege periods ending before
2 July 31, 2023, a single economic enterprise that is made up either of
3 separate parts of a single business entity or of a group of business
4 entities under common ownership that are sufficiently
5 interdependent, integrated, and interrelated through their activities so
6 as to provide a synergy and mutual benefit that produces a sharing or
7 exchange of value among them and a significant flow of value among
8 the separate parts. For privilege periods ending on and after July 31,
9 2023, "unitary business" means a single economic enterprise that is
10 made up either of separate parts of a single business entity or of a
11 group of business entities under common ownership that are
12 sufficiently interdependent, integrated, or interrelated through their
13 activities so as to provide a synergy and mutual benefit that produces
14 a sharing or exchange of value among them and a significant flow of
15 value among the separate parts. "Unitary business" shall be
16 construed to the broadest extent permitted under the Constitution of
17 the United States. A business conducted by a partnership which is in
18 a unitary business with the combined group shall be treated as the
19 business of the partners that are members of the combined group,
20 whether the partnership interest is held directly or indirectly through
21 a series of partnerships, to the extent of a partner's distributive share
22 of partnership income. The amount of partnership income to be
23 included in the partner's entire net income shall be determined in
24 accordance with subsection a. of section 3 of P.L.2001, c.136
25 (C.54:10A-15.6) or subsection a. of section 4 of P.L.2001, c.136
26 (C.54:10A-15.7), as applicable. A business conducted directly or
27 indirectly by one corporation is unitary with that portion of a business
28 conducted by another corporation through its direct or indirect
29 interest in a partnership.

30 (hh)"Captive investment company" shall mean, for privilege
31 periods ending on and after July 31, 2023, an investment company
32 that is not regularly traded on an established securities market and of
33 which more than 50 percent of the voting stock is owned or
34 controlled, directly or indirectly, by a single corporation, other than
35 an investment company, that is not exempt from federal income tax.
36 For purposes of this subsection, a captive investment company shall
37 not include any captive investment company of which at least 50
38 percent of the shares, by vote or value, is owned or controlled,
39 directly or indirectly, by a state or federally chartered bank, savings
40 bank, or savings and loan association with assets that do not exceed
41 \$15 billion.

42 For privilege periods ending on and after July 31, 2023, any voting
43 stock in an investment company that is held in a segregated asset
44 account of a life insurance corporation, as described in section 817
45 of the Internal Revenue Code, shall not be taken into account for
46 purposes of determining whether an investment company is a captive
47 regulated investment company.

1 For privilege periods ending on and after July 31, 2023, a captive
2 investment company shall be taxed in the same manner as a C
3 corporation, and subsection d. of section 5 of P.L. 1945, c. 162 (C.
4 54:10A-5) shall not apply. A captive investment company shall not
5 be permitted to claim any deductions or expenses that were permitted
6 for federal purposes, solely as a result of the entity being an
7 investment company, when computing federal taxable net income. A
8 captive investment company shall be a member of a combined group
9 and shall be included as a member on the combined return.

10 (ii) "Captive real estate investment trust" shall mean, for privilege
11 periods ending on and after July 31, 2023, a real estate investment
12 trust that is not regularly traded on an established securities market
13 and of which more than 50 percent of the voting stock is owned or
14 controlled, directly or indirectly, by a single entity that is treated as
15 an association taxable as a corporation under the Internal Revenue
16 Code, is not exempt from federal income tax, and is not a real estate
17 investment trust. For purposes of this subsection, a captive real estate
18 investment trust shall not include any captive real estate investment
19 trust of which at least 50 percent of the shares, by vote or value, is
20 owned or controlled, directly or indirectly, by a state or federally
21 chartered bank, savings bank, or savings and loan association with
22 assets that do not exceed \$15 billion.

23 For privilege periods ending on and after July 23, 2023, any voting
24 stock in a real estate investment trust that is held in a segregated asset
25 account of a life insurance corporation, as described in section 817
26 of the Internal Revenue Code (26 U.S.C. s.817), shall not be taken
27 into account for purposes of determining whether a real estate
28 investment trust is a captive real estate investment trust. For
29 purposes of this subsection, an association taxable as a corporation
30 shall not include any listed Australian property trust or any qualified
31 foreign entity.

32 For privilege periods ending on and after July 31, 2023, a captive
33 real estate investment trust shall be taxed in the same manner as a C
34 corporation, and subsection d. of section 5 of P.L.1945, c.162
35 (C.54:10A-5) shall not apply. A captive real estate investment trust
36 shall not be permitted to claim any deductions or expenses that were
37 permitted for federal purposes, solely as a result of the entity being a
38 real estate investment trust, when computing federal taxable net
39 income. A captive real estate investment trust shall be a member of
40 a combined group and shall be included as a member on the combined
41 return.

42 As used in this subsection:

43 "Australian property trust" means an Australian unit trust that is
44 registered as a managed investment scheme under the Australian
45 Corporations Act, and in which the principal class of units is listed
46 on a recognized stock exchange in Australia and is regularly traded
47 on an established securities market; or an entity organized as a trust,
48 provided that a listed Australian property trust owns or controls,

1 directly or indirectly, 75 percent or more of the voting power or value
2 of the beneficial interests of shares of the trust.

3 "Qualified foreign entity" means a corporation, trust, association,
4 or partnership that is organized outside the laws of the United States
5 and that satisfies the following criteria:

6 (1) At least 75 percent of the entity's total asset value at the close
7 of its taxable year is represented by real estate assets, as defined at
8 subparagraph (B) of paragraph (5) of subsection (c) of section 856 of
9 the Internal Revenue Code (26 U.S.C. s.856), including shares or
10 certificates of beneficial interest in any real estate investment trust,
11 cash and cash equivalents, and United States Government securities;

12 (2) The entity is not subject to tax on amounts distributed to its
13 beneficial owners, or is exempt from entity-level taxation;

14 (3) The entity distributes, on an annual basis, at least 85 percent
15 of its taxable income, as computed in the jurisdiction in which it is
16 organized, to the holders of its shares or certificates of beneficial
17 interest;

18 (4) No more than 10 percent of the voting power or value in the
19 entity is held directly, indirectly, or constructively by a single entity
20 or individual, or the shares or certificates of beneficial interests of
21 the entity are regularly traded on an established securities market;
22 and

23 (5) The entity is organized in a country that has a tax treaty with
24 the United States.

25 (jj) "Captive regulated investment company" shall mean, for
26 privilege periods ending on and after July 31, 2023, a regulated
27 investment company that is not regularly traded on an established
28 securities market, and of which more than 50 percent of the voting
29 stock is owned or controlled, directly or indirectly, by a single
30 corporation, other than a regulated investment company, that is not
31 exempt from federal income tax. For purposes of this subsection, a
32 captive regulated investment company shall not include any captive
33 regulated investment company of which at least 50 percent of the
34 shares, by vote or value, is owned or controlled, directly or indirectly,
35 by a state or federally chartered bank, savings bank, or savings and
36 loan association with assets that do not exceed \$15 billion.

37 For privilege periods ending on and after July 31, 2023, any voting
38 stock in a regulated investment company that is held in a segregated
39 asset account of a life insurance corporation, as described in section
40 817 of the Internal Revenue Code (26 U.S.C. s.817), shall not be
41 taken into account for purposes of determining whether a regulated
42 investment company is a captive regulated investment company.

43 For privilege periods ending on and after July 31, 2023, a captive
44 regulated investment company shall be taxed in the same manner as
45 a C corporation and subsection d. of section 5 of P.L.1945, c.162
46 (C.54:10A-5) shall not apply. A captive real estate investment
47 company shall not be permitted to claim any deductions or expenses
48 that were permitted for federal purposes, solely as a result of the

1 entity being a regulated investment company, when computing
2 federal taxable net income. A captive regulated investment company
3 shall be a member of a combined group and shall be included as a
4 member on the combined return.

5 (kk)"World-wide basis" and "world-wide group" shall mean, for
6 privilege periods ending on and after July 31, 2022, for the purposes
7 of sections 18 through 23 of P.L.2018, c.48 (C.54:10A-4.6 through
8 C.54:10A-4.11) and for the purposes of combined reporting in
9 general under the Corporation Business Tax Act (1945), P.L.1945,
10 c.162 (C.54:10A-1 et seq.), that the combined group shall include all
11 of the members of the combined group, wherever located or formed.
12 For privilege periods ending on and after July 31, 2022, the combined
13 group shall include all of the income and attributes of those members
14 regardless of how or whether those members file federal returns or
15 report or include their income in federal taxable income for federal
16 purposes, and without regard to any exemption or exclusion from
17 federal taxable income under the terms of a tax treaty; provided,
18 however, any deductions that are allowed under the federal Internal
19 Revenue Code that are also allowable under the Corporation Business
20 Tax Act (1945), P.L.1945, c.162 (C.54:10A-1 et seq.), that would
21 apply to a U.S. corporation, but that a non-U.S. corporation is
22 prohibited from claiming for federal corporation income tax purposes
23 because the corporation's income was not included in federal taxable
24 income for any reason or because the corporation is a non-U.S.
25 corporation, shall be allowed for the non-U.S. corporation members
26 of the combined group for New Jersey corporation business tax
27 purposes as though those non-U.S. corporation members were U.S.
28 corporations.

29 (cf: P.L.2023, c.96, s.1)

30
31 15. N.J.S.54A:5-1 is amended to read as follows:

32 54A:5-1. New Jersey Gross Income Defined. New Jersey gross
33 income shall consist of the following categories of income:

34 a. Salaries, wages, tips, fees, commissions, bonuses, and other
35 remuneration received for services rendered whether in cash or in
36 property, and amounts paid or distributed, or deemed paid or
37 distributed, out of a medical savings account that are not excluded
38 from gross income pursuant to section 5 of P.L.1997, c.414
39 (C.54A:6-27).

40 b. Net profits from business. The net income from the operation
41 of a business, profession or other activity after provision for all costs
42 and expenses incurred in the conduct thereof, determined either on a
43 cash or accrual basis in accordance with the method of accounting
44 allowed for federal income tax purposes but without deduction of the
45 amount of:

46 (1) taxes based on income;

47 (2) a civil, civil administrative, or criminal penalty or fine,
48 including a penalty or fine under an administrative consent order,

1 assessed and collected for a violation of a State or federal
2 environmental law, an administrative consent order, or an
3 environmental ordinance or resolution of a local governmental entity,
4 and any interest earned on the penalty or fine, and any economic
5 benefits having accrued to the violator as a result of a violation,
6 which benefits are assessed and recovered in a civil, civil
7 administrative, or criminal action, or pursuant to an administrative
8 consent order. The provisions of this paragraph shall not apply to a
9 penalty or fine assessed or collected for a violation of a State or
10 federal environmental law, or local environmental ordinance or
11 resolution, if the penalty or fine was for a violation that resulted from
12 fire, riot, sabotage, flood, storm event, natural cause, or other act of
13 God beyond the reasonable control of the violator, or caused by an
14 act or omission of a person who was outside the reasonable control
15 of the violator; and

16 (3) treble damages paid to the Department of Environmental
17 Protection pursuant to subsection a. of section 7 of P.L.1976, c.141
18 (C.58:10-23.11f) for costs incurred by the department in removing,
19 or arranging for the removal of, an unauthorized discharge upon the
20 failure of the discharger to comply with a directive from the
21 department to remove, or arrange for the removal of, a discharge.

22 c. Net gains or income from disposition of property. Net gains
23 or net income, less net losses, derived from the sale, exchange or
24 other disposition of property, including real or personal, whether
25 tangible or intangible as determined in accordance with the method
26 of accounting allowed for federal income tax purposes. For the
27 purpose of determining gain or loss, the basis of property shall be the
28 adjusted basis used for federal income tax purposes, except as
29 expressly provided for under this act, but without a deduction for
30 penalties, fines, or economic benefits excepted pursuant to paragraph
31 (2), or for treble damages excepted pursuant to paragraph (3) of
32 subsection b. of this section.

33 A taxpayer's net gain or loss on the sale, exchange or other
34 disposition of a share of an S corporation shall be calculated by
35 increasing the adjusted basis of the share by an amount equal to the
36 shareholder's net losses and deductions in respect of the share
37 allowed and deducted from income for federal income tax purposes,
38 not including any personal net operating loss deductions, to the extent
39 that such net losses were not offset by the taxpayer's pro rata share of
40 S corporation income otherwise subject to taxation pursuant to
41 subsection p. of this section in respect of another S corporation,
42 subject to rules of priority and assignment determined by the director.

43 For the tax year 1976, any taxpayer with a tax liability under this
44 subsection, or under the "Tax on Capital Gains and Other Unearned
45 Income Act," P.L.1975, c.172 (C.54:8B-1 et seq.), shall not be
46 subject to payment of an amount greater than the amount he would
47 have paid if either return had covered all capital transactions during
48 the full tax year 1976; provided, however, that the rate which shall

1 apply to any capital gain shall be that in effect on the date of the
2 transaction. To the extent that any loss is used to offset any gain
3 under P.L.1975, c.172, it shall not be used to offset any gain under
4 the "New Jersey Gross Income Tax Act," N.J.S.54A:1-1 et seq.

5 The term "net gains or income" shall not include gains or income
6 derived from obligations which are referred to in clause (1) or (2) of
7 N.J.S.54A:6-14 of this act or from securities which evidence
8 ownership in a qualified investment fund as defined in section 2 of
9 P.L.1987, c.310 (C.54A:6-14.1). The term "net gains or income"
10 shall not include gains or income derived from the sale or assignment
11 of a tax credit transfer certificate pursuant to section 7 of P.L.2011,
12 c.149 (C.34:1B-248) **and**, section 10 of P.L.2014, c.63 (C.34:1B-
13 251), or the "New Jersey Economic Recovery Act of 2020,"
14 P.L.2020, c.156 (C.34:1B-269 et al.), as amended and supplemented,
15 from any sale or assignment of a tax credit issued pursuant to an
16 award of tax credits approved by the New Jersey Economic
17 Development Authority **prior to July 1, 2018**, regardless of when
18 such sale or assignment occurs. The term "net gains or net income"
19 shall not include gains or income from transactions to the extent to
20 which nonrecognition is allowed for federal income tax purposes.
21 The term "sale, exchange or other disposition" shall not include the
22 exchange of stock or securities in a corporation a party to a
23 reorganization in pursuance of a plan of reorganization, solely for
24 stock or securities in such corporation or in another corporation a
25 party to the reorganization and the transfer of property to a
26 corporation by one or more persons solely in exchange for stock or
27 securities in such corporation if immediately after the exchange such
28 person or persons are in control of the corporation. For purposes of
29 this clause, stock or securities issued for services shall not be
30 considered as issued in return for property.

31 For purposes of this clause, the term "reorganization" means**--**:

32 (i) A statutory merger or consolidation;

33 (ii) The acquisition by one corporation, in exchange solely for all
34 or part of its voting stock (or in exchange solely for all or a part of
35 the voting stock of a corporation which is in control of the acquiring
36 corporation) of stock of another corporation if, immediately after the
37 acquisition, the acquiring corporation has control of such other
38 corporation (whether or not such acquiring corporation had control
39 immediately before the acquisition);

40 (iii) The acquisition by one corporation, in exchange solely for all
41 or part of its voting stock (or in exchange solely for all or a part of
42 the voting stock of a corporation which is in control of the acquiring
43 corporation), of substantially all of the properties of another
44 corporation, but in determining whether the exchange is solely for
45 stock the assumption by the acquiring corporation of a liability of the
46 other, or the fact that property acquired is subject to a liability, shall
47 be disregarded;

1 (iv) A transfer by a corporation of all or a part of its assets to
2 another corporation if immediately after the transfer the transferor,
3 or one or more of its shareholders (including persons who were
4 shareholders immediately before the transfer), or any combination
5 thereof, is in control of the corporation to which the assets are
6 transferred;

7 (v) A recapitalization;

8 (vi) A mere change in identity, form, or place of organization
9 however effected; or

10 (vii) The acquisition by one corporation, in exchange for stock of
11 a corporation (referred to in this subclause as "controlling
12 corporation") which is in control of the acquiring corporation, of
13 substantially all of the properties of another corporation which in the
14 transaction is merged into the acquiring corporation shall not
15 disqualify a transaction under subclause (i) if such transaction would
16 have qualified under subclause (i) if the merger had been into the
17 controlling corporation, and no stock of the acquiring corporation is
18 used in the transaction;

19 (viii) A transaction otherwise qualifying under subclause (i) shall
20 not be disqualified by reason of the fact that stock of a corporation
21 (referred to in this subclause as the "controlling corporation") which
22 before the merger was in control of the merged corporation is used in
23 the transaction, if after the transaction, the corporation surviving the
24 merger holds substantially all of its properties and of the properties
25 of the merged corporation (other than stock of the controlling
26 corporation distributed in the transaction); and in the transaction,
27 former shareholders of the surviving corporation exchanged, for an
28 amount of voting stock of the controlling corporation, an amount of
29 stock in the surviving corporation which constitutes control of such
30 corporation.

31 For purposes of this clause, the term "control" means the
32 ownership of stock possessing at least 80% of the total combined
33 voting power of all classes of stock entitled to vote and at least 80%
34 of the total number of shares of all other classes of stock of the
35 corporation.

36 For purposes of this clause, the term "a party to a reorganization"
37 includes a corporation resulting from a reorganization, and both
38 corporations, in the case of a reorganization resulting from the
39 acquisition by one corporation of stock or properties of another. In
40 the case of a reorganization qualifying under subclause (i) by reason
41 of subclause (vii) the term "a party to a reorganization" includes the
42 controlling corporation referred to in such subclause (vii).

43 Notwithstanding any provisions hereof, upon every such exchange
44 or conversion, the taxpayer's basis for the stock or securities received
45 shall be the same as the taxpayer's actual or attributed basis for the
46 stock, securities or property surrendered in exchange therefor.

47 d. Net gains or net income derived from or in the form of rents,
48 royalties, patents, and copyrights.

1 e. Interest, except interest referred to in clause (1) or (2) of
2 N.J.S.54A:6-14, or distributions paid by a qualified investment fund
3 as defined in section 2 of P.L.1987, c.310 (C.54A:6-14.1), to the
4 extent provided in that section.

5 f. Dividends. "Dividends" means any distribution in cash or
6 property made by a corporation, association or business trust that is
7 not an S corporation, (1) out of accumulated earnings and profits, or
8 (2) out of earnings and profits of the year in which such dividend is
9 paid and any distribution in cash or property made by an S
10 corporation, as specifically determined pursuant to section 16 of
11 P.L.1993, c.173 (C.54A:5-14).

12 The term "dividends" shall not include distributions paid by a
13 qualified investment fund as defined in section 2 of P.L.1987, c.310
14 (C.54A:6-14.1), to the extent provided in that section.

15 g. Gambling winnings.

16 h. Net gains or income derived through estates or trusts.

17 i. Income in respect of a decedent.

18 j. Amounts distributed or withdrawn from an employee trust
19 attributable to contributions to the trust which were excluded from
20 gross income under the provisions of chapter 6 of Title 54A of the
21 New Jersey Statutes, amounts rolled over from an IRA, as defined
22 pursuant to subsection (a) of section 408 of the federal Internal
23 Revenue Code of 1986, 26 U.S.C. s.408, that is not a Roth IRA, as
24 defined pursuant to subsection b. of section 2 of P.L.1998, c.57
25 (C.54A:6-28) to an IRA that is a Roth IRA, and pensions and
26 annuities except to the extent of exclusions in N.J.S.54A:6-10
27 hereunder, notwithstanding the provisions of N.J.S.18A:66-51,
28 P.L.1973, c.140, s.41 (C.43:6A-41), P.L.1954, c.84, s.53 (C.43:15A-
29 53), P.L.1944, c.255, s.17 (C.43:16A-17), P.L.1965, c.89, s.45
30 (C.53:5A-45), R.S.43:10-14, P.L.1943, c.160, s.22 (C.43:10-18.22),
31 P.L.1948, c.310, s.22 (C.43:10-18.71), P.L.1954, c.218, s.32
32 (C.43:13-22.34), P.L.1964, c.275, s.11 (C.43:13-22.60), R.S.43:10-
33 57, P.L.1938, c.330, s.13 (C.43:10-105), R.S.43:13-44, and
34 P.L.1943, c.189, s.5 (C.43:13-37.5).

35 k. Distributive share of partnership income, excluding the gain
36 or income derived from the sale or assignment of a tax credit transfer
37 certificate pursuant to section 7 of P.L.2011, c.149 (C.34:1B-248)
38 **[and],** section 10 of P.L.2014, c.63 (C.34:1B-251), or the "New
39 Jersey Economic Recovery Act of 2020," P.L.2020, c.156 (C.34:1B-
40 269 et al.), as amended and supplemented, from any sale or
41 assignment of a tax credit issued pursuant to an award of tax credits
42 approved by the New Jersey Economic Development Authority
43 **[prior to July 1, 2018],** regardless of when such sale or assignment
44 occurs.

45 l. Amounts received as prizes and awards, except as provided in
46 N.J.S.54A:6-8 and N.J.S.54A:6-11 hereunder.

47 m. Rental value of a residence furnished by an employer or a
48 rental allowance paid by an employer to provide a home.

1 n. Alimony and separate maintenance payments to the extent
2 that such payments are required to be made under a decree of divorce
3 or separate maintenance but not including payments for support of
4 minor children.

5 o. Income, gain or profit derived from acts or omissions defined
6 as crimes or offenses under the laws of this State or any other
7 jurisdiction.

8 p. Net pro rata share of S corporation income, excluding the gain
9 or income derived from the sale or assignment of a tax credit transfer
10 certificate pursuant to section 7 of P.L.2011, c.149 (C.34:1B-248)
11 **[and]**, section 10 P.L.2014, c.63 (C.34:1B-251), or the "New Jersey
12 Economic Recovery Act of 2020," P.L.2020, c.156 (C.34:1B-269 et
13 al.), as amended and supplemented, from any sale or assignment of a
14 tax credit issued pursuant to an award of tax credits approved by the
15 New Jersey Economic Development Authority **[prior to July 1,**
16 **2018]**, regardless of when such sale or assignment occurs.

17 (cf: P.L.2018, c.131, s.8)

18
19 16. Section 1 of P.L.1979, c.303 (C.34:1B-5.1) is amended to read
20 as follows:

21 1. a. The New Jersey Economic Development Authority shall
22 adopt rules and regulations requiring that not less than the prevailing
23 wage rate be paid to workers employed in the performance of any
24 construction contract, including contracts for millwork fabrication,
25 undertaken in connection with authority financial assistance or any of
26 its projects, those projects which it undertakes pursuant to P.L.2002,
27 c.43 (C.52:27BBB-1 et al.), or undertaken to fulfill any condition of
28 receiving authority financial assistance, including the performance of
29 any contract to construct, renovate or otherwise prepare a facility for
30 operations which are necessary for the receipt of authority financial
31 assistance, unless the work performed under the contract is performed
32 on a facility owned by a landlord of the entity receiving the assistance
33 and less than 35 percent of the facility is leased by the entity at the time
34 of the contract and under any agreement to subsequently lease the
35 facility. The prevailing wage rate shall be the rate determined by the
36 Commissioner of Labor and Workforce Development pursuant to the
37 provisions of P.L.1963, c.150 (C.34:11-56.25 et seq.). For the purposes
38 of this section, "authority financial assistance" means any loan, loan
39 guarantee, grant, incentive, tax exemption or other financial assistance
40 that is approved, funded, authorized, administered or provided by the
41 authority to any entity and is provided before, during or after completion
42 of a project, including but not limited to, all authority financial
43 assistance received by the entity pursuant to the "Business Employment
44 Incentive Program Act," P.L.1996, c.26 (C.34:1B-124 et al.) that
45 enables the entity to engage in a construction contract, but this section
46 shall not be construed as requiring the payment of the prevailing wage
47 for construction commencing more than two years after an entity has
48 executed with the authority a commitment letter regarding authority

1 financial assistance and the first payment or other provision of the
2 assistance is received.

3 b. The New Jersey Economic Development Authority shall adopt
4 rules and regulations requiring that not less than the prevailing wage
5 rate be paid to workers employed in the performance of any contract,
6 for construction, demolition, remediation, removal of hazardous
7 substances, alteration, custom fabrication, repair work, or maintenance
8 work, including painting and decorating, or excavation, grading, pile
9 driving, concrete form, or other types of foundation work in connection
10 with the "New Jersey Community-Anchored Development Act,"
11 sections 43 through 53 of P.L.2020, c.156 (C.34:1B-311 through 34:1B-
12 321), the "New Jersey Aspire Program Act," sections 54 through 67 of
13 P.L.2020, c.156 (C.34:1B-322 through C.34:1B-335), and the "New
14 Jersey Emerge Program Act," sections 68 through 81 of P.L.2020, c.156
15 (C.34:1B-336 et al.). The requirements of this subsection shall apply to
16 any site preparation work performed 24 months prior to and during the
17 incentive eligibility period of any project receiving tax credits under the
18 "New Jersey Community-Anchored Development Act," sections 43
19 through 53 of P.L.2020, c.156 (C.34:1B-311 through C.34:1B-321), the
20 "New Jersey Aspire Program Act," sections 54 through 67 of P.L.2020,
21 c.156 (C.34:1B-322 through C.34:1B-335), and the "New Jersey
22 Emerge Program Act," sections 68 through 81 of P.L.2020, c.156
23 (C.34:1B-336 et al.), and to projects receiving financial assistance under
24 the "Redevelopment Project Bridge Financing Program," established
25 pursuant to section 11 of P.L. , c. (C.) (pending before the
26 Legislature as this bill), in which there is a continuity of ownership in
27 the site of the redevelopment project, including work undertaken to
28 fulfill any condition of receiving tax credits under the programs. Work
29 that is subject to the requirements of this subsection shall include the
30 performance of any contract for construction, demolition, remediation,
31 removal of hazardous substances, alteration, custom fabrication, repair
32 work, or maintenance work, including painting and decorating, or
33 excavation, grading, pile driving, concrete form, or other types of
34 foundation work undertaken on a facility for operations which are
35 necessary for the receipt of tax credits under the "New Jersey
36 Community-Anchored Development Act," sections 43 through 53 of
37 P.L.2020, c.156 (C.34:1B-311 through C.34:1B-321), the "New Jersey
38 Aspire Program Act," sections 54 through 67 of P.L.2020, c.156
39 (C.34:1B-322 through C.34:1B-335), and the "New Jersey Emerge
40 Program Act," sections 68 through 81 of P.L.2020, c.156 (C.34:1B-336
41 et al.), or the receipt of financial assistance under the "Redevelopment
42 Project Bridge Financing Program," established pursuant to section 11
43 of P.L. , c. (C.) (pending before the Legislature as this bill),
44 unless the work performed under the contract is performed on a facility
45 owned by a landlord of the entity receiving the tax credit and less than
46 35 percent of the facility is leased by the entity at the time of the contract
47 and under any agreement to subsequently lease the facility. The
48 prevailing wage rate shall be the rate determined by the Commissioner

1 of Labor and Workforce Development pursuant to the provisions of
2 P.L.1963, c.150 (C.34:11-56.25 et seq.), and all contractors and
3 subcontractors subject to the prevailing wage requirement set forth in
4 this section shall be registered with the Department of Labor and
5 Workforce Development pursuant to the provisions of section 5 of
6 P.L.1999, c.238 (C.34:11-56.52). An applicant for tax credits under the
7 "New Jersey Community-Anchored Development Act," sections 43
8 through 53 of P.L.2020, c.156 (C.34:1B-311 through C.34:1B-321), the
9 "New Jersey Aspire Program Act," sections 54 through 67 of P.L.2020,
10 c.156 (C.34:1B-322 through C.34:1B-335), and the "New Jersey
11 Emerge Program Act," sections 68 through 81 of P.L.2020, c.156
12 (C.34:1B-336 et al.), shall certify under penalty of perjury as part of its
13 application that all construction contracts undertaken on any project in
14 connection with an award under the programs comply with the
15 prevailing wage requirements of this subsection. If at any time the
16 authority determines that the developer made a material
17 misrepresentation regarding compliance with the provisions of this
18 subsection on the developer's application, the developer shall forfeit 35
19 percent of the tax credits allowed under the programs, and pay to the
20 affected workers back wages in an amount that compensates the workers
21 at the prevailing wage rate for the work performed.

22 (cf: P.L.2020, c.156, s.112)

23

24 17. This act shall take effect immediately.

SENATE ECONOMIC GROWTH COMMITTEE

STATEMENT TO

SENATE, No. 1323

STATE OF NEW JERSEY

DATED: MAY 16, 2024

The Senate Economic Growth Committee reports favorably Senate Bill No. 1323.

As reported, this bill amends and supplements the “New Jersey Aspire Program Act” (Aspire Program) and provides for certain related changes to the New Jersey Gross Income Tax and Corporation Business Tax. The bill also establishes the “Redevelopment Project Bridge Financing Program,” as part of the Aspire Program, to offer additional financial assistance for redevelopment projects that have an outstanding project financing gap.

Aspire Program Definitions

The bill revises the definition of a “commercial project” to include industrial space that is predominantly used for warehouse distribution or fulfillment centers and has at least \$10 million in environmental remediation costs. The bill amends the definition of an “incentive area” to include an endorsed plan and removes certain transportation connectivity requirements that exist under current law. The bill defines a “mixed-use project” as a redevelopment project including a residential component and a nonresidential component.

The bill clarifies that the definition of the term “project cost” also applies to the term “total project cost.” The definition for “total project cost” under current law instead applies for the term “total development cost” or “total redevelopment cost” under the bill.

Under the bill, a “stranded asset” is defined as any building previously used for commercial, retail, office space, manufacturing, or industrial purposes, which building is no longer used for such purposes, and which has been abandoned, experienced significant vacancies for at least two consecutive years, or has fallen into such disrepair as to be untenable.

The bill provides that for a redevelopment project located in a government restricted municipality, the calculation of “project cost” or “total project cost” also includes the costs of land and building acquisition, professional services, environmental remediation, and infrastructure improvements.

Aspire Program Changes Concerning Residential Projects

The bill provides that the New Jersey Economic Development Authority’s (authority) housing affordability controls are to be

consistent with those in the “Fair Housing Act,” except not including the bedroom distribution requirements for three-bedroom housing units.

The bill provides that, in addition to the exemption for certain commercial tenants, commercial subtenants, or other commercial occupants with rights in a redevelopment project, any residential tenant of a redevelopment project is also exempt from the requirement to pay the prevailing wage rate for each worker’s craft or trade when that worker is employed to perform building services work at the redevelopment project.

Sale of Buildings Under the Aspire Program

A developer is permitted, under the bill, to sell one or more buildings during the eligibility period if the sale is an arms-length sale or a sale for fair market value based on an appraisal conducted within one year, and is subject to the purchaser’s assumption of all obligations under the Aspire Program.

Aspire Program Community Benefit Requirement

The bill amends current law to exempt the developers of certain projects from the requirements of a community benefits agreement once the host municipality certifies the approval letter or adopts the redevelopment agreement at a public meeting, which documents are required to state that the community benefit under a community benefits agreement has been met.

Aspire Program Occupancy Requirement

Beginning on the third year following the date of issuance of a final certificate of occupancy during the eligibility period of a commercial project and through the eligibility period, the developer and any co-applicant are required to maintain at least 60 percent occupancy or to forfeit all tax credits for the tax period in which occupancy falls below this minimum requirement. Tax credits are allowed in full upon restoration of 60 percent or greater occupancy. Occupancy is to be measured by the average occupancy rate during the relevant tax period. Residential projects are exempt from this requirement.

Eligibility for Aspire Program

Among other conditions of eligibility under current law, a developer may qualify for an incentive award if the developer has not commenced any construction at the site for the redevelopment project prior to applying for the Aspire Program, with certain exceptions. The bill adds a condition that if demolition and site remediation activities were commenced prior to application, the developer is required to have paid all construction workers engaged in such work at the prevailing wage rate for their respective crafts or trades.

Incentive Award Agreement

Under current law, an incentive award agreement is to include a requirement that the developer confirm that each contractor or subcontractor performing work on the project has not been debarred by the Department of Labor and Workforce Development from engaging in or bidding on Public Works Contracts in the State. The bill adds to this requirement that the developer is required to confirm that each contractor or subcontractor performing work on the project is also not suspended or disqualified from the same activity. The bill further requires that a developer confirm that each contractor or subcontractor performing work on the project is not debarred, suspended, or disqualified by a federal agency from engaging in federally-funded construction projects or bidding on federal contracting opportunities.

Eligibility Period Under Aspire Program

The bill reduces the maximum duration of an eligibility period for a commercial or mixed-use project to 10 years, retaining this same maximum for a residential project, as well. Under current law, the maximum duration of an eligibility period for a commercial or mixed-use project is 15 years and for a residential project is 10 years. The bill adds that the authority may determine a shorter eligibility period if this reduction would reduce the total value of tax credits needed to reimburse a developer for part or all of the project financing gap, enhance access to tax credit monetization, or otherwise enhance the effectiveness of the program.

Total Tax Credit Eligibility Under Aspire Program

The bill increases the amount of tax credits that may be awarded to a developer in certain circumstances. Specifically, the bill provides that a developer may be allowed each of the following enhancements to the developer's total tax credit award: (1) for a redevelopment project that includes redevelopment of a stranded asset, an increase of up to 10 percent of the project cost; (2) for a residential project meeting the three-bedroom distribution requirements of the Uniform Housing Affordability Controls, an increase of up to five percent of the project cost; or (3) for a redevelopment project meeting local first source hiring requirements for residents in the municipality or county in which the project is located and in surrounding municipalities, as appropriate, an increase of up to three percent of the project cost.

However, except for any redevelopment project that is located in a government restricted municipality, the bill limits a developer's total tax credits awarded under the Aspire Program, together with any program administered by the authority for a redevelopment project, to: 90 percent of the project cost for redevelopment projects that receive tax credits under the federal Low-Income Housing Tax Credit Program; and 80 percent of the project cost for all other redevelopment projects.

Aspire Program Tax Credit Carry Forward and Transfer

Under current law, a developer is required to apply tax credits during the tax periods approved by the authority. This bill additionally authorizes a developer to apply tax credits within the three successive tax periods immediately following the tax period in which the tax credit certificate is received by the developer. Under current law, the developer is authorized to carry forward credits for up to seven privilege periods following that in which the credits are awarded. This bill instead permits carry forward for the seven privilege periods following that in which the credits are applied.

Additionally, under current law, a developer is authorized to transfer all or part of the tax credit amount on or after the date of issuance to the developer. Under the bill, the developer is authorized to transfer the tax credits, and a transferee is authorized to use the tax credits, within the three successive tax periods immediately following the tax period in which the tax credit certificate is received by the developer or transferee as applicable. The transferee is also authorized under the bill to carry the tax credits forward in any of the five tax periods next following the tax period in which they were used.

Transformative Projects Under Aspire Program

This bill amends current requirements for certain transformative projects. Under current law, a residential project with fewer than 700 new residential units is required to include the construction of: (1) not less than 200 new residential units if the project is located in a government-restricted municipality, 300 new residential units if the project is located in an enhanced area, or 400 residential units for all other mixed-use projects; and (2) 50,000 square feet or more of commercial space to qualify as a transformative project. Under this bill, these residential projects would be required to include the construction of either: (1) not less than 200 new residential units if the project is located in a government-restricted municipality, 300 new residential units if the project is located in an enhanced area, or 400 residential units for all other mixed-use projects; or (2) 20,000 square feet or more of commercial space, which may include retail space.

Additionally, the bill requires a parking component to be included in the calculation of the total square footage of a transformative project, but only if constructed in agreement with local zoning, planning, or similar requirements, or up to the amount required by the Residential Site Improvement Standards, regardless of whether the Residential Site Improvement Standards apply to the parking component. Portions of a parking component that exceed local parking requirements or the Residential Site Improvement Standards are not to be included in these calculations. However, if the project is located within a government restricted municipality, the entire parking component is required to be included in the calculation of square footage requirements for a transformative project, regardless of

agreement with local requirements or Residential Site Improvement Standards.

The bill provides that a developer may be allowed each of the following enhancements to the developer's total tax credit award: (1) for a transformative project that includes redevelopment of a stranded asset, an increase of up to 10 percent of the project cost; (2) for a residential transformative project meeting the three-bedroom distribution requirements of the Uniform Housing Affordability Controls, an increase of up to five percent of the project cost; and (3) for a transformative project meeting local first source hiring requirements for residents in the municipality or county in which the project is located and in surrounding municipalities, as appropriate, an increase of up to three percent of the project cost.

Aspire Program Fees

The bill requires that the fees charged by the authority under the program be proportional to the tax credit amount allowed for a redevelopment project. The authority is required to promulgate a schedule of fees that are limited to coverage of actual direct costs of administering the program, coverage of reasonable indirect costs of administering the program, and maintenance of reasonable reserves for administering the program.

The bill provides that any application submitted on or after the date six months prior to the bill's effective date is subject to the new requirements provided for in the bill, except for the fees imposed on applications that precede the effective date of the bill.

Redevelopment Project Bridge Financing Program Under Aspire Program

The bill provides for the establishment of a "Redevelopment Project Bridge Financing Program" for the purpose of offering loans or loan guarantees, at the discretion of the authority, to the developers of redevelopment projects that have an outstanding project financing gap. The purpose of the "Redevelopment Project Bridge Financing Program" is to offer additional financing to the developer of a redevelopment project, prior to the issuance of tax credits under the Aspire Program, to ensure the completion of the project.

To apply for a loan under the program, the developer is required to submit to the authority a proposed loan and interest amount, a repayment plan, an accounting of the remaining project financing gap, and any other information the authority requires. To apply for a loan guarantee, the developer is required to submit to the authority a proposed loan guarantee amount and terms, an accounting of the remaining project financing gap, and any other information the authority requires. As a condition of a loan or loan guarantee, the bill requires each worker employed to perform construction work on the

redevelopment project to be paid not less than the prevailing wage rate for the worker's craft or trade.

The bill authorizes the authority to issue loans and loan guarantees using a "Redevelopment Project Bridge Financing Revolving Fund," into which all monies received from loan repayments are to be deposited. All monies received in the fund are to support the program until such time as the authority determines there remains no need for bridge financing, or until December 31, 2028, whichever occurs first, at which point the monies in the "Redevelopment Project Bridge Financing Revolving Fund" are to be deposited into the General Fund.

The bill requires that the authority recommend to the Governor and the Legislature an amount for appropriation, which amount is necessary for the administration of the "Redevelopment Project Bridge Financing Program."

Aspire Program Tax Credit Redemption

The bill requires the Department of the Treasury to redeem unused tax credits, as the department deems necessary. The bill authorizes the department to purchase such certificates at a discount of their face value, which discount may not exceed 10 percent. The tax credit redemptions are to be paid in the same manner as tax refunds, except that the proceeds of the redemption may be issued over one or more tax periods, but not to exceed the eligibility period.

Changes to Corporate Business Tax and Gross Income Tax

The bill amends current law to exclude gains from the transfer of tax credits issued pursuant to the "New Jersey Economic Recovery Act of 2020" from the calculation of "entire net income" under the New Jersey Corporate Business Tax and "gross income" under the New Jersey Gross Income Tax.

Additionally, current law authorizes the exclusion of certain gains from the transfer of other tax credits awarded by the authority from gross income under the New Jersey Gross Income Tax. This bill removes a condition that the tax credits are required to have been approved by the authority prior to July 1, 2018 in order to be excluded from gross income.

This bill was prefiled for introduction in the 2024-2025 session pending technical review. As reported, the bill includes the changes required by technical review, which has been performed.

SENATE BUDGET AND APPROPRIATIONS COMMITTEE

STATEMENT TO

SENATE, No. 1323

with committee amendments

STATE OF NEW JERSEY

DATED: JUNE 26, 2024

The Senate Budget and Appropriations Committee reports favorably and with committee amendments Senate Bill No. 1323.

As amended and reported, this bill amends and supplements the “New Jersey Aspire Program Act” (Aspire Program) and provides for certain related changes to the New Jersey Gross Income Tax and Corporation Business Tax. The bill also establishes the “Redevelopment Project Bridge Financing Program,” as part of the Aspire Program, to offer additional financial assistance for redevelopment projects that have an outstanding project financing gap.

Aspire Program Definitions

The bill revises the definition of “aviation district” to include the Trenton-Mercer Airport and the area within a one-mile radius of the outermost boundary of the airport’s terminal. The bill amends the definition of an “incentive area” to include an endorsed plan and removes certain transportation connectivity requirements that exist under current law. The bill defines a “mixed-use project” as a redevelopment project that includes a residential component and a nonresidential component.

The bill clarifies that the definition of the term “project cost” also applies to the term “eligible project cost.” The bill provides that for a redevelopment project that is located in a government restricted municipality, the calculation of “project cost” or “eligible project cost” also includes land costs, capped at no more than 20 percent of the total project cost; building acquisition costs; carrying costs and interest expenses on construction loans and other financing up to project completion; professional services; environmental remediation; and infrastructure improvements.

This bill modifies the definition of “project financing gap” to provide that all other sources of capital to have been accounted for prior to the calculation of the project financing gap includes developer contributed capital equal to 20 percent of the “project cost,” at minimum. Under current law, this provision includes developer contributed capital equal to 20 percent of the “total project cost,” at minimum. Similarly, the bill revises the provision requiring a lower minimum, 10 percent of the “total project cost” for a project located in

a government-restricted municipality, instead to require 10 percent of the “project cost.”

The bill defines the term “special mission non-profit project” to mean a project located in a government-restricted municipality or in an enhanced area that: serves a special mission, as determined by the New Jersey Economic Development Authority (authority), to accomplish the public purpose of a non-profit that is a developer of or is affiliated with the project; and includes no more than 100 units of 100 percent affordable housing units and no more than 10,000 square feet of commercial space.

The bill defines the term “stranded asset” to mean any building previously used for commercial, retail, office space, manufacturing, or industrial purposes, which building is no longer used for such purposes, and which has been abandoned, experienced significant vacancies for at least two consecutive years, or has fallen into such disrepair as to be untenable. The term includes vacant land that has been left fallow for at least two consecutive years because of environmental contamination.

The bill defines “targeted industry” to mean any industry identified from time to time by the authority, which industry shall initially include advanced transportation and logistics, advanced manufacturing, aviation, autonomous vehicle and zero-emission vehicle research or development, clean energy, life sciences, hemp processing, information and high technology, finance and insurance, professional services, film and digital media, non-retail food and beverage businesses including food innovation, and other innovative industries that disrupt current technologies or business models.

Aspire Program Changes Concerning Residential Projects

The bill provides that the authority’s housing affordability controls are to be consistent with those in the “Fair Housing Act,” except not including the bedroom distribution requirements for three-bedroom housing units.

The bill provides that, in addition to the exemption for certain commercial tenants, commercial subtenants, or other commercial occupants with rights in a redevelopment project, any residential tenant of a redevelopment project is also exempt from the requirement to pay the prevailing wage rate for each worker’s craft or trade when that worker is employed to perform building services work at the redevelopment project.

Sale of Buildings Under the Aspire Program

A developer is permitted, under the bill, to sell one or more buildings during the eligibility period if the sale is an arms-length sale, or is for an amount at least equal to fair market value, and is subject to the purchaser’s assumption of all obligations under the Aspire Program.

Aspire Program Community Benefit Requirement

The bill amends current law to exempt the developers of certain projects from the requirements of a community benefits agreement once the host municipality certifies the approval letter or adopts the redevelopment agreement at a public meeting, which documents are required to state that the community benefit under a community benefits agreement has been met.

The bill amends current law to require, retaining the exception for a residential project located in a government-restricted municipality in which 100 percent of residential units constructed are reserved for low- and moderate-income households, that a redevelopment project whose “project cost” equals or exceeds \$10 million enter a community benefits agreement in addition to the incentive award agreement. Under current law, the \$10 million threshold for this requirement refers to “total project cost.”

Aspire Program Occupancy Requirement

Beginning after the third year following the date of issuance of a final certificate of occupancy for a commercial project and through the eligibility period, the developer and any co-applicant are required to maintain at least 60 percent occupancy or to forfeit all tax credits for the tax period in which occupancy falls below this minimum requirement. Tax credits are allowed in full upon restoration of 60 percent or greater occupancy. Occupancy is to be measured by the average occupancy rate during the relevant tax period. Residential projects are exempt from this requirement.

Eligibility for Aspire Program

Among other conditions of eligibility under current law, a developer may qualify for an incentive award if the developer has not commenced any construction at the site for the redevelopment project prior to applying for the Aspire Program, with certain exceptions. The bill adds a condition that if demolition and site remediation activities were commenced prior to submitting an application that includes those demolition and site remediation costs as part of the eligible project cost, the developer is required to have paid all construction workers engaged in such work at the prevailing wage rate for their respective crafts or trades.

Under the bill, a developer is required to contribute capital of at least 20 percent of the “project cost,” except that this requirement is reduced to 10 percent of the “project cost” for a project located in a government-restricted municipality. The bill amends this requirement under current law, which instead requires developer capital of each respective percentage of “total project cost.”

Incentive Award Agreement

Under current law, an incentive award agreement is to include a requirement that the developer confirm that each contractor or subcontractor performing work on the project has not been debarred by the Department of Labor and Workforce Development from engaging in or bidding on Public Works Contracts in the State. The bill adds to this requirement that the developer is required to confirm that each contractor or subcontractor performing work on the project is also not suspended or disqualified from the same activity. The bill further requires that a developer confirm that each contractor or subcontractor performing work on the project is not debarred, suspended, or disqualified by a federal agency from engaging in federally-funded construction projects or bidding on federal contracting opportunities.

Eligibility Period Under Aspire Program

The bill reduces the maximum duration of an eligibility period for a commercial project and mixed-use project to 10 years. Under current law, the maximum duration of an eligibility period for a commercial or mixed-use project is 15 years, and for a residential project is 10 years. The bill adds that the authority is required to reduce the eligibility period if this reduction would reduce the total value of tax credits needed to reimburse a developer for all or part of the project financing gap, enhance access to tax credit monetization, or otherwise enhance the effectiveness of the Aspire Program.

The bill provides that all conditions and requirements applicable during the eligibility period of a transformative project apply to each phase of the transformative project until the end of the eligibility period of each completed phase, rather than to the entire transformative project until the end of the eligibility period for the last phase.

Total Tax Credit Eligibility Under Aspire Program

The bill increases the amount of tax credits that may be awarded to a developer in certain circumstances. Specifically, the bill provides that a developer may be allowed each of the following enhancements to the developer's total tax credit award: (1) for a redevelopment project that includes redevelopment of a stranded asset, an increase of up to 10 percent of the project cost; (2) for a residential project meeting the three-bedroom distribution requirements of the Uniform Housing Affordability Controls, an increase of up to five percent of the project cost; or (3) for a redevelopment project meeting local first source hiring requirements for residents in the municipality or county in which the project is located and in surrounding municipalities, as appropriate, an increase of up to three percent of the project cost.

The bill provides that the maximum total tax credit allowed to a developer is to be the equivalent of a percentage of "eligible project cost," instead of "total project cost" as under current law. The

developer of a special mission non-profit project may be allowed a tax credit that is equal in value to no more than 80 percent of the eligible project cost and that is no more than \$120 million.

However, except for any redevelopment project that is located in a government restricted municipality, the bill limits a developer's total tax credits awarded under the Aspire Program, together with any program administered by the authority for a redevelopment project, to: 90 percent of the project cost for redevelopment projects that receive tax credits under the federal Low-Income Housing Tax Credit Program; and 80 percent of the project cost for all other redevelopment projects.

Aspire Program Tax Credit Carry Forward and Transfer

Under current law, a developer is required to apply tax credits during the tax periods approved by the authority. This bill authorizes a developer to apply tax credits in the tax period for which it was issued, in the tax period in which it was issued, or in any successive tax period, subject to certain conditions. The bill requires the authority to preliminarily determine whether an annual report is complete and to, within 90 days after preliminarily determining that the annual report is complete, either (1) approve the annual report, authorizing the issuance of a tax credit certificate and notifying the Director of the Division of Taxation in the Department of the Treasury (director) that a certificate is to be issued or (2) request more information from the developer. If the authority does not act within 90 days of its preliminary determination that an annual report is complete, the report is to be deemed approved and the developer is entitled to receive the tax credit certificate.

Similarly, under current law, a developer is authorized to transfer the tax credits. The bill changes when a transferee is authorized to use the tax credits. Under the bill, a transferee is authorized to use the tax credits in the tax period for which it was issued, in the tax period in which it was issued, or in any successive tax period, subject to certain conditions. The bill requires the authority to preliminarily determine whether an application for a tax credit transfer certificate is complete and to, within 90 days after preliminarily determining that an application is complete, either (1) approve the application, authorizing the issuance of a tax credit transfer certificate and notifying the director that a certificate is to be issued or (2) request more information from the developer. If the authority does not act within 90 days of its preliminary determination that an application is complete, the application is to be deemed approved and the developer is entitled to receive the tax credit transfer certificate.

Under the bill, a tax credit transfer certificate authorizes the holder of a tax credit certificate to transfer all or part of the tax credit amount at any time after the date of receipt of the tax credit certificate, subject to certain conditions.

The bill prohibits the proration of the tax credit for any year within the eligibility period of certain residential projects.

Transformative Projects Under Aspire Program

This bill amends current requirements for certain transformative projects. Under current law, a residential project with fewer than 700 new residential units is required to include the construction of: (1) not less than 200 new residential units if the project is located in a government-restricted municipality, 300 residential units if the project is located in an enhanced area, or 400 residential units for all other mixed-use projects; and (2) 50,000 square feet or more of commercial space to qualify as a transformative project. Under this bill, such residential projects are required to include the construction of at least 200 new residential units if the project is located in a government-restricted municipality, 300 new residential units if the project is located in an enhanced area, or 400 new residential units for all other mixed-use projects. However, if the residential project is not located in a government-restricted municipality or an enhanced area, construction is to include 20,000 square feet or more of commercial space, which may include retail space.

The bill provides that a developer may be allowed each of the following enhancements to the developer's total tax credit award, individually or in combination, subject to the demonstration of a project financing gap and the need for support: (1) for a transformative project that includes redevelopment of a stranded asset, an increase of up to 10 percent of the project cost; (2) for a residential transformative project meeting the three-bedroom distribution requirements of the Uniform Housing Affordability Controls, an increase of up to five percent of the project cost; or (3) for a transformative project meeting local first source hiring requirements for residents in the municipality or county in which the project is located and in surrounding municipalities, as appropriate, an increase of up to three percent of the project cost.

The bill provides that the maximum total tax credit allowed to a developer of a transformative project is to be the equivalent of a percentage of "eligible project cost," instead of "total project cost" as under current law.

Aspire Program Fees

The bill requires that the fees charged by the authority under the Aspire Program be proportional to the tax credit amount awarded for a redevelopment project. The authority is required to promulgate a schedule of fees that are limited to coverage of actual direct costs of administering the Aspire Program, coverage of reasonable indirect costs of administering the Aspire Program, and maintenance of reasonable reserves for administering the Aspire Program.

The bill provides that any application submitted or approved after January 1, 2023 is subject to the new requirements provided for in the bill, except for the fees imposed on applications that were submitted prior to the bill's effective date.

Redevelopment Project Bridge Financing Program Under Aspire Program

The bill provides for the establishment of a "Redevelopment Project Bridge Financing Program" (program) for the purpose of offering loans or loan guarantees, at the discretion of the authority, to the developers of redevelopment projects that have an outstanding project financing gap. The purpose of the program is to offer additional financing to the developer of a redevelopment project, prior to the issuance of tax credits under the Aspire Program, to ensure the completion of the project.

To apply for a loan under the program, the developer is required to submit to the authority a proposed loan and interest amount, a repayment plan, an accounting of the remaining project financing gap, and any other information the authority requires. To apply for a loan guarantee, the developer is required to submit to the authority a proposed loan guarantee amount and terms, an accounting of the remaining project gap, and any other information the authority requires. As a condition of requiring a loan or loan guarantee, the bill requires each worker employed to perform construction work on the redevelopment project to be paid not less than the prevailing wage rate for the worker's craft or trade.

The bill authorizes the authority to issue loans and loan guarantees using a "Redevelopment Project Bridge Financing Revolving Fund," into which all monies received from loan repayments are to be deposited. All monies received in the fund are to support the program until such time as the authority determines there remains no need for bridge financing, or until December 31, 2028, whichever occurs first, at which point the monies in the Redevelopment Project Bridge Financing Revolving Fund are to be deposited into the General Fund.

The bill requires that the authority recommend to the Governor and the Legislature an amount for appropriation, which amount is necessary for the administration of the program.

Aspire Program Tax Credit Redemption

The bill requires the Department of the Treasury to redeem unused tax credits surrendered for redemption for a cash payment equal to 90 percent of the amount of tax credits evidenced by the tax credit certificate or tax credit transfer certificate, provided that the issuance date of the certificate to the taxpayer surrendering the certificate occurred at least one year before the date of surrender and the certificate has not been sold or assigned previously. The tax credit redemptions are to be paid in the same manner as tax refunds.

Changes to Corporate Business Tax and Gross Income Tax

The bill amends current law to exclude gains from the transfer of tax credits issued pursuant to the “New Jersey Economic Recovery Act of 2020” from the calculation of “entire net income” under the New Jersey Corporate Business Tax and “gross income” under the New Jersey Gross Income Tax.

COMMITTEE AMENDMENTS:

The committee amended the bill to:

- (1) revise the definitions of “aviation district” and “stranded asset”;
- (2) remove a provision that would have revised the definition of a “commercial project” to include industrial space that is predominantly used for warehouse distribution or fulfillment centers and has at least \$10 million in environmental remediation costs;
- (3) revise the definition of “project cost” and provide that the definition of the term “project cost” also applies to the term “eligible project cost” and revise the definition of “project cost” for a redevelopment project located in a government restricted municipality, which costs are also to include land costs, capped at no more than 20 percent of the total project costs, and carrying costs and interest expenses on construction loans and other financing up to project completion;
- (4) change certain references to the term “project cost” to “total project cost”;
- (5) provide that beginning after the third year following the date of issuance of a final certificate of occupancy for a commercial project and through the conclusion of the eligibility period, certain tax credits may be forfeited if certain conditions are not met. As introduced, this provision applied beginning on the third year following the date of issuance of a final certificate of occupancy for a commercial project;
- (6) add definitions for the terms “special mission non-profit project” and “targeted industry”;
- (7) remove a provision that would have amended current law so that the definition for “total project cost” instead would have applied to the term “total development cost” or “total redevelopment cost”;
- (8) provide that if demolition and site remediation activities were commenced prior to submission of an application that includes those demolition and site remediation costs as part of the eligible project cost, the developer is required to have paid all construction workers engaged in such work at the prevailing wage rate for their respective crafts or trades;
- (9) amend the requirement that a developer contribute capital of at least 20 percent of the “total project cost,” except that this requirement is reduced to 10 percent of the “total project cost” for a project located

in a government-restricted municipality, instead requiring each respective percentage of the “project cost” as defined in the bill;

(10) require the authority to reduce the eligibility period if this reduction would reduce the total value of tax credits needed to reimburse a developer for all or part of the project financing gap, enhance access to tax credit monetization, or otherwise enhance the effectiveness of the Aspire Program, rather than to consider reducing the eligibility period;

(11) require that certain redevelopment projects with at least a \$10 million “project cost,” instead of a “total project cost” as under current law, enter into a community benefits agreement;

(12) provide that the maximum total tax credit allowed to a developer is to be the equivalent of a percentage of “eligible project cost,” instead of “total project cost” as under current law;

(13) limit the value of tax credits awarded to the developer of a special mission non-profit project to a maximum of 80 percent of the eligible project cost, not to exceed the value of \$120 million;

(14) require the authority to preliminarily determine whether an annual report is complete and to, within 90 days after preliminarily determining that the annual report is complete, either (a) approve the report, authorizing the issuance of a tax credit certificate and notifying the director that a certificate is to be issued or (b) request more information from the developer. If the authority does not act within 90 days from its preliminary determination that an annual report is complete, the report is to be deemed approved and the developer is entitled to receive the tax credit certificate;

(15) require the authority to preliminarily determine whether an application for a tax credit transfer certificate is complete and to, within 90 days after preliminarily determining that the application is complete, either (a) approve the application, authorizing the issuance of a tax credit transfer certificate and notifying the director that a certificate is to be issued or (b) request more information from the developer. If the authority does not act within 90 days from its preliminary determination that an application is complete, the application is to be deemed approved and the developer is entitled to receive the tax credit transfer certificate;

(16) remove provisions from the bill that would have authorized the use or transfer of tax credits within the three successive tax periods immediately following that in which the tax credit certificate is received by the developer;

(17) authorize a developer to use a tax credit in the tax period for which it was issued, in the tax period in which it was issued, or in any successive tax period, subject to the carry-forward provision of current law;

(18) authorize a transferee to use a tax credit in the tax period for which it was issued, in the tax period in which it was issued, or in any

successive tax period, with a carry-forward provision for the use of unused credits in any of the next five successive tax periods;

(19) provide that no more than the amount of tax credits equal to the total credit amount divided by the duration of the tax credit term, in years, may be taken in any tax period;

(20) provide that the holder of a tax credit certificate may transfer all or part of the tax credit amount at any time after the date of receipt of the tax credit certificate, subject to certain conditions;

(21) require that a residential project, not located in a government-restricted municipality or an enhanced area, that contains fewer than 700 new residential units include 20,000 square feet or more of commercial space, which may include retail space;

(22) provide that the conditions and requirements applicable during an eligibility period are to apply to each phase of a transformative project until the end of the eligibility period of each completed phase, rather than to the entire transformative project until the end of the eligibility period for the last phase;

(23) remove a provision that would have provided for a parking component of a transformative project to be included in the calculation of total square footage of a project, under certain conditions;

(24) provide that applications submitted to or approved by the authority after January 1, 2023 are subject to the bill's provisions, except that applications submitted prior to the bill's effective date are subject to the same fees as were in effect immediately prior to the bill's effective date;

(25) prohibit proration of tax credit for any year within an eligibility period for certain residential projects;

(26) require the Department of the Treasury to redeem credits surrendered by a developer, rather than require the department to redeem such tax credits at such times as the department deems necessary;

(27) remove a provision that would have required tax credit redemption at such discounts as the State Treasurer deems appropriate but not to exceed 10 percent of the face value of tax credits. Instead, the bill requires that redemption be for a cash payment equal to 90 percent of the amount of tax credits evidenced by the certificate, provided that the issuance date of the certificate to the taxpayer surrendering the certificate occurred at least one year before the date of surrender and the certificate has not been sold or assigned previously;

(28) provide for a process by which a developer may surrender tax credits for redemption;

(29) remove a provision that allows the proceeds of the tax credit redemption to be issued over one or more tax periods, but not to exceed the applicable eligibility period;

(30) provide that the developer of a transformative project is eligible for certain enhancements to the total tax credit award,

individually or in combination, subject to the demonstration of a project financing gap and need for support; and

(31) make technical changes to the bill.

FISCAL IMPACT:

The Office of Legislative Services (OLS) concludes that the bill could result in annual increases in State expenditures and revenues associated with the authorization for the Department of the Treasury to purchase unused tax credits issued under the New Jersey Aspire Program at a discount.

The OLS also anticipates a reduction in State revenue collected under the New Jersey Gross Income Tax and the New Jersey Corporation Business Tax due to the income exclusion provided in the bill for any gain or income derived from the transfer of tax credits issued pursuant to the New Jersey Economic Recovery Act of 2020.

Additionally, the OLS concludes that the bill would result in annual expenditure and revenue increases for the New Jersey Economic Development Authority to create and administer the Redevelopment Project Bridge Financing Program.

STATEMENT TO
[First Reprint]
SENATE, No. 1323

with Assembly Floor Amendments
(Proposed by Assemblywoman PINTOR MARIN)

ADOPTED: DECEMBER 19, 2024

These floor amendments make the bill identical to Assembly Bill No. 2076 (3R).

Specifically, the amendments remove “an Endorsed Plan” from the list of areas that may qualify as an “incentive area” under the bill. The bill would have added this term to the list of areas in the definition of “incentive area.” The amendments also remove the definitions of “mixed-use project,” “stranded asset,” and “targeted industry” that the bill would have added to current law. Additionally, the amendments provide that the term “commercial project” also includes any industrial space that is predominantly used for warehouse distribution or fulfillment centers if the eligible project cost includes at least \$10,000,000 in environmental remediation costs.

The amendments reduce the maximum eligibility period for all redevelopment projects to 10 years, as specified in an incentive award agreement, provided that a developer may elect a period not to exceed five years for a project in a government-restricted municipality or for a special mission non-profit project. The amendments also allow the authority to approve, in its discretion, an eligibility period that is shorter than the applicable maximum period, rather than require the authority to reduce the eligibility period under certain circumstances, as previously provided in the bill.

The amendments expand the definition of the term “government-restricted municipality” to include any municipality that: (1) has a population greater than 50,000 and less than 60,000 according to the latest federal decennial census, is designated as the county seat of a county of the second class with a population greater than 800,000 according to the latest federal decennial census, and has an MRI distress score of 62.1; (2) has a population greater than 70,000 and less than 100,000 according to the latest federal decennial census, is designated as the county seat of a county of the second class with a population greater than 515,000 and less than 525,000 according to the latest federal decennial census, and has an MRI distress score of 100; or (3) contains the intersection of Interstate 280 and the Garden State Parkway, and corresponding land areas occupied by such highways under the ownership or control of the federal government of the United States or of this State within its municipal boundary, and has an MRI distress score of 55.5. The amendments also add a definition for “MRI distress score.”

The amendments provide that for a development project located in a government-restricted municipality, “eligible project cost” also includes land costs in an amount up to 20 percent of the eligible project cost. Previously, the bill would have allowed various other costs to be included for these projects. The amendments also clarify references to “project cost,” “eligible project cost,” and “total project cost” throughout the bill.

The amendments change the definition of a “special mission non-profit project” to require the inclusion of up to 100 units of 100 percent supportive housing units for tenants requiring special needs or social services, which social services may include licensed social workers, and no more than 25,000 square feet of commercial space within the project for the provision of on-site social service programs that require a license from the Department of Children and Families as a licensed child care center. Previously, the bill would have required these types of projects to include 100 units of 100 percent affordable housing and would have limited commercial space to 10,000 square feet within the project. In addition, the amendments exempt special mission non-profit projects from the net benefit test requirement, affordable housing requirements, and the requirement to provide a market study as part of an application to the authority and provide that a special mission non-profit project is not required to be located in an incentive area in order to qualify for an incentive award.

The amendments remove an exception from bedroom distribution requirements, which the bill would have provided with respect to affordability controls on residential units constructed for occupancy by low- and moderate-income households under the program.

The amendments remove certain provisions of the bill related to the requirement to pay prevailing wage for certain construction workers. The amendments also clarify that the residential tenants or residential subtenants of a redevelopment project are not subject to the prevailing wage requirements applied to commercial tenants, commercial subtenants, or other commercial occupants who hold certain leasehold interests or other occupancy rights in a redevelopment project.

The amendments clarify that the average occupancy rate requirements apply beginning on the fourth year of the eligibility period, rather than beginning after the third year following the date of issuance of a final certificate of occupancy for a commercial project.

The amendments permit a developer to sell one or more buildings during the eligibility period, subject to such rules and regulations as may be adopted by the authority, rather than subject to additional provisions previously included in the bill.

The amendments prohibit the authority from resizing or reducing the tax credit at project completion based on the executed financing commitments or the updated projected cash flow, except that the authority is required to use the commitments and cash flow to calculate the return on investment required under the program.

The amendments require the authority to evaluate the developer’s rate of return on investment and compare that rate of return on investment to the reasonable and appropriate rate of return at the time

of board approval at project certification, in addition to at the end of the seventh year of the eligibility period, as required under current law.

The amendments provide that, for any year during the eligibility period in which the director purchases a tax credit certificate or tax credit transfer pursuant to the provisions of the bill, the developer is required to make a payment to the authority, if the actual rate of return on investment exceeds the reasonable and appropriate rate of return on investment at the time of board approval by more than 10 percent. The required payment is to equal 20 percent of the excess rate of return if the application is submitted to the director before the seventh year of the eligibility period, or 50 percent of the excess rate of return if the application is submitted after the sixth year of the eligibility period.

The amendments require a developer, for any payment amount calculated at project certification, to make equal annual payments, which in aggregate equal the calculated payment amount, with each annual report for the first seven years of the eligibility period. At the end of the seventh year of the eligibility period, the developer is required to pay the authority any additional amount required.

The amendments revise the requirements of law concerning the execution of community benefits agreements. The amendments exempt the developers of a special mission non-profit project from this requirement. The amendments also provide that the county or municipality in which a development project is located is required to hold at least one previously advertised public hearing at which testimony is taken from residents, community groups, and other stakeholders that are required to have an opportunity to be heard concerning the needs of the community that a community benefits agreement should address. Under current law, these public hearings are not required to have been previously advertised. Furthermore, the amendments require the inclusion of the minutes of the meeting in the resolution of the governing body of the municipality or county adopting the community benefits agreement. The amendments also require the developer and the municipality or county to submit the executed community benefits agreement, redevelopment agreement, or approved resolution to the authority within the same time as all other conditions subsequent required in the approval letter. Lastly, the amendments restore certain requirements of existing law concerning the certification of an approval letter by a municipality, which requirements would have changed under the bill.

The amendments remove the allowance for enhancements to certain developers' total tax credit awards based on a project meeting certain conditions.

The amendments remove a provision of the bill that would have limited the total tax credits awarded for certain redevelopment projects, other than those located in government-restricted municipalities, to 90 percent of the project costs for projects receiving federal low-income housing tax credits or 80 percent of the project costs for all other projects.

The amendments provide that a mixed-use residential project containing fewer than 700 new residential units is required to contain the following elements to qualify as a transformative project: (1) the

construction of 30,000 square feet or more of commercial space, which commercial space may include retail space; and (2) certain minimum amounts of new residential units, based on the location of the project.

The amendments remove a provision of the bill that would have revised current law concerning the applicability of terms and conditions during the entire transformative project until the end of the eligibility period for each completed phase.

The amendments remove the provisions of the bill that would have established the “Redevelopment Project Bridge Financing Program.”

The amendments remove provisions that would have limited the fees that may be charged by the authority to the coverage of certain actual direct costs under the Aspire Program. The amendments also remove a requirement for any fees charged by the authority under the program to be proportional to the tax credit amount awarded for a redevelopment project.

The amendments provide that the authority may not require a developer to include a permanent certificate of occupancy in the first annual report submitted during the eligibility period. The amendments require the developer to include the certificate in the next annual report after it is received.

The amendments extend the period of time, from 90 days to 120 days after preliminarily determining that a developer’s annual report is complete, in which the authority is required, subject to forfeiture, reduction, or other action for failure to comply with a program requirement, to either approve the annual report and notify the director to issue the tax credit certificate or request more information from the developer to finalize approval. The amendments also provide that the report is to be deemed approved if no action is taken within 120 days of the submission, rather than 90 days as previously provided in the bill.

The amendments remove provisions of that bill that would have amended current law to exclude gains from the transfer of tax credits issued pursuant to the “New Jersey Economic Recovery Act of 2020” from taxable income under the New Jersey Corporate Business Tax and New Jersey Gross Income Tax.

The amendments specify that the holder of a tax credit certificate issued under the Aspire Program may apply the credit in the tax period for which it was issued, in the tax period in which it was issued, or in any tax period during the eligibility period, but not in any successive tax period after the credit was issued.

The amendments clarify that the holder of a tax credit certificate may transfer all or part of the tax credit amount on or after the date of issuance of the tax credit transfer certificate, for use by the transferee in the tax period for which it was issued, in the tax period in which it was issued, or in any of the next three successive tax periods. The amendments also limit the tax periods in which the transferee may first use the credit to include the tax period in which it was issued, or any of the next three succeeding tax periods, rather than any successive tax period.

The amendments revise the provisions of the bill concerning the surrender of unused tax credits under the Aspire Program with an

authorization for the director to purchase such credits for an amount equal to 85 percent of the credit amount, provided that the issuance date of the credits occurred at least one year prior to the date of application to the director, and further provided that, if the application to the director is submitted after the sixth year of the eligibility period, the amount in excess of the reasonable and appropriate rate of return on investment that the developer is required to is increased to 50 percent.

The amendments authorize the director to purchase unused tax credits awarded under the “Cultural Arts Incentives Program Act” for an amount equal to 85 percent of the credit amount, provided that the issuance date of the credits occurred at least one year prior to the date of application to the director.

The amendments provide that any project approved by the authority after the effective date of P.L.2020, c.156 (i.e., January 7, 2021) are subject to the following provisions of the bill: (1) the average occupancy rate requirements of commercial projects; (2) any lower fees promulgated by the authority on or after this bill’s effective date, except that such lower fees do not apply to any fees already paid to the authority; (3) certain requirements concerning the execution of community benefits agreements; (4) certain requirements concerning the authority’s review of annual reports submitted by developers; (5) certain requirements related to the entrance and review of incentive award agreements; and (6) any other terms and conditions that the authority determines will make the administration of the program consistent with the provisions of the program, as amended and supplemented this bill, provided that terms and conditions may not have a materially adverse impact on a project approved before the enactment of this bill.

The amendments prohibit the proration of Aspire Program tax credits.

The amendments also make technical corrections to the bill, including updating the title and synopsis to reflect changes to the bill.

LEGISLATIVE FISCAL ESTIMATE

[First Reprint]

SENATE, No. 1323

STATE OF NEW JERSEY

221st LEGISLATURE

DATED: JULY 3, 2024

SUMMARY

Synopsis: Revises various requirements of New Jersey Aspire Program and establishes Redevelopment Project Bridge Financing Program.

Type of Impact: Annual increase in State expenditures, annual State revenue impact.

Agencies Affected: New Jersey Economic Development Authority; Department of the Treasury.

Office of Legislative Services Estimate

Fiscal Impact	<u>Annual</u>
State Expenditure Increase	Indeterminate
State Revenue Impact	Indeterminate

- The Office of Legislative Services (OLS) concludes that the bill could result in annual increases in State expenditures and revenues associated with the provision that requires the Department of the Treasury to purchase unused tax credits issued under the New Jersey Aspire Program at a discount.
- The OLS also anticipates a reduction in State revenue collected under the New Jersey Gross Income Tax and the New Jersey Corporation Business Tax due to the income exclusion provided in the bill for any gain or income derived from the transfer of tax credits issued pursuant to the New Jersey Economic Recovery Act of 2020.
- Additionally, the OLS concludes that the bill would result in annual expenditure and revenue increases for the New Jersey Economic Development Authority to create and administer the Redevelopment Project Bridge Financing Program.

BILL DESCRIPTION

This bill revises various provisions of the Aspire Program, including changes to program definitions, changes concerning residential projects under the program, the eligibility period for a project, the sale of buildings under the program, and additional eligibility and occupancy requirements. Notably, the bill requires the authority to promulgate a schedule of fees that are limited to coverage of actual direct costs of administering the program, coverage of reasonable indirect costs of administering the program, and maintenance of reasonable reserves for administering the program.

Additionally, the bill requires the Department of the Treasury to purchase unused tax credits at a discount of their face value, for a cash payment equal to 90 percent of the amount of tax credits evidenced by the tax certificates. However, the bill requires the issuance date of the tax credit certificate or tax credit transfer certificate to have occurred at least one year before the date of surrender and requires that the certificate was not sold or reassigned. Furthermore, the bill amends current law to exclude gains from the transfer of tax credits issued pursuant to the New Jersey Economic Recovery Act of 2020 from the calculation of “entire net income” under the New Jersey Corporation Business Tax and “gross income” under the New Jersey Gross Income Tax.

This bill establishes the Redevelopment Project Bridge Financing Program under the Aspire Program for the purpose of offering loans or loan guarantees, at the discretion of the authority, to the developers of redevelopment projects that have an outstanding project financing gap. The additional financing would be issued to the developer of a redevelopment project, prior to the issuance of tax credits under the Aspire Program, to ensure the completion of the project. The bill sets forth application requirements to receive financing. The bill authorizes the authority to issue loans and loan guarantees using a Redevelopment Project Bridge Financing Revolving Fund, into which all monies received from loan repayments are to be deposited. All monies received in the fund are to support the Redevelopment Project Bridge Financing Program until such time as the authority determines there remains no need for bridge financing, or until December 31, 2028, whichever occurs first. At that time monies from the Redevelopment Project Bridge Financing Revolving Fund will be deposited into the General Fund. Notably, the bill requires that the authority recommend to the Governor and the Legislature an amount for appropriation, which amount is necessary for the administration of the Redevelopment Project Bridge Financing Program.

FISCAL ANALYSIS

EXECUTIVE BRANCH

None received.

OFFICE OF LEGISLATIVE SERVICES

The OLS concludes that the bill could result in annual increases in State expenditures and revenues associated with the provision that requires the Department of the Treasury to purchase unused tax credits under the Aspire Program at a discount, for cash payments equal to 90 percent of the amount of tax credits. For example, if the department were to purchase an unused \$1 million tax credit at 90 percent of face value, the department would expend \$900,000 and would avoid the \$1 million tax revenue loss that would have occurred if the prior tax credit holder had redeemed the full amount of the tax credit.

Additionally, the OLS concludes that the bill would result in annual expenditure increases for the authority associated with the creation and administration of the Redevelopment Project Bridge Financing Program, the issuance of program loans, and the repayment of any loan which the authority guarantees and for which the borrower defaults. The authority is also expected to experience annual revenue increases from application fees, loan issuance fees, and loan repayments from borrowers. Depending on the interest rates approved by the authority and the rates of default on program loans, these loan repayments may partially or wholly offset any expenses incurred by the authority in the operation of the Redevelopment Project Bridge Financing Program. Notably, the fiscal impact of the Redevelopment Project Bridge Financing Program will depend on the amount of funding appropriated for it. Because the bill requires that the authority provide a recommendation to the Governor and the Legislature concerning the amount of funding necessary to support the Redevelopment Project Bridge Financing Program, the OLS is unable to quantify the magnitude of the anticipated cost and revenue increases associated with this program.

The OLS also anticipates a reduction in State revenues collected under the Gross Income Tax and the Corporation Business Tax associated with the income exclusion provided in the bill for any gain or income derived from the transfer of tax credits issued pursuant to the New Jersey Economic Recovery Act of 2020.

Section: Authorities, Utilities, Transportation and Communications

*Analyst: Michael D. Walker
Assistant 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.).

LEGISLATIVE FISCAL ESTIMATE

[Second Reprint]

SENATE, No. 1323

STATE OF NEW JERSEY

221st LEGISLATURE

DATED: DECEMBER 26, 2024

SUMMARY

- Synopsis:** Revises various provisions concerning New Jersey Aspire Program and surrender of tax credits issued under New Jersey Economic Recovery Act of 2020.
- Type of Impact:** Multi-year loss of State revenues and multi-year increase in State expenditures.
- Agencies Affected:** New Jersey Economic Development Authority; Department of the Treasury.

Office of Legislative Services Estimate

Fiscal Impact	<u>Multi-Year Lifespan of Tax Credit Awards</u>
State Revenue Loss	Indeterminate
State Expenditure Increase	Indeterminate

- The Office of Legislative Services (OLS) concludes that the changes to the New Jersey Aspire Program will result in indeterminate multi-year State revenue losses, possibly through FY 2036. The additional State revenue losses will be attributable to extending the tax credit program to new redevelopment projects and other program modifications that increase tax credit awards.
- In addition, the bill’s tax credit purchase provision could result in annual increases in State expenditures and revenues associated with the increase in the minimum purchase price by the State of unused tax credits under the Aspire Program and extending the authority to purchase unused tax credits to the Cultural Arts Incentive Program.
- Projects that absent this bill will not be undertaken will generate indeterminate indirect fiscal benefits to the State.
- The OLS is unable to project the fiscal impacts of this bill due to imperfect information on the number and attributes of projects that will receive new or enhanced tax credits as a result of the bill’s enactment.

BILL DESCRIPTION

The bill makes various changes to the New Jersey Aspire Program, under which the New Jersey Economic Development Authority awards tax credits to the developers of certain redevelopment projects. There is a \$6.6 billion cap on tax credit awards through the Aspire Program and the Emerge Program combined through FY 2029 with no tax credits authorized beyond FY 2029. A developer may carry forward unused tax credits for seven years from when they are first authorized for use. As of November 2024, about \$3.38 billion in tax credits remain available for awards.

Specifically, the bill would make the following changes to the New Jersey Aspire Program.

Reduce Tax Credit Eligibility Period: The bill reduces from 15 years to 10 years the maximum eligibility period for developers of mixed use and commercial redevelopment projects to use a tax credit following credit approval by the authority.

Expand Tax Credit Eligibility to Trenton-Mercer Airport: The bill expands tax credit eligibility to the Trenton-Mercer Airport and the area within a one-mile radius of the outermost boundary of the airport's terminal.

Expand List of Municipalities Where Special Rules Apply to Redevelopment Projects: The bill expands the definition of government-restricted municipalities, which currently applies to Atlantic City, Paterson City, and Trenton City to Camden City, East Orange City, and New Brunswick City. This designation makes redevelopment projects eligible for less stringent eligibility requirements than under the general program. The bill also increases from 80 percent to 85 percent the total tax credit award for projects located in municipalities that qualified as a government-restricted municipality before the enactment of the bill. The tax credit will be 80 percent for any project located in a municipality that newly qualifies as a government-restricted municipality.

Extend Eligibility to Special Mission Non-Profit Projects: The bill makes certain non-profit affordable housing projects newly eligible for New Jersey Aspire Program tax credits. These projects are undertaken by a non-profit and include the development of no more than 100 units of 100 percent supportive housing for tenants requiring special needs or social services and commercial space for the provision of on-site social service programs, subject to certain conditions.

Eliminate Tax Credit Award Reduction as a Result of Project Finance True Up: The bill removes the requirement that the authority reduce the tax credit award to a redevelopment project if the authority determines at the time of tax credit award finalization that certain financial elements of the project are more favorable to the developer than projected at the time of the initial tax credit award.

Extend Period for Claiming Finalized Tax Credit Awards: The bill extends the period for developers to claim tax credits on their tax returns following approval by the authority of the final tax credit award.

Increase Minimum Price of Tax Credits Purchased by the State: The bill increases from 75 percent of the face value of the tax credit to 85 percent the minimum price of tax credits purchased by the Department of the Treasury from developers wishing to sell unused portions of their tax credit awards. The bill also authorizes the Department of the Treasury to purchase unused tax credits awarded under the existing Cultural Arts Incentives Program at 85 percent of face value.

FISCAL ANALYSIS

EXECUTIVE BRANCH

None received.

OFFICE OF LEGISLATIVE SERVICES

The OLS concludes that the bill will reduce State revenues annually by an indeterminate amount until the end of the New Jersey Aspire Program authorization in FY 2029 to the extent that enactment of this bill will increase the use of tax credits by developers. The overall revenue loss continues to be capped at \$1.1 billion per year through FY 2026 under both the Aspire Program and the Emerge Program combined although tax credits that are not awarded under these programs by the end of FY 2026 may be awarded through FY 2029. A developer may carry forward unused tax credits for seven years from when they are first authorized for use, so the State revenue loss may continue through FY 2036. As of November 2024, about \$3.38 billion in tax credits remain available for awards.

The revenue loss would result from all of the provisions listed in the bill description section above with the exception of the provision increasing the minimum purchase price of tax credits purchased by the State. The OLS lacks the informational basis for determining the projects that will newly qualify for tax credits or be eligible for higher tax credit amounts under the bill.

The tax credit purchase provision could result in annual increases in State expenditures and revenues associated with the increase in the minimum purchase price by the State from 75 percent to 85 percent of face value of unused tax credits under the Aspire Program and extending the authority to purchase unused tax credits under the existing Cultural Arts Incentive Program at 85 percent of face value. To date, the Department of the Treasury has not used its authority to purchase tax credits under the Aspire Program. The OLS cannot anticipate how the department will use this authority in the future.

For purposes of illustration, if the department were to purchase an unused \$1 million tax credit at 85 percent of face value, the department would expend \$850,000 and would avoid the \$1 million tax revenue loss that would have occurred if the tax credit had been redeemed at the full amount.

Section: Revenue, Finance, and Appropriations
Analyst: Scott A. Brodsky
Staff Fiscal & Budget Analyst
Approved: Thomas Koenig
Legislative Budget and Finance Officer

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

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

ASSEMBLY, No. 2076

STATE OF NEW JERSEY 221st LEGISLATURE

PRE-FILED FOR INTRODUCTION IN THE 2024 SESSION

Sponsored by:

Assemblywoman ELIANA PINTOR MARIN

District 29 (Essex and Hudson)

SYNOPSIS

Revises various requirements of New Jersey Aspire Program and establishes Redevelopment Project Bridge Financing Program.

CURRENT VERSION OF TEXT

Introduced Pending Technical Review by Legislative Counsel.



1 **AN ACT** concerning the New Jersey Aspire Program, amending
2 various parts of the statutory law, and supplementing P.L.2020,
3 c.156.

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

7
8 1. Section 55 of P.L.2020, c.156 (C.34:1B-323) is amended to
9 read as follows:

10 55. As used in sections 54 through 67 of P.L.2020, c.156
11 (C.34:1B-322 through 34:1B-335):

12 "Agency" means the New Jersey Housing and Mortgage Finance
13 Agency established pursuant to P.L.1983, c.530 (C.55:14K-1 et
14 seq.).

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

17 "Aviation district" means all areas within the boundaries of the
18 Atlantic City International Airport, established pursuant to section
19 24 of P.L.1991, c.252 (C.27:25A-24), and the Federal Aviation
20 Administration William J. Hughes Technical Center and the area
21 within a one-mile radius of the outermost boundary of the Atlantic
22 City International Airport and the Federal Aviation Administration
23 William J. Hughes Technical Center.

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

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

37 "Cash flow" means the profit or loss that an investment property
38 earns from rent, deposits, and other fees after financial obligations,
39 such as debt, maintenance, government payments, and other
40 expenses, have been paid.

41 "Collaborative workspace" means coworking, accelerator,
42 incubator, or other shared working environments that promote
43 collaboration, interaction, socialization, and coordination among
44 tenants through the clustering of multiple businesses or individuals.
45 For this purpose, the collaborative workspace shall be the greater

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 of: 2,500 of dedicated square feet or 10 percent of the total property
2 on which the redevelopment project is situated. The collaborative
3 workspace shall include a community manager, be focused on
4 collaboration among the community members, and include
5 regularly scheduled education events for the community members.
6 The collaborative workspace shall also include a physical open
7 space that supports the engagement of its community members.

8 "Commercial project" means a redevelopment project, which is
9 predominantly commercial and, if located in a government-
10 restricted municipality, contains 25,000 or more square feet, or if
11 located in any other municipality, contains 50,000 or more square
12 feet of office and retail space, industrial space including space
13 predominantly used for warehouse distribution or fulfillment
14 centers, or film studios, professional stages, television studios,
15 recording studios, screening rooms, or other infrastructure for film
16 production, and may include a parking component. The term
17 "commercial project" includes a redevelopment project comprised
18 solely of a health care or health services center, which contains not
19 less than 10,000 square feet devoted to health care or health
20 services, and which may include a parking component.

21 "Developer" means a person who enters or proposes to enter into
22 an incentive award agreement pursuant to the provisions of section
23 60 of P.L.2020, c.156 (C.34:1B-328), including, but not limited, to
24 a lender that completes a redevelopment project, operates a
25 redevelopment project, or completes and operates a redevelopment
26 project.

27 "Director" means the Director of the Division of Taxation in the
28 Department of the Treasury.

29 "Distressed municipality" means a municipality that is qualified
30 to receive assistance under P.L.1978, c.14 (C.52:27D-178 et seq.), a
31 municipality under the supervision of the Local Finance Board
32 pursuant to the provisions of the "Local Government Supervision
33 Act (1947)," P.L.1947, c.151 (C.52:27BB-1 et seq.), a municipality
34 identified by the Director of the Division of Local Government
35 Services in the Department of Community Affairs to be facing
36 serious fiscal distress, a SDA municipality, or a municipality in
37 which a major rail station is located.

38 "Economic development incentive" means a financial incentive,
39 awarded by the authority, or agreed to between the authority and a
40 business or person, for the purpose of stimulating economic
41 development or redevelopment in New Jersey, including, but not
42 limited to, a bond, grant, loan, loan guarantee, matching fund, tax
43 credit, or other tax expenditure.

44 "Eligibility period" means the period not to exceed 15 years for a
45 commercial or mixed-use project or the period not to exceed 10
46 years for a residential project specified in an incentive award
47 agreement during which a developer may claim a tax credit under
48 the program, as such period shall be determined by the authority

1 pursuant to subsection b. of section 60 of P.L.2020, c.156
2 (C.34:1B-328).

3 "Enhanced area" means (1) a municipality that contains an urban
4 transit hub, as defined in section 2 of P.L.2007, c.346 (C.34:1B-
5 208); (2) the five municipalities with the highest poverty rates
6 according to the 2017 Municipal Revitalization Index; and (3) the
7 three municipalities with the highest percentage of SNAP recipients
8 according to the 2017 Municipal Revitalization Index.

9 "Environmental remediation costs" means any costs incurred by
10 a developer in the completion of any actions necessary to
11 investigate, clean up, or respond to a known, suspected, or
12 threatened discharge of contaminants, including, as necessary, the
13 preliminary assessment, site investigation, remedial investigation,
14 and remedial action, pursuant to sections 23 through 43 and section
15 45 of P.L.1993, c.139 (C.58:10B-1 et seq.).

16 "Food delivery source" means access to nutritious foods, such as
17 fresh fruits and vegetables, through grocery operators, including,
18 but not limited to a full-service supermarket or grocery store, and
19 other healthy food retailers of at least 16,000 square feet, including,
20 but not limited to, a prepared food establishment selling primarily
21 nutritious ready-to-serve meals.

22 "Food desert community" means a physically contiguous area in
23 the State in which residents have limited access to nutritious foods,
24 such as fresh fruits and vegetables, and that has been designated as
25 a food desert community pursuant to subsection b. of section 38 of
26 P.L.2020, c.156 (C.34:1B-306).

27 "Government-restricted municipality" means a municipality in
28 this State with a municipal revitalization index distress score of at
29 least 75, that met the criteria for designation as an urban aid
30 municipality in the 2019 State fiscal year, and that, on the effective
31 date of P.L.2020, c.156 (C.34:1B-269 et al.), is subject to financial
32 restrictions imposed pursuant to the "Municipal Stabilization and
33 Recovery Act," P.L.2016, c.4 (C.52:27BBBB-1 et seq.), or is
34 restricted in its ability to levy property taxes on property in that
35 municipality as a result of the State of New Jersey owning or
36 controlling property representing at least 25 percent of the total land
37 area of the municipality or as a result of the federal government of
38 the United States owning or controlling at least 50 acres of the total
39 land area of the municipality, which is dedicated as a national
40 natural landmark.

41 "Health care or health services center" means an establishment
42 that consists of not less than 10,000 square feet devoted to health
43 care or health services, where patients are admitted for or seek
44 examination and treatment by one or more physicians, dentists,
45 psychologists, or other medical practitioners, and which is located
46 in a municipality with a Municipal Revitalization Index distress
47 score of at least 50, a distressed municipality, or a qualified
48 incentive tract.

1 "Hospitality establishment" means a hotel, motel, or any
2 business, however organized, that sells food, beverages, or both for
3 consumption by patrons on the premises.

4 "Incentive area" means an aviation district; a port district; an
5 area designated pursuant to the "State Planning Act," P.L.1985,
6 c.398 (C.52:18A-196 et seq.), as Planning Area 1 (Metropolitan),
7 Planning Area 2 (Suburban), **【or】** a Designated Center, **【provided**
8 an area designated as Planning Area 2 (Suburban) or a Designated
9 Center shall be located within a one-half mile radius of the mid-
10 point, with bicycle and pedestrian connectivity, of a New Jersey
11 Transit Corporation, Port Authority Transit Corporation, or Port
12 Authority Trans-Hudson Corporation rail, bus, or ferry station,
13 including all light rail stations, or a high-frequency bus stop as
14 certified by the New Jersey Transit Corporation **】 or an Endorsed**
15 **Plan**; an area designated as a brownfield site pursuant to the
16 "Brownfield and Contaminated Site Remediation Act," sections 23
17 through 43 and section 45 of P.L.1993, c.139 (C.58:10B-1 et seq.);
18 and an area of not less than 100 acres for which a licensed site
19 remediation professional has certified environmental remediation
20 costs, as defined in this section and in accordance with the "Site
21 Remediation Reform Act," sections 1 through 29 of P.L.2009, c.60
22 (C.58:10C-1 et seq.), in an amount not less than \$10,000,000,
23 provided that any portion of such area is located in an area that
24 otherwise qualifies as an incentive area.

25 "Incentive award" means an award of tax credits to reimburse a
26 developer for all or a portion of the project financing gap of a
27 redevelopment project pursuant to the provisions of sections 54
28 through 67 of P.L.2020, c.156 (C.34:1B-322 through 34:1B-335).

29 "Incentive award agreement" means the contract executed
30 between a developer and the authority pursuant to section 60 of
31 P.L.2020, c.156 (C.34:1B-328), which sets forth the terms and
32 conditions under which the developer may receive the incentive
33 awards authorized pursuant to the provisions of sections 54 through
34 67 of P.L.2020, c.156 (C.34:1B-322 through 34:1B-335).

35 "Incubator facility" means a commercial property, which
36 contains 5,000 or more square feet of office, laboratory, or
37 industrial space, which is located near, and presents opportunities
38 for collaboration with, a research institution, teaching hospital,
39 college, or university, and within which at least 75 percent of the
40 gross leasable area is restricted for use by one or more technology
41 startup companies.

42 "Individuals with special needs" means individuals with mental
43 illness, individuals with physical or developmental disabilities, and
44 individuals in other emerging special needs groups identified by the
45 authority, based on guidelines established for the administration of
46 the Special Needs Housing Trust Fund established pursuant to
47 section 1 of P.L.2005, c.163 (C.34:1B-21.25a) or developed in
48 consultation with other State agencies.

1 "Labor harmony agreement" means an agreement between a
2 business that serves as the owner or operator of a retail
3 establishment, hospitality establishment, or distribution center and
4 one or more labor organizations, which requires, for the duration of
5 the agreement: that any participating labor organization and its
6 members agree to refrain from picketing, work stoppages, boycotts,
7 or other economic interference against the business; and that the
8 business agrees to maintain a neutral posture with respect to efforts
9 of any participating labor organization to represent employees at an
10 establishment or other unit in the retail establishment, hospitality
11 establishment, or distribution center, agrees to permit the labor
12 organization to have access to the employees, and agrees to
13 guarantee to the labor organization the right to obtain recognition as
14 the exclusive collective bargaining representatives of the employees
15 in an establishment or unit at the retail establishment, hospitality
16 establishment, or distribution center by demonstrating to the New
17 Jersey State Board of Mediation, Division of Private Employment
18 Dispute Settlement, or a mutually agreed-upon, neutral, third party
19 that a majority of workers in the unit have shown their preference
20 for the labor organization to be their representative by signing
21 authorization cards indicating that preference. The labor
22 organization or organizations shall be from a list of labor
23 organizations which have requested to be on the list and which the
24 Commissioner of Labor and Workforce Development has
25 determined represent substantial numbers of retail establishment,
26 hospitality establishment, or distribution center employees in the
27 State.

28 "Low-income housing" means housing affordable according to
29 federal Department of Housing and Urban Development or other
30 recognized standards for home ownership and rental costs and
31 occupied or reserved for occupancy by households with a gross
32 household income equal to 50 percent or less of the median gross
33 household income for households of the same size within the
34 housing region in which the housing is located.

35 "Major cultural institution" means a public or nonprofit
36 institution, not including an institution of higher education, within
37 this State that engages in the cultural, intellectual, scientific,
38 environmental, educational, or artistic enrichment of the people of
39 this State, and which institution is designated by the board as a
40 major cultural institution.

41 "Major rail station" means a railroad station that is located within
42 a qualified incentive area and that provides to the public access to a
43 minimum of six rail passenger service lines operated by the New
44 Jersey Transit Corporation.

45 "Minimum environmental and sustainability standards" means
46 standards established by the authority in accordance with the green
47 building manual prepared by the Commissioner of Community
48 Affairs pursuant to section 1 of P.L.2007, c.132 (C.52:27D-130.6),

1 regarding the use of renewable energy, energy-efficient technology,
2 and non-renewable resources to reduce environmental degradation
3 and encourage long-term cost reduction.

4 "Mixed-use project" means a redevelopment project that includes
5 both a residential component and a nonresidential component.

6 "Moderate-income housing" means housing affordable according
7 to federal Department of Housing and Urban Development or other
8 recognized standards for home ownership and rental costs and
9 occupied or reserved for occupancy by households with a gross
10 household income equal to more than 50 percent, but less than 80
11 percent, of the median gross household income for households of
12 the same size within the housing region in which the housing is
13 located.

14 "Municipal Revitalization Index" means the index by the
15 Department of Community Affairs ranking New Jersey's
16 municipalities according to eight separate indicators that measure
17 diverse aspects of social, economic, physical, and fiscal conditions
18 in each locality.

19 "Port district" means the portions of a qualified incentive area
20 that are located within:

21 a. the "Port of New York District" of the Port Authority of
22 New York and New Jersey, as defined in Article II of the Compact
23 Between the States of New York and New Jersey of 1921; or

24 b. a 15-mile radius of the outermost boundary of each marine
25 terminal facility established, acquired, constructed, rehabilitated, or
26 improved by the South Jersey Port District established pursuant to
27 "The South Jersey Port Corporation Act," P.L.1968, c.60
28 (C.12:11A-1 et seq.).

29 "Program" means the New Jersey Aspire Program established by
30 section 56 of P.L.2020, c.156 (C.34:1B-324).

31 "Project cost" or "total project cost" means the costs incurred in
32 connection with a redevelopment project by a developer until the
33 issuance of a permanent certificate of occupancy, or until such other
34 time specified by the authority, for a specific investment or
35 improvement, including the costs relating to lands, except the cost
36 of acquiring such lands, buildings, improvements, real or personal
37 property, or any interest therein, including leases discounted to
38 present value, including lands under water, riparian rights, space
39 rights, and air rights acquired, owned, developed or redeveloped,
40 constructed, reconstructed, rehabilitated, or improved, any
41 environmental remediation costs, plus costs not directly related to
42 construction, including capitalized interest paid to third parties, of
43 an amount not to exceed 20 percent of the total costs and the cost of
44 infrastructure improvements, including ancillary infrastructure
45 projects. When 100 percent of the residential units constructed in a
46 residential project are reserved for occupancy by low- and
47 moderate-income households, the term "project cost" shall also
48 include the developer fees paid before acquiring permanent

1 financing, as well as the deferred developer fees approved pursuant
2 to the rules established by the agency. In addition to the foregoing,
3 the term "project cost" shall include the following costs when
4 incurred by a developer for a redevelopment project located in a
5 government restricted municipality: any development,
6 redevelopment, and relocation costs, including, but not limited to,
7 land and building acquisition costs; any soft costs, including
8 engineering, legal, accounting, and other professional services
9 required for the completion of the project; any environmental
10 remediation costs; and any infrastructure improvement for the
11 project area, including, but not limited to, costs of on- and off-site
12 utility, road, pier, wharf, bulkhead, or sidewalk construction or
13 repair. The fees associated with the application or administration of
14 a grant under sections 54 through 67 of P.L.2020, c.156
15 (C.34:1B-322 through 34:1B-335) shall not constitute a project
16 cost, regardless of the location of the redevelopment project.

17 "Project financing gap" means the part of the total project cost,
18 including reasonable and appropriate return on investment, that
19 remains to be financed after all other sources of capital have been
20 accounted for, including, but not limited to developer contributed
21 capital, which shall not be less than 20 percent of the total project
22 cost, and investor or financial entity capital or loans for which the
23 developer, after making all good faith efforts to raise additional
24 capital, certifies that additional capital cannot be raised from other
25 sources on a non-recourse basis; provided, however, that for a
26 redevelopment project located in a government-restricted
27 municipality, the developer contributed capital shall not be less than
28 10 percent of the total project cost. Developer contributed capital
29 may consist of cash, deferred development fees, costs for project
30 feasibility incurred within the 12 months prior to application,
31 property value less any mortgages when the developer owns the
32 project site, and any other investment by the developer in the
33 project deemed acceptable by the authority, as provided by
34 regulations promulgated by the authority. Property value shall be
35 valued at the lesser of: (i) the purchase price, provided the property
36 was purchased pursuant to an arm's length transaction within 12
37 months of application; or (ii) the value as determined by a current
38 appraisal.

39 "Project labor agreement" means a form of pre-hire collective
40 bargaining agreement covering terms and conditions of a specific
41 project that satisfies the requirements set forth in section 5 of
42 P.L.2002, c.44 (C.52:38-5).

43 "Qualified incentive tract" means (i) a population census tract
44 having a poverty rate of 20 percent or more; or (ii) a census tract in
45 which the median family income for the census tract does not
46 exceed 80 percent of the greater of the Statewide median family
47 income or the median family income of the metropolitan statistical
48 area in which the census tract is situated.

1 "Quality childcare facility" is a child care center licensed by the
2 Department of Children and Families or a registered family child
3 care home with the Department of Human Services, operating
4 continuously, which has not been subject to an enforcement action,
5 and which has and maintains a licensed capacity for children age 13
6 years or younger who attend for less than 24 hours a day.

7 "Reasonable and appropriate return on investment" means the
8 discount rate at which the present value of the future cash flows of
9 an investment equals the cost of the investment. In determining the
10 "reasonable and appropriate return on investment," an investment
11 shall not include any federal, State, or local tax credits. For a
12 residential project that utilizes federal low-income housing tax
13 credits awarded by the agency, the "reasonable and appropriate
14 return on investment" shall be based on the approval of deferred
15 developer fees pursuant to the rules established by the agency. In
16 the event that a residential project, which utilizes federal low-
17 income housing tax credits awarded by the agency, generates
18 returns on equity other than federal or local grants or proceeds from
19 the sale of federal or local tax credits, the "reasonable and
20 appropriate return on investment" shall be based on both the
21 discount rate at which the present value of the future cash flows of
22 an investment equal the cost of the investment for the entire project,
23 and when evaluating only the units financed with federal low-
24 income housing tax credits awarded by the agency, the approval of
25 deferred developer fees pursuant to the rules established by the
26 agency.

27 "Redevelopment project" means a specific construction project
28 or improvement or phase of a project or improvement undertaken
29 by a developer, owner or tenant, or both, and any ancillary
30 infrastructure project. A redevelopment project may involve
31 construction or improvement upon lands, buildings, improvements,
32 or real and personal property, or any interest therein, including
33 lands under water, riparian rights, space rights, and air rights,
34 acquired, owned, developed or redeveloped, constructed,
35 reconstructed, rehabilitated, or improved.

36 "Residential project" means a redevelopment project that is
37 predominantly residential, intended for multi-family residency, and
38 may include a parking component.

39 "SDA district" means an SDA district as defined in section 3 of
40 P.L.2000, c.72 (C.18A:7G-3).

41 "SDA municipality" means a municipality in which an SDA
42 district is situated.

43 "Stranded asset" means any building previously used for
44 commercial, retail, office space, manufacturing, or industrial
45 purposes, which building is no longer used for such purposes, and
46 which has been abandoned, experienced significant vacancies for at
47 least two consecutive years, or has fallen into such disrepair as to be
48 untenantable.

1 "Technology startup company" means a for-profit business that
2 has been in operation fewer than seven years at the time that it
3 initially occupies or expands in a qualified business facility and is
4 developing or possesses a proprietary technology or business
5 method of a high technology or life science-related product,
6 process, or service, which proprietary technology or business
7 method the business intends to move to commercialization. The
8 business shall be deemed to have begun operation on the date that
9 the business first hired at least one employee in a full-time position.

10 "Total **[project]** development cost" or "total redevelopment cost"
11 means the costs incurred in connection with the redevelopment
12 project by the developer until the issuance of a permanent
13 certificate of occupancy, or upon such other event evidencing
14 project completion as set forth in the incentive grant agreement, for
15 a specific investment or improvement.

16 "Tourism destination project" means a non-gaming business
17 facility that will be among the most visited privately owned or
18 operated tourism or recreation sites in the State, and which has been
19 determined by the authority to be in an area appropriate for
20 development and in need of economic development incentive
21 assistance, including a non-gaming business within an established
22 Tourism District with a significant impact on the economic viability
23 of that district.

24 "Transit hub" means an urban transit hub, as defined in section 2
25 of P.L.2007, c.346 (C.34:1B-208), that is located within an eligible
26 municipality, as defined in section 2 of P.L.2007, c.346
27 (C.34:1B-208) and is located within a qualified incentive area.

28 "Transit hub municipality" means a Transit Village or a
29 municipality: a. which qualifies for State aid pursuant to P.L.1978,
30 c.14 (C.52:27D-178 et seq.), or which has continued to be a
31 qualified municipality thereunder pursuant to P.L.2007, c.111; and
32 b. in which 30 percent or more of the value of real property was
33 exempt from local property taxation during tax year 2006. The
34 percentage of exempt property shall be calculated by dividing the
35 total exempt value by the sum of the net valuation which is taxable
36 and that which is tax exempt.

37 "Transit Village" means a municipality that has been designated
38 as a transit village by the Commissioner of Transportation and the
39 Transit Village Task Force established pursuant to P.L.1985, c.398
40 (C.27:1A-5).

41 (cf: P.L.2023, c.98, s.1)

42
43 2. Section 56 of P.L.2020, c.156 (C.34:1B-324) is amended to
44 read as follows:

45 56. a. (1) The New Jersey Aspire Program is hereby established
46 as a program under the jurisdiction of the New Jersey Economic
47 Development Authority. The authority shall administer the
48 program to encourage redevelopment projects through the provision

1 of incentive awards to reimburse developers for certain project
2 financing gap costs. The board may approve the award of an
3 incentive award to a developer upon application to the authority
4 pursuant to sections 58 and 59 of P.L.2020, c.156 (C.34:1B-326 and
5 C.34:1B-327). The value of all tax credits approved by the
6 authority pursuant to sections 54 through 67 of P.L.2020, c.156
7 (C.34:1B-322 through 34:1B-335) shall be subject to the limitations
8 set forth in section 98 of P.L.2020, c.156 (C.34:1B-362).

9 (2) The authority, in consultation with the agency, shall adopt
10 rules and regulations, pursuant to subsection b. of section 67 of
11 P.L.2020, c.156 (C.34:1B-335), concerning the establishment and
12 administration of the affordability controls that shall apply to the
13 residential units constructed for occupancy by low- and moderate-
14 income households under the program, including, but not limited to,
15 residential units within residential projects that utilize federal low-
16 income housing tax credits awarded by the agency.
17 Notwithstanding any provision of law or regulation to the contrary,
18 the affordability controls shall, at a minimum, be consistent with the
19 affordability controls established in the rules and regulations
20 adopted pursuant to the "Fair Housing Act," P.L.1985, c.222
21 (C.52:27D-301 et al.), as in effect immediately prior to the effective
22 date of P.L.2023, c.98 (C.34:1B-335.1 et al.), including, but not
23 limited to, any requirements concerning the **【**bedroom
24 distributions,**】** affordability averages, affirmative marketing, and
25 long-term deed restrictions of residential units constructed for
26 occupancy by low- and moderate-income households, except not
27 including the bedroom distribution requirements for three-bedroom
28 housing units.

29 b. The chief executive officer of the authority shall designate
30 one staff member per government-restricted municipality in order to
31 keep the municipality informed on activities within the municipality
32 and to coordinate economic development initiatives.

33 (cf: P.L.2023, c.98, s.2)

34
35 3. Section 57 of P.L.2020, c.156 (C.34:1B-325) is amended to
36 read as follows:

37 57. a. Prior to March 1, 2029, a developer shall be eligible to
38 receive an incentive award for a redevelopment project only if the
39 developer demonstrates to the authority at the time of application
40 that:

41 (1) without the incentive award, the redevelopment project is
42 not economically feasible;

43 (2) a project financing gap exists, or the authority determines
44 that the redevelopment project will generate a below market rate of
45 return;

46 (3) the redevelopment project, except a film studio, professional
47 stage, television studio, recording studio, screening room, or other

1 infrastructure used for film production, is located in the incentive
2 area;

3 (4) except for demolition and site remediation activities, the
4 developer has not commenced any construction at the site of the
5 redevelopment project prior to submitting an application, unless the
6 authority determines that the redevelopment project would not be
7 completed otherwise or, in the event the redevelopment project is to
8 be undertaken in phases, the requested incentive award is limited to
9 only phases for which construction has not yet commenced;

10 (5) the redevelopment project shall comply with minimum
11 environmental and sustainability standards;

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

15 (7) (a) during the eligibility period, each worker employed to
16 perform construction work at the redevelopment project shall be
17 paid not less than the prevailing wage rate for the worker's craft or
18 trade, as determined by the Commissioner of Labor and Workforce
19 Development pursuant to P.L.1963, c.150 (C.34:11-56.25 et seq.)
20 and P.L.2005, c.379 (C.34:11-56.58 et seq.);

21 (b) during the eligibility period, each worker employed to
22 perform building services work at the redevelopment project,
23 whether pursuant to contract by the developer or a commercial
24 tenant, commercial subtenant, or other commercial occupant, shall
25 be paid not less than the prevailing wage rate for the worker's craft
26 or trade, as determined by the Commissioner of Labor and
27 Workforce Development pursuant to P.L.1963, c.150
28 (C.34:11-56.25 et seq.) and P.L.2005, c.379 (C.34:11-56.58 et seq.),
29 except that this requirement shall not apply to workers employed to
30 perform building services work by **[a]** any residential tenant or any
31 commercial tenant, commercial subtenant, or other commercial
32 occupant that has a leasehold interest or other occupancy right in a
33 redevelopment project, which leasehold interest or other occupancy
34 right encompasses less than 5,000 square feet of space within the
35 project. The developer shall include in all commercial leases or
36 other commercial occupancy agreements, and shall require that all
37 subleases or other commercial occupancy agreements applicable to
38 the redevelopment project include, a provision setting forth the
39 requirements of this subparagraph, which provision shall be in a
40 form acceptable to the authority. Notwithstanding any provisions
41 of law to the contrary, if a commercial tenant, commercial
42 subtenant, or other commercial occupant violates this provision due
43 to the underpayment of the required prevailing wage rate, then the
44 issuance of tax credits to the developer and any co-applicant shall
45 be delayed until such time as documentation demonstrating
46 compliance has been provided to the Commissioner of Labor and
47 Workforce Development, subsequently reviewed and approved by
48 the Commissioner of Labor and Workforce Development, and

1 verified by the authority, which reviews and verification shall be
2 completed. If a violation is not cured, or is not capable of being
3 cured, within one year of receipt of notice of the violation, then the
4 developer and any co-applicant shall forfeit 50 percent of the tax
5 credits otherwise authorized for the tax period in which the notice
6 of violation was issued. If the violation is not cured on or before
7 the conclusion of that tax period, the developer and any co-
8 applicant shall forfeit up to 100 percent of the tax credits otherwise
9 authorized, as determined by the authority, in each subsequent tax
10 period until the first tax period for which documentation
11 demonstrating compliance has been provided to the Commissioner
12 of Labor and Workforce Development, subsequently reviewed and
13 approved by the Commissioner of Labor and Workforce
14 Development, and verified by the authority, which reviews and
15 verifications shall be completed. In this event, the developer and
16 any co-applicant shall be allowed the full tax credit amount
17 beginning in the tax period in which documentation of compliance
18 was reviewed and approved by the Commissioner of Labor and
19 Workforce Development and verified by the authority, including
20 each subsequent tax period in which the tax credits are otherwise
21 authorized;

22 (c) in the event a redevelopment project, or any portion thereof,
23 is undertaken by a tenant pursuant to a contract and the tenant has a
24 leasehold of more than 55 percent of space in the building owned or
25 controlled by the developer, the requirement that each worker
26 employed to perform building service work at the building be paid
27 not less than the prevailing wage shall apply to the entire building,
28 except as otherwise provided in subparagraph (b) of this paragraph
29 for all residential tenants and all commercial tenants, commercial
30 subtenants, or other commercial occupants with a leasehold interest
31 or other occupancy right encompassing less than 5,000 square feet;

32 (8) (a) the redevelopment project shall be completed, and the
33 developer shall be issued a certificate of occupancy for the
34 redevelopment project facilities by the applicable enforcing agency,
35 within four years of executing the incentive award agreement, or in
36 the case of a redevelopment project with a project cost in excess of
37 \$50,000,000, the incentive phase agreement corresponding to the
38 redevelopment project; or

39 (b) in the discretion of the authority, a redevelopment project
40 with a project cost in excess of \$50,000,000, and that is authorized
41 to be completed in phases, may be allowed no more than six years
42 from the date on which the incentive award agreement is executed
43 to be issued a certificate of occupancy by the applicable
44 enforcement agency;

45 (9) the developer has complied with all requirements for filing
46 tax and information returns and for paying or remitting required
47 State taxes and fees by submitting, as a part of the application, a tax

1 clearance certificate, as described in section 1 of P.L.2007, c.101
2 (C.54:50-39); and

3 (10)the developer is not more than 24 months in arrears at the
4 time of application.

5 b. In addition to the requirements set forth in subsection a. of
6 this section, for a commercial project to qualify for an incentive
7 award the developer shall demonstrate that the developer shall
8 contribute capital of at least 20 percent of the total project cost,
9 except that if a redevelopment project is located in a government-
10 restricted municipality, the developer shall contribute capital of at
11 least 10 percent of the total project cost.

12 c. In addition to the requirements set forth in subsection a. of
13 this section, for a residential project or a commercial project
14 comprised solely of a health care or health service center to qualify
15 for an incentive award, the residential project or health care or
16 health service center shall:

17 (1) have a total project cost of at least \$17,500,000, if the project
18 is located in a municipality with a population greater than 200,000
19 according to the latest federal decennial census;

20 (2) have a total project cost of at least \$10,000,000 if the project
21 is located in a municipality with a population less than 200,000
22 according to the latest federal decennial census; or

23 (3) have a total project cost of at least \$5,000,000 if the project is
24 in a qualified incentive tract or government-restricted municipality.

25 d. In addition to the requirements set forth in subsections a. and
26 c. of this section, for a residential project consisting of newly-
27 constructed residential units to qualify for an incentive award, the
28 developer shall reserve at least 20 percent of the residential units
29 constructed for occupancy by low- and moderate-income
30 households with affordability controls as adopted by the authority,
31 in consultation with the agency, in accordance with paragraph (2) of
32 subsection a. of section 56 of P.L.2020, c.156 (C.34:1B-324),
33 except that a residential project receiving a federal historic
34 rehabilitation tax credit pursuant to section 47 of the federal
35 Internal Revenue Code of 1986, 26 U.S.C. s.47, or a tax credit
36 pursuant to the "Historic Property Reinvestment Act," sections 2
37 through 8 of P.L.2020, c.156 (C.34:1B-270 through 34:1B-276),
38 shall be exempt from the affordability controls related to bedroom
39 distribution.

40 e. Prior to the board considering an application submitted by a
41 developer, the authority shall confirm with the Department of Labor
42 and Workforce Development, the Department of Environmental
43 Protection, and the Department of the Treasury whether the
44 developer is in substantial good standing with the respective
45 department, or has entered into an agreement with the respective
46 department that includes a practical corrective action plan for the
47 developer. The developer shall certify that any contractors or
48 subcontractors that will perform work at the redevelopment project:

(1) are registered as required by "The Public Works Contractor Registration Act," P.L.1999, c.238 (C.34:11-56.48 et seq.); (2) have not been debarred by the Department of Labor and Workforce Development from engaging in or bidding on Public Works Contracts in the State; and (3) possess a tax clearance certificate issued by the Division of Taxation in the Department of the Treasury. The authority may also contract with an independent third party to perform a background check on the developer.

f. Beginning on the third year following the date of issuance of a final certificate of occupancy for a commercial project, and through the conclusion of the eligibility period, if the average occupancy rate of the commercial project is less than 60 percent during any applicable tax period, the developer and co-applicant shall forfeit all credits otherwise allowed for the tax period and for each subsequent tax period until the authority verifies documentation, submitted by the developer or co-applicant, demonstrating that the average occupancy rate has reached or surpassed 60 percent for the tax period. The full amount of credit shall be allowed to a developer and any co-applicant for the tax period in which the average occupancy rate reaches or surpasses 60 percent. Occupancy for the tax period shall be determined by the average of the monthly occupancy for the applicable tax period. The occupancy requirement in this subsection shall not apply to residential projects.

(cf: P.L.2023, c.98, s.3)

4. Section 60 of P.L.2020, c.156 (C.34:1B-328) is amended to read as follows:

60. a. (1) Following approval and selection of an application pursuant to sections 58 and 59 of P.L.2020, c.156 (C.34:1B-326 and C.34:1B-327), the authority shall enter into an incentive award agreement with the developer. The chief executive officer of the authority shall negotiate the terms and conditions of the incentive award agreement on behalf of the State.

(2) For a phased project, the incentive phase agreement shall set forth, for each phase of the project and for the total project, the capital investment requirements and the time periods in which each phase of the project shall be commenced and completed. The awarding of tax credits shall be conditioned on the developer's compliance with the requirements of the agreement. A redevelopment project may be completed in phases in accordance with rules adopted by the authority if the redevelopment project has a total project cost in excess of \$50,000,000.

b. An incentive award agreement shall specify the amount of the incentive award the authority shall award to the developer and the duration of the eligibility period. The duration of the eligibility period **【**shall not exceed 15 years for a commercial or mixed-use project and**】** shall not exceed 10 years for a commercial project,

1 mixed-use project, or residential project, except that [to] the
2 authority shall consider reducing the eligibility period if a shorter
3 period would reduce the total value of tax credits needed to
4 reimburse a developer for all or part of the project financing gap of
5 a redevelopment project, [the authority may, in its discretion,
6 approve a duration for the eligibility period that is shorter than the
7 applicable maximum periods] enhance access to tax credit
8 monetization on cost effective terms, or otherwise enhance the
9 effectiveness of the program. The incentive award agreement shall
10 provide an estimated date of completion and include a requirement
11 for periodic progress reports, including the submittal of executed
12 financing commitments and documents that evidence site control;
13 provided however, that the developer may sell one or more
14 buildings during the eligibility period, provided that such sale is: an
15 arms-length transaction to an unrelated party, or for an amount at
16 least equal to fair market value based on an appraisal conducted
17 within one year; and subject to the purchaser's assumption of all
18 obligations relating to the buildings pursuant to sections 54 through
19 67 of P.L.2020, c.156 (C.34:1B-322 through C.34:1B-335). If the
20 authority does not receive periodic progress reports, or if the
21 progress reports demonstrate unsatisfactory progress, then the
22 authority may rescind the incentive award. If the authority rescinds
23 an incentive award in the same calendar year in which the authority
24 approved the incentive award, then the authority may assign the
25 incentive award to another applicant. The incentive award
26 agreement may also provide for a verification of the financing gap
27 at the time the developer provides executed financing commitments
28 to the authority and a verification of the developer's projected cash
29 flow at the time of certification that the project is completed.

30 c. To ensure the protection of taxpayer money, if the authority
31 determines at project certification that the actual capital financing
32 approach utilized by the project has resulted in a financing gap that
33 is smaller than the financing gap determined at board approval, the
34 authority shall reduce the amount of the tax credit or accept
35 payment from the developer on a pro rata basis. If there is no
36 project financing gap due to the actual capital financing approach
37 utilized by the project, then the developer shall forfeit the incentive
38 award. At the end of the seventh year of the eligibility period, the
39 authority shall evaluate the developer's rate of return on investment
40 and compare that rate of return on investment to the reasonable and
41 appropriate rate of return at the time of board approval. If the
42 actual rate of return on investment exceeds the reasonable and
43 appropriate rate of return on investment at the time of board
44 approval by more than 15 percent, the authority shall require the
45 developer to pay up to 20 percent of the amount in excess of the
46 reasonable and appropriate rate of return on investment. The
47 authority shall require an escrow account to be held by the authority
48 until the end of the eligibility period. Following the final year of

1 the eligibility period, the authority shall determine if the developer's
2 rate of return exceeded the reasonable and appropriate rate of return
3 determined at board approval. If the final rate of return does not
4 exceed the reasonable and appropriate rate of return determined at
5 board approval, the authority shall release to the developer the
6 escrowed funds. If the project final rate of return exceeds the
7 reasonable and appropriate rate of return determined at board
8 approval, the authority shall require the developer to pay up to 20
9 percent of the amount of the excess, which shall include the funds
10 held in escrow, and such funds shall be deposited in the State
11 General Fund.

12 d. The incentive award agreement shall include a requirement
13 that the authority confirm with the Department of Environmental
14 Protection, the Department of Labor and Workforce Development,
15 and the Department of the Treasury that the developer is in
16 substantial good standing with the respective department, or the
17 developer has entered into an agreement with the respective
18 department that includes a practical corrective action for the
19 developer, and the developer shall confirm that each contractor or
20 subcontractor performing work at the redevelopment project: (1) is
21 registered as required by "The Public Works Contractor
22 Registration Act," P.L.1999, c.238 (C.34:11-56.48 et seq.); (2) has
23 not been debarred by the Department of Labor and Workforce
24 Development from engaging in or bidding on Public Works
25 Contracts in the State; and (3) possesses a tax clearance certificate
26 issued by the Division of Taxation in the Department of the
27 Treasury. The incentive award agreement shall also include a
28 provision that the developer shall forfeit the incentive award in any
29 year in which the developer is neither in substantial good standing
30 with each department nor has entered into a practical corrective
31 action. The incentive award agreement shall also require a
32 developer to engage in on-site consultations with the Division of
33 Workplace Safety and Health in the Department of Health.

34 e. (1) Except as provided in paragraph (2) of this subsection, the
35 authority shall not enter into an incentive award agreement for a
36 redevelopment project that includes at least one retail establishment
37 which will have more than 10 employees, at least one distribution
38 center which will have more than 20 employees, or at least one
39 hospitality establishment which will have more than 10 employees,
40 unless the incentive award agreement includes a precondition that
41 any business that serves as the owner or operator of the retail
42 establishment, distribution center, or hospitality establishment
43 enters into a labor harmony agreement with a labor organization or
44 cooperating labor organizations which represent retail
45 establishment, hospitality establishment, or distribution center
46 employees in the State.

47 (2) A labor harmony agreement shall be required only if the State
48 has a proprietary interest in the redevelopment project and shall

1 remain in effect for as long as the State acts as a market participant
2 in the redevelopment project. The authority may enter into an
3 incentive award agreement with a developer without the labor
4 harmony agreement required under paragraph (1) of this subsection
5 if the authority determines that the redevelopment project would not
6 be able to go forward if a labor harmony agreement is required.
7 The authority shall support the determination by a written finding,
8 which provides the specific basis for the determination.

9 (3) (Deleted by amendment, P.L.2023, c.98)

10 f. (1) Except for a residential project that is located in a
11 government-restricted municipality, and in which 100 percent of the
12 residential units constructed in the residential project are reserved
13 for occupancy by low- and moderate-income households, for a
14 redevelopment project whose total project cost equals or exceeds
15 \$10 million, in addition to the incentive award agreement, a
16 developer shall enter into a community benefits agreement with the
17 authority and the county or municipality in which the
18 redevelopment project is located. The agreement may include, but
19 shall not be limited to, requirements for training, employment, and
20 youth development and free services to underserved communities in
21 and around the community in which the redevelopment project is
22 located. Prior to entering a community benefits agreement, the
23 governing body of the county or municipality in which the
24 redevelopment project is located shall hold at least one public
25 hearing at which the governing body shall hear testimony from
26 residents, community groups, and other stakeholders on the needs
27 of the community that the agreement should address.

28 (2) The community benefits agreement shall provide for the
29 creation of a community advisory committee to oversee the
30 implementation of the agreement, monitor successes, ensure
31 compliance with the terms of the agreement, and produce an annual
32 public report. The community advisory committee created pursuant
33 to this paragraph shall be comprised of representatives of diverse
34 community groups and residents of the county or municipality in
35 which the redevelopment project is located.

36 (3) At the time the developer submits the annual report required
37 pursuant to section 62 of P.L.2020, c.156 (C.34:1B-330) to the
38 authority, the developer shall certify, under the penalty of perjury,
39 that it is in compliance with the terms of the community benefits
40 agreement. If the developer fails to provide the certification
41 required pursuant to this paragraph or the authority determines that
42 the developer is not in compliance with the terms of the community
43 benefits agreement based on the reports submitted by the
44 community advisory committee pursuant to paragraph (2) of this
45 subsection, then the authority may rescind an award or recapture all
46 or part of any tax credits awarded.

47 (4) Notwithstanding any requirement of this subsection to the
48 contrary, a developer shall be considered to have met the

1 requirements of a community benefits agreement **【pursuant to this**
2 **subsection】**, and the requirements of paragraphs (2) and (3) of this
3 subsection shall not apply, if the developer submits to the authority:

4 (a) a copy of either the developer's approval letter from the
5 authority or a redevelopment agreement applicable to the qualified
6 business facility, provided that the approval letter is certified by the
7 municipality or the redevelopment agreement is **【certified】** adopted
8 by resolution at a public meeting by the municipality in which the
9 redevelopment project is located, and includes provisions that meet
10 **【or exceed】** the **【standards】** community benefit required **【for】**
11 under a community benefits agreement in this subsection **【**, as
12 determined by the chief executive officer pursuant to rules adopted
13 by the authority**】**; or

14 (b) a resolution adopted by the governing body of the
15 municipality in which the redevelopment project is located, which
16 resolution shall be adopted after at least one public hearing at which
17 the governing body provides an opportunity for residents,
18 community groups, and other stakeholders to testify, and which
19 resolution shall state that the governing body has determined that
20 the redevelopment project will provide economic and social benefits
21 to the community that fulfill the purposes of this subsection, which
22 benefits render a separate community benefit agreement
23 unnecessary, and explain the reasons supporting the governing
24 body's determination.

25 g. A developer shall submit, prior to the first disbursement of
26 tax credits under the incentive award agreement, but no later than
27 six months following project completion, satisfactory evidence of
28 actual project costs, as certified by a certified public accountant,
29 evidence of a temporary certificate of occupancy, or other event
30 evidencing project completion that begins the eligibility period
31 indicated in the incentive award agreement. The developer, or an
32 authorized agent of the developer, shall certify that the information
33 provided pursuant to this subsection is true under the penalty of
34 perjury. Claims, records, or statements submitted by a developer to
35 the authority in order to receive tax credits shall not be considered
36 claims, records, or statements made in connection with State tax
37 laws.

38 h. The incentive award agreement shall include a provision
39 allowing the authority to extend, in individual cases, the deadline
40 for any annual reporting or certification requirement.

41 i. The incentive award agreement shall include one or more
42 provisions, as determined by the authority, concerning the terms
43 and conditions for default and the remedies for the developer of a
44 redevelopment project in the event of default. The incentive award
45 agreement shall not allow the authority to declare a cross-default
46 when the developer of a redevelopment project, including any
47 business affiliate of the developer or any other entity with common

principals as the developer, is in default with any other assistance program administered by the authority.
(cf: P.L.2023, c.98, s.6)

5. Section 61 of P.L.2020, c.156 (C.34:1B-329) is amended to read as follows:

61. a. Up to the limits established in subsection b. of this section and in accordance with an incentive award agreement, beginning upon the receipt of occupancy permits for any portion of the redevelopment project, or upon any other event evidencing project completion as set forth in the incentive award agreement, a developer shall be allowed a total tax credit **that shall not exceed** as follows, subject to the enhancements set forth in subsection c. of this section:

(1) 80 percent of the total project cost for a redevelopment project that is located in a government-restricted municipality;

(2) 60 percent of the total project cost for a residential project that receives a four-percent allocation from the federal Low Income Housing Tax Credit Program administered by the agency or a redevelopment project that is located in a qualified incentive tract, enhanced area, or a municipality with a Municipal Revitalization Index score of at least 50; or

(3) 50 percent of the total project cost for any other redevelopment project.

b. The value of all tax credits approved by the authority under the program for a redevelopment project phase shall not exceed:

(1) \$120,000,000 per redevelopment project or phase for a redevelopment project that is located in a government-restricted municipality;

(2) \$90,000,000 per redevelopment project or phase for a redevelopment project that is allowed a tax credit under paragraph (2) of subsection a. of this section; and

(3) \$60,000,000 for any other redevelopment project or phase.

c. Notwithstanding the limitations set forth in subsection a. of this section, but subject to the limitations of subsections b. and d. of this section and the demonstration of a financing gap, a developer shall be eligible for each of the following enhancements to the total tax credit award:

(1) for a redevelopment project that includes the redevelopment of a stranded asset, an enhancement of up to 10 percent of the project cost of the redevelopment project;

(2) for a residential project that meets the three-bedroom distribution requirement under the Uniform Housing Affordability Controls, an enhancement of up to five percent of the project cost of the residential project; and

(3) for a redevelopment project that meets local first source hiring requirements for residents in the municipality or county

1 where the project is located, an enhancement of up to three percent
2 of the project cost of the redevelopment project.

3 d. Except for a redevelopment project that is located in a
4 government restricted municipality:

5 (1) the total tax credits awarded for the redevelopment project,
6 together with all tax credits awarded under any other program
7 administered by the authority, shall not exceed 80 percent of the
8 project cost of the redevelopment project; and

9 (2) for a redevelopment project that receives tax credits under
10 the Federal Low-Income Housing Tax Credit Program, the total tax
11 credits awarded for the redevelopment project, together with all tax
12 credits awarded under any other program administered by the
13 authority and under the Federal Low-Income Housing Tax Credit
14 Program, shall not exceed 90 percent of the project cost.

15 (cf: P.L.2023, c.98, s.7)

16
17 6. Section 62 of P.L.2020, c.156 (C.34:1B-330) is amended to
18 read as follows:

19 62. a. A developer approved for an incentive award pursuant to
20 sections 58 and 59 of P.L.2020, c.156 (C.34:1B-326 and
21 C.34:1B-327) and that enters an incentive award agreement
22 pursuant to section 60 of P.L.2020, c.156 (C.34:1B-328) shall
23 submit annually, commencing in the year in which the incentive
24 award is issued and for the remainder of the eligibility period, a
25 report indicating whether the developer is aware of any condition,
26 event, or act that would cause the developer not to be in compliance
27 with the incentive award agreement or the provisions of sections 54
28 through 67 of P.L.2020, c.156 (C.34:1B-322 through C.34:1B-335)
29 and any additional reporting requirements contained in the incentive
30 award agreement or tax credit certificate. The developer, or an
31 authorized agent of the developer, shall certify that the information
32 provided pursuant to this subsection is true under the penalty of
33 perjury.

34 b. (1) Upon receipt and review of each report submitted during
35 the eligibility period, the authority shall provide to the developer
36 and the director a certificate of compliance indicating the amount of
37 tax credits that the developer may apply against the developer's tax
38 liability.

39 (2) Upon receipt by the director of the certificate of compliance,
40 the director shall allow the developer a credit against the tax
41 imposed pursuant to section 5 of P.L.1945, c.162 (C.54:10A-5). A
42 developer shall apply the credit awarded against the developer's
43 liability under section 5 of P.L.1945, c.162 (C.54:10A-5), sections 2
44 and 3 of P.L.1945, c.132 (C.54:18A-2 and C.54:18A-3), section 1
45 of P.L.1950, c.231 (C.17:32-15), or N.J.S.17B:23-5 for the privilege
46 period **【during】** identified in the tax credit certificate which the
47 director **【allows】** issues to the developer **【a tax credit】** pursuant to
48 this subsection, or within the three successive tax periods

1 immediately following the tax period in which the tax credit
2 certificate is received by the developer. A developer may carry
3 forward an unused credit resulting from the limitations of paragraph
4 (3) of this subsection, if necessary, for use in the seven privilege
5 periods next following the privilege period for which the credits are
6 **【awarded】** applied. Credits granted to a partnership shall be passed
7 through to the partners, members, or owners, respectively, pro-rata,
8 or pursuant to an executed agreement among the partners, members,
9 or owners documenting an alternate distribution method provided to
10 the director accompanied by any additional information as the
11 director may prescribe.

12 (3) The director shall prescribe the order of priority of the
13 application of the credit allowed under this section and any other
14 credits allowed by law against the tax imposed under section 5 of
15 P.L.1945, c.162 (C.54:10A-5). The amount of the credit applied
16 under this section against the tax imposed pursuant to section 5 of
17 P.L.1945, c.162 (C.54:10A-5) for a privilege period, together with
18 any other credits allowed by law, shall not reduce the tax liability to
19 an amount less than the statutory minimum provided in subsection
20 (e) of section 5 of P.L.1945, c.162 (C.54:10A-5).
21 (cf: P.L.2022, c.46, s.1)
22

23 7. Section 63 of P.L.2020, c.156 (C.34:1B-331) is amended to
24 read as follows:

25 63. a. A developer may apply to the director and the chief
26 executive officer of the authority for a tax credit transfer certificate,
27 covering one or more years, in lieu of the developer being allowed
28 any amount of the credit against the tax liability of the developer.
29 The tax credit transfer certificate, upon receipt thereof by the
30 developer from the director and the chief executive officer of the
31 authority, may be sold or assigned, in full or in part in an amount
32 not less than \$25,000, in the privilege period during which the
33 developer receives the tax credit transfer certificate from the
34 director, to another person, who may apply the credit against a tax
35 liability pursuant to section 5 of P.L.1945, c.162 (C.54:10A-5),
36 sections 2 and 3 of P.L.1945, c.132 (C.54:18A-2 and C.54:18A-3),
37 section 1 of P.L.1950, c.231 (C.17:32-15), or N.J.S.17B:23-5. The
38 certificate provided to the developer shall include a statement
39 waiving the developer's right to claim the amount of the credit that
40 the developer has elected to sell or assign against the developer's
41 tax liability.

42 b. The developer shall not sell or assign, including a collateral
43 assignment, a tax credit transfer certificate allowed under this
44 section for consideration received by the developer of less than 85
45 percent of the transferred credit amount before considering any
46 further discounting to present value which shall be permitted,
47 except a developer of a residential project consisting of newly-
48 constructed residential units may assign a tax credit transfer

1 certificate for consideration of less than 85 percent subject to the
2 submission of a plan to the authority and the agency to use the
3 proceeds derived from the assignment of tax credits to complete the
4 residential project, except a developer of a residential project
5 consisting of newly-constructed residential units that has received
6 federal low income housing tax credits under 26 U.S.C.
7 s.42(b)(1)(B)(i) may assign a tax credit transfer certificate for
8 consideration of no less than 65 percent subject to the submission of
9 a plan to the authority and the New Jersey Housing and Mortgage
10 Finance Agency to use the proceeds derived from the assignment of
11 tax credits to complete the residential project. The tax credit
12 transfer certificate issued to a developer by the director shall be
13 subject to any limitations and conditions imposed on the application
14 of State tax credits pursuant to sections 54 through 67 of P.L.2020,
15 c.156 (C.34:1B-322 through 34:1B-335) and any other terms and
16 conditions that the director may prescribe; provided, however, that
17 the holder of a tax credit certificate may transfer all or part of the
18 tax credit amount, within the three successive tax periods
19 immediately following the tax period in which the tax credit
20 certificate is received by the developer, on or after the date of
21 issuance of the tax credit transfer certificate, for use by the
22 transferee in the tax period for which it was issued or within the
23 three successive tax periods immediately following the tax period in
24 which the tax credit transfer certificate is received by the transferee,
25 and the transferee may carry forward all or part of the tax credit
26 amount in any of the next five successive tax periods after the tax
27 period for which it was used. Notwithstanding any provision of this
28 section to the contrary, the amount of tax credits that may be
29 claimed by the transferee in any tax period shall not exceed the total
30 tax credit amount divided by the duration of the eligibility period in
31 years.

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

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

- 38 (1) the name of the transferor;
39 (2) the name of the transferee;
40 (3) the value of the tax credit transfer certificate; and
41 (4) the consideration received by the transferor.

42 e. When a tax credit certificate is issued to a developer after
43 the tax period in which all or part of the tax credits may be used by
44 the developer or a holder of the credit transfer certificate, the
45 developer or transferee shall be allowed to use the tax credit for the
46 same tax period specified in the tax credit certificate, or within the
47 three successive tax periods immediately following the tax period in
48 which the certificate is received by the developer or transferee. In

1 this circumstance, the developer or transferee shall not be required
2 to amend its tax return for the tax period in which it applies the tax
3 credit or for a tax period preceding the tax period in which the tax
4 credit is applied.

5 (cf: P.L.2023, c.98, s.8)

6
7 8. Section 65 of P.L.2020, c.156 (C.34:1B-333) is amended to
8 read as follows:

9 65. a. As used in this section, "transformative project" means a
10 redevelopment project: that has a project financing gap; that has a
11 total project cost of at least \$150,000,000; that, subject to the
12 provisions of subsection h. of this section, includes 200,000 or more
13 square feet of new or substantially renovated industrial,
14 commercial, or residential space for a project located in a
15 government-restricted municipality, that includes 250,000 or more
16 square feet of film studios, professional stages, television studios,
17 recording studios, screening rooms, or other infrastructure for film
18 production, that includes 300,000 or more square feet of new or
19 substantially renovated industrial, commercial, or residential space
20 for a project located in an enhanced area, or that includes 500,000
21 or more square feet of new or substantially renovated industrial,
22 commercial, or residential space for any other project; and, for a
23 commercial project, that is of special economic importance as
24 measured by the level of new jobs, new capital investment,
25 opportunities to leverage leadership in a high-priority targeted
26 industry, or other state priorities as determined by the authority
27 pursuant to rules and regulations promulgated to implement this
28 section. Notwithstanding the provisions of subsection b. of section
29 14 of P.L.2023, c.98 (C.34:1B-335.1) to the contrary, for
30 applications submitted on and after the effective date of P.L.2023,
31 c.98 (C.34:1B-335.1 et al.), if the redevelopment project is located
32 entirely on land designated by the Department of Environmental
33 Protection as a brownfield development area pursuant to section 7
34 of P.L.2005, c.223 (C.58:10B-25.1), and the project cost of the
35 redevelopment project includes at least \$15,000,000 in
36 environmental remediation costs, the redevelopment project shall
37 constitute a project of special economic importance. A
38 transformative project may be completed in phases, which phases
39 may be determined by the authority based on factors such as written
40 architectural plans and specifications completed before or during
41 the physical work, certificates of occupancy, or financial and
42 operational plans. The criteria developed by the authority shall
43 include, but shall not be limited to:

44 (1) the extent to which the proposed transformative project
45 would create modern facilities that enhance the State's
46 competitiveness in attracting targeted industries;

47 (2) (a) for a residential project, the construction of 700 or more
48 new residential units;

1 (b) for a residential project containing ~~【less】~~ fewer than 700
2 new residential units, the construction of 200 or more new
3 residential units if the project is located in a government-restricted
4 municipality, 300 or more residential units if the project is located
5 in an enhanced area, or 400 or more residential units for all other
6 mixed-use projects;

7 (c) for a residential project containing ~~【less】~~ fewer than 700
8 new residential units, the construction of ~~【50,000】~~ 20,000 square
9 feet or more of commercial space, which commercial space may
10 include retail space; and

11 (d) for a residential project, 20 percent of the new residential
12 units shall be constructed for occupancy by low- and moderate-
13 income households with affordability controls as adopted by the
14 authority, in consultation with the agency, in accordance with
15 paragraph (2) of subsection a. of section 56 of P.L.2020, c.156
16 (C.34:1B-324), except that a residential project receiving a federal
17 historic rehabilitation tax credit pursuant to section 47 of the federal
18 Internal Revenue Code of 1986, 26 U.S.C. s.47, or a tax credit
19 pursuant to the "Historic Property Reinvestment Act," sections 2
20 through 8 of P.L.2020, c.156 (C.34:1B-270 through 34:1B-276),
21 shall be exempt from the affordability controls related to bedroom
22 distribution; and

23 (3) the extent to which the proposed project would leverage the
24 competitive economic development advantages of the State's mass
25 transit assets, higher education assets, and other economic
26 development assets in attracting or retaining both employers and
27 skilled workers generally or in targeted industries.

28 A "transformative project" shall not include a redevelopment
29 project at which more than 50 percent of the premises is occupied
30 by one or more businesses engaged in final point of sale retail.

31 b. (1) The authority may award incentive awards to
32 transformative projects in accordance with the provisions of
33 sections 55 through 67 of P.L.2020, c.156 (C.34:1B-323 through
34 34:1B-335).

35 (2) (a) For transformative projects completed in phases, the
36 developer shall enter into a transformative phase agreement with the
37 authority.

38 (b) As used in this subsection, "transformative phase agreement"
39 shall mean a sub-agreement of the incentive award agreement that
40 governs the timing, capital investment, and other applicable details
41 of the respective phase of a phased project.

42 (3) Notwithstanding the provisions of section 57 of P.L.2020,
43 c.156 (C.34:1B-325), or any other section of P.L.2020, c.156
44 (C.34:1B-269 et al.) to the contrary, a transformative project shall
45 be completed, and the developer shall be issued a certificate of
46 occupancy for the transformative project facilities by the applicable
47 enforcing agency, within five years of executing the incentive
48 award agreement, except that the authority may, in its discretion,

1 extend this deadline by up to one additional year. For
2 transformative projects completed in phases, the transformative
3 project shall be completed, and the developer shall be issued
4 certificates of occupancy for all phases of the transformative project
5 facilities by the applicable enforcing agency, within 10 years of
6 executing either the incentive award agreement or the first
7 transformative phase agreement corresponding to the transformative
8 project.

9 (4) Notwithstanding the provisions of sections 55 and 60 of
10 P.L.2020, c.156 (C.34:1B-323 and C.34:1B-328), or any other
11 section of P.L.2020, c.156 (C.34:1B-269 et al.) to the contrary, each
12 phase of a transformative project completed in phases shall have a
13 separate eligibility period. After completing each phase, the
14 developer shall submit a certification that the phase is completed.
15 If the authority approves the certification, the tax credit allowed to
16 the developer shall be increased by the tax credit amount
17 corresponding to that phase. Notwithstanding the different
18 eligibility periods for each phase, all conditions and requirements
19 applicable during an eligibility period pursuant to sections 55
20 through 67 of P.L.2020, c.156 (C.34:1B-323 through 34:1B-335)
21 shall apply to the entire transformative project until the end of the
22 eligibility period for the last phase.

23 (5) Notwithstanding the provisions of section 60 of P.L.2020,
24 c.156 (C.34:1B-328), or any other section of P.L.2020, c.156
25 (C.34:1B-269 et al.) to the contrary, for a transformative project
26 completed in phases, a review of the project financing gap shall be
27 performed at the certification of completion of each phase, and the
28 authority shall re-evaluate the developer's rate of return in the
29 seventh year and at the end of the eligibility period for the last
30 phase, provided that the authority may also re-evaluate the
31 developer's rate of return during the fifth year of any earlier phase.

32 (6) A transformative project receiving an incentive award
33 pursuant to this section, other than a project that includes 250,000
34 or more square feet of film studios, professional stages, television
35 studios, recording studios, screening rooms or other infrastructure
36 for film production, shall be located in an incentive area, a
37 distressed municipality, a government-restricted municipality, or an
38 enhanced area. A transformative project receiving an incentive
39 award pursuant to this section that includes 250,000 or more square
40 feet of film studios, professional stages, television studios,
41 recording studios, screening rooms or other infrastructure for film
42 production may be located anywhere in the State. The authority
43 shall not consider an application for a transformative project unless
44 the applicant submits with its application a letter evidencing support
45 for the transformative project from the governing body of the
46 municipality in which the transformative project is located.

47 c. The authority shall review the transformative project cost,
48 evaluate and validate the project financing gap estimated by the

1 developer, and conduct a State fiscal impact analysis to ensure that
2 the overall public assistance provided to the transformative project
3 will result in a net positive benefit to the State. In determining
4 whether a transformative project will result in a net positive benefit
5 to the State, the authority shall not consider the value of any taxes
6 exempted, abated, rebated, or retained under the "Five-Year
7 Exemption and Abatement Law," P.L.1991, c.441 (C.40A:21-1 et
8 seq.), the "Long Term Tax Exemption Law," P.L.1991, c.431
9 (C.40A:20-1 et al.), the "New Jersey Urban Enterprise Zones Act,"
10 P.L.1983, c.303 (C.52:27H-60 et seq.), or any other law that has the
11 effect of lowering or eliminating the developer's State or local tax
12 liability. The determination made pursuant to this subsection shall
13 be based on the potential tax liability of the developer without
14 regard for potential tax losses if the developer were to locate in
15 another state. The authority shall assess the cost of these reviews to
16 the applicant. A developer shall pay to the authority the full
17 amount of the direct costs of an analysis concerning the developer's
18 application for an incentive award that a third party retained by the
19 authority performs, if the authority deems such retention to be
20 necessary. The authority shall evaluate the net economic benefits
21 on a present value basis under which the requested tax credit
22 allocation amount is discounted to present value at the same
23 discount rate as the projected benefits from the implementation of
24 the proposed transformative project for which an award of tax
25 credits is being sought. Projects that are predominantly residential
26 shall be excluded from the calculation of the net benefit test
27 required pursuant to this subsection.

28 d. In determining net benefits for any business or person
29 considering locating in a transformative project and applying to
30 receive from the authority any other economic development
31 incentive subsequent to the award of transformative project tax
32 credits pursuant to section 65 of P.L.2020, c.156 (C.34:1B-333), the
33 authority shall not credit the business or person with any benefit
34 that was previously credited to the transformative project pursuant
35 to section 65 of P.L.2020, c.156 (C.34:1B-333).

36 e. The authority shall administer the credits awarded pursuant
37 to this section in accordance with the provisions of sections 62 and
38 63 of P.L.2020, c.156 (C.34:1B-330 and C.34:1B-331).

39 f. Prior to allocating an incentive award to a developer, the
40 authority shall confirm with the Department of Labor and
41 Workforce Development, the Department of Environmental
42 Protection, and the Department of the Treasury that the developer is
43 in substantial good standing with the respective department, or the
44 developer has entered into an agreement with the respective
45 department that includes a practical corrective action plan, and the
46 developer shall certify that each contractor or subcontractor
47 performing work at the transformative project: (1) is registered as
48 required by "The Public Works Contractor Registration Act,"

1 P.L.1999, c.238 (C.34:11-56.48 et seq.); (2) has not been debarred
2 by the Department of Labor and Workforce Development from
3 engaging in or bidding on Public Works Contracts in the State; and
4 (3) possesses a tax clearance certificate issued by the Division of
5 Taxation in the Department of the Treasury. The authority may also
6 contract with an independent third party to perform a background
7 check on the developer.

8 g. Notwithstanding the limitation on incentive awards set forth
9 in subsection b. of section 61 and section 98 of P.L.2020, c.156
10 (C.34:1B-329 and C.34:1B-362) to the contrary, the authority may
11 allow a developer of a transformative project a tax credit in an
12 amount not to exceed the lesser of:

13 (1) (a) 80 percent of the total project cost for a transformative
14 project that is located in a government-restricted municipality;

15 (b) 60 percent of the total project cost for a residential
16 transformative project that receives a four-percent allocation from
17 the federal Low Income Housing Tax Credit Program administered
18 by the agency or a transformative project that is located in a
19 qualified incentive tract, enhanced area, or a municipality with a
20 Municipal Revitalization Index score of at least 50; or

21 (c) 50 percent of the total project cost for any other
22 transformative project;

23 (2) the total value of the project financing gap; or

24 (3) \$400,000,000, except that for a transformative project that is
25 developed in phases, the \$400,000,000 limitation on incentive
26 awards set forth in this paragraph shall apply to the total aggregate
27 award for all phases of the transformative project.

28 h. (1) The parking component of a transformative project shall
29 be included in the calculation of the total square footage of the
30 project, provided that the parking component shall be constructed in
31 conformity with local zoning, planning, or similar requirements and
32 up to the amount required by the Residential Site Improvement
33 Standards. Any portion of the parking component that exceeds the
34 local parking requirements or the Residential Site Improvement
35 Standards shall not be included in the calculation of the total square
36 footage of the project.

37 (2) Notwithstanding any provision of paragraph (1) of this
38 subsection to the contrary, the entire parking component of a
39 project located in a government restricted municipality shall be
40 included in the calculation of the total square footage of the project.

41 (cf: P.L.2023, c.98, s.9)

42
43 9. Section 14 of P.L.2023, c.98 (C.34:1B-335.1) is amended to
44 read as follows:

45 14. a. (1) Except as otherwise provided in subsection b. of this
46 section, all program applications **【completed after】** submitted to the
47 authority on or after the date six months prior to the effective date
48 of **【P.L.2023, c.98 (C.34:1B-335.1 et al.)】** P.L. , c. (C.)

1 (pending before the Legislature as this bill) shall be subject to the
2 "New Jersey Aspire Program Act," sections 54 through 67 of
3 P.L.2020, c.156 (C.34:1B-322 through 34:1B-335), as amended as
4 supplemented by P.L.2023, c.98 (C.34:1B-335.1 et al.), and as
5 further amended and supplemented by P.L. , c. (C.)
6 (pending before the Legislature as this bill), including the rules and
7 regulations adopted pursuant to subsection b. of section 67 of
8 P.L.2020, c.156 (C.34:1B-335), except that applications submitted
9 to the authority prior to the effective date of P.L. , c. (C.)
10 (pending before the Legislature as this bill) shall be subject to the
11 rules and regulations concerning application fees that were in effect
12 immediately before the effective date of P.L. , c. (C.)
13 (pending before the Legislature as this bill).

14 (2) **【**Except as otherwise provided in subsection b. of this
15 section, all program applications completed on or before the
16 effective date of P.L.2023, c.98 (C.34:1B-335.1 et al.) shall be
17 subject to the provisions of the "New Jersey Aspire Program Act,"
18 sections 54 through 67 of P.L.2020, c.156 (C.34:1B-322 through
19 34:1B-335), as such provisions remained in effect immediately
20 before the effective date of P.L.2023, c.98 (C.34:1B-335.1 et al.),
21 including the rules and regulations adopted pursuant to subsection
22 a. of section 67 of P.L.2020, c.156 (C.34:1B-335).**】** (Deleted by
23 amendment, P.L. , c. (pending before the Legislature as this bill)

24 b. Notwithstanding any provision of P.L.2020, c.156
25 (C.34:1B-269 et al.) to the contrary, if a completed application for a
26 residential project is submitted to the authority on or before the
27 121st calendar day next following effective date of P.L.2023, c.98
28 (C.34:1B-335.1 et al.), the applicant for the residential project has
29 received all applicable approvals pursuant to the "Municipal Land
30 Use Law," P.L.1975, c.291 (C.40:55D-1 et seq.) on or before the
31 121st calendar day next following the effective date of P.L.2023,
32 c.98 (C.34:1B-335.1 et al.), and the applicant submits written notice
33 to the authority, before the authority's approval or denial of the
34 application, electing for the application to be governed under the
35 provisions of this subsection, then the residential units constructed
36 for occupancy by low- and moderate-income households within the
37 residential project shall not be subject to the affordability controls
38 adopted by the authority, in consultation with the agency, pursuant
39 to paragraph (2) of subsection a. of section 56 of P.L.2020, c.156
40 (C.34:1B-324) and subsection b. of section 67 of P.L.2020, c.156
41 (C.34:1B-335). In this event, the application for the residential
42 project shall be reviewed, approved, and administered in accordance
43 with the provisions of the "New Jersey Aspire Program Act,"
44 sections 54 through 67 of P.L.2020, c.156 (C.34:1B-322 through
45 34:1B-335), as such provisions remained in effect immediately
46 before the effective date of P.L.2023, c.98 (C.34:1B-335.1 et al.),
47 including the rules and regulations adopted pursuant to subsection

1 a. of section 67 of P.L.2020, c.156 (C.34:1B-335), except that the
2 application shall be subject to:

3 (1) the determination of a reasonable and appropriate return on
4 investment, as defined in section 55 of P.L.2020, c.156
5 (C.34:1B-323), as amended by P.L.2023, c.98 (C.34:1B-335.1 et
6 al.); and

7 (2) the limitation on tax credit awards set forth in subsection b.
8 of section 61 of P.L.2020, c.156 (C.34:1B-329) and subsection g. of
9 section 65 of P.L.2020, c.156 (C.34:1B-333), respectively, as
10 amended by P.L.2023, c.98 (C.34:1B-335.1 et al.).

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

12

13 10. (New section) The authority shall promulgate a schedule of
14 application and other fees imposed under the program, which fees
15 shall be limited to the coverage of actual direct costs of
16 administering the program, the coverage of reasonable indirect costs
17 of administering the program, and the maintenance of reasonable
18 reserves for administering the program. Any application fee or
19 other fee charged by the authority shall be proportional to the tax
20 credit amount awarded for a redevelopment project under the
21 program.

22

23 11. (New section) a. The authority shall establish, as part of the
24 program, a “Redevelopment Project Bridge Financing Program” to
25 facilitate the ability of a developer to secure financing for a
26 redevelopment project until such time as tax credits are issued
27 pursuant to the “New Jersey Aspire Program Act,” sections 54
28 through 67 of P.L.2020, c.156 (C.34:1B-322 through C.34:1B-335),
29 as amended as supplemented. Through the program, the authority
30 shall provide full or partial loans or loan guarantees, at the
31 authority’s discretion, to the developers of redevelopment projects
32 for the purpose of ensuring the completion of the redevelopment
33 projects. As determined by the authority, the Redevelopment
34 Project Bridge Financing Program may consist of:

35 (1) the issuance of redevelopment project bridge financing
36 loans, subject to the provisions of subsection b. of this section; and

37 (2) the provision of redevelopment project loan guarantees,
38 subject to the provisions of subsection c. of this section.

39 b. (1) The authority may issue a redevelopment project bridge
40 financing loan to the developer of an approved redevelopment
41 project, upon application by the developer, provided that the
42 authority determines that:

43 (a) a project financing gap continues to exist after the award of
44 tax credits to the developer of the redevelopment project; and

45 (b) the redevelopment project bridge financing loan will enable
46 the completion of the redevelopment project.

1 (2) A developer who seeks a redevelopment project bridge
2 financing loan shall submit an application to the authority, which
3 application shall include:
4 (a) a proposed loan principle and interest amount;
5 (b) a proposed repayment schedule;
6 (c) an accounting of the remaining project financing gap; and
7 (d) any other information as the authority shall require.
8 (3) The authority may issue the redevelopment project bridge
9 financing loan in such amount as it deems appropriate, subject to
10 such terms, including, but not limited to, interest rates, collateral,
11 and repayment or release schedules, as the authority shall deem
12 reasonable and appropriate.

13 c. (1) The authority may provide a loan guarantee to the
14 developer of an approved redevelopment project, upon application
15 by the developer, provided that the authority determines that:
16 (a) a project financing gap continues to exist after the initial
17 award of tax credits to the developer of the redevelopment project;
18 and
19 (b) the loan guarantee will enable the developer to access the
20 financing needed to complete the redevelopment project.

21 (2) A developer who seeks a loan guarantee shall submit an
22 application to the authority, which application shall include:
23 (a) a proposed loan guarantee amount and terms;
24 (b) an accounting of the remaining project financing gap; and
25 (c) any other information as the authority shall require.

26 (3) The authority may issue the loan guarantees in such amounts
27 as it deems appropriate, subject to such terms as the authority
28 deems reasonable and appropriate.

29 d. (1) The authority shall establish a Redevelopment Project
30 Bridge Financing Revolving Fund from which the authority shall
31 provide all loans issued pursuant to subsection b. of this section and
32 provide all loan guarantees issued pursuant to subsection c. of this
33 section. All monies received from payments of the principle and
34 interest for loans issued pursuant to this section shall be deposited
35 into the Redevelopment Project Bridge Financing Revolving Fund,
36 which fund shall remain until the authority determines that there no
37 longer remains a need for bridge financing or until December 31,
38 2028, whichever occurs first. After the fund is no longer needed, or
39 upon its expiration, all monies in the fund shall be deposited into
40 the General Fund.

41 (2) Within 90 days after the effective date of P.L. ,
42 c. (C.) (pending before the Legislature as this bill), the
43 authority shall submit a recommendation to the Governor and to the
44 Legislature, pursuant to section 2 of P.L.1991, c.164 (C.52:14-
45 19.1), for the amount of appropriations needed to fund the
46 Redevelopment Project Bridge Financing Program.

12. (New section) a. To facilitate the efficient monetization of tax credits awarded under the program, the Department of the Treasury shall, at such times as the department deems necessary, redeem the tax credits awarded to a developer for a redevelopment project at a discount from face value. The tax credit redemptions shall be made at such discounts as the State Treasurer deems appropriate, except that the discount shall not exceed 10 percent of the face value of the tax credits.

b. The tax credit redemptions shall be paid in the same manner as refunds of tax payable under section 5 of P.L.1945, c.162 (C.54:10A-5), sections 2 and 3 of P.L.1945, c.132 (C.54:18A-2 and C.54:18A-3), section 1 of P.L.1950, c.231 (C.17:32-15), or N.J.S.17B:23-5, notwithstanding that such tax is not applicable to the person or entity seeking the redemption. The State Treasurer shall allow the proceeds of the tax credit redemption to be issued over one or more tax periods, but not to exceed the applicable eligibility period.

13. Section 89 of P.L.2020, c.156 (C.52:18A-263) is amended to read as follows:

89. a. The Director of the Division of Taxation in the Department of the Treasury may purchase unused tax credits awarded under a program listed in subsection b. of this section, including tax credit transfer certificates issued by the director in lieu of a tax credit allowed under such programs. The director shall not pay consideration in excess of 75 percent of the credit amount to be purchased, except for a credit awarded under:

(1) the "Emerge Program Act," sections 68 through 81 of P.L.2020, c.156 (C.34:1B-336 et al.), which shall be subject to the provisions of paragraph (4) of subsection d. of section 77 of P.L.2020, c.156 (C.34:1B-345); or

(2) the "New Jersey Aspire Program Act," sections 54 through 67 (C.34:1B-222 through C.34:1B-335), as amended and supplemented, which shall be subject to the provisions of section 12 of P.L. , c. (C.) (pending before the Legislature as this bill).

b. The Director of the Division of Taxation in the Department of the Treasury may purchase tax credits awarded under the following:

(1) the "Historic Property Reinvestment Act," sections 1 through 8 of P.L.2020, c.156 (C.34:1B-269 through C.34:1B-276);

(2) the "Brownfield Redevelopment Incentive Program Act," sections 9 through 19 of P.L.2020, c.156 (C.34:1B-277 through C.34:1B-287);

(3) the "New Jersey Innovation Evergreen Act," sections 20 through 34 of P.L.2020, c.156 (C.34:1B-288 through C.34:1B-302);

(4) the "Food Desert Relief Act," sections 35 through 42 of P.L.2020, c.156 (C.34:1B-303 through C.34:1B-310);

1 (5) the "New Jersey Community-Anchored Development Act,"
2 sections 43 through 53 of P.L.2020, c.156 (C.34:1B-311 through
3 C.34:1B-321);

4 (6) the "New Jersey Aspire Program Act," sections 54 through
5 67 of P.L.2020, c.156 (C.34:1B-322 through C.34:1B-335);

6 (7) the " Emerge Program Act," sections 68 through 81 of
7 P.L.2020, c.156 (C.34:1B-336 et al.);

8 (8) the Grow New Jersey Assistance Program established
9 pursuant to section 3 of P.L.2011, c.149 (C.34:1B-244);

10 (9) section 6 of P.L.2010, c.57 (C.34:1B-209.4);

11 (10)the State Economic Redevelopment and Growth Grant
12 program established pursuant to section 5 of P.L.2009, c.90
13 (C.52:27D-489e);

14 (11)section 1 of P.L.2018, c.56 (C.54:10A-5.39b); and

15 (12)section 2 of P.L.2018, c.56 (C.54A:4-12b).

16 (cf: P.L.2020, c.156, s.89)

17
18 14. Section 4 of P.L.1945, c.162 (C.54:10A-4) is amended to
19 read as follows:

20 4. For the purposes of this act, unless the context requires a
21 different meaning:

22 (a) "Commissioner" or "director" shall mean the Director of the
23 Division of Taxation of the State Department of the Treasury.

24 (b) "Allocation factor" shall mean the proportionate part of a
25 taxpayer's net worth or entire net income used to determine a
26 measure of its tax under this act.

27 (c) "Corporation" shall mean any corporation, joint-stock
28 company or association and any business conducted by a trustee or
29 trustees wherein interest or ownership is evidenced by a certificate
30 of interest or ownership or similar written instrument, any other
31 entity classified as a corporation for federal income tax purposes,
32 and any state or federally chartered building and loan association or
33 savings and loan association.

34 (d) "Net worth" shall mean the aggregate of the values disclosed
35 by the books of the corporation for (1) issued and outstanding
36 capital stock, (2) paid-in or capital surplus, (3) earned surplus and
37 undivided profits, and (4) surplus reserves which can reasonably be
38 expected to accrue to holders or owners of equitable shares, not
39 including reasonable valuation reserves, such as reserves for
40 depreciation or obsolescence or depletion. Notwithstanding the
41 foregoing, net worth shall not include any deduction for the amount
42 of the excess depreciation described in paragraph (2) (F) of
43 subsection (k) of this section. The foregoing aggregate of values
44 shall be reduced by 50% of the amount disclosed by the books of
45 the corporation for investment in the capital stock of one or more
46 subsidiaries, which investment is defined as ownership (1) of at
47 least 80% of the total combined voting power of all classes of stock
48 of the subsidiary entitled to vote and (2) of at least 80% of the total

1 number of shares of all other classes of stock except nonvoting
2 stock which is limited and preferred as to dividends. In the case of
3 investment in an entity organized under the laws of a foreign
4 country, the foregoing requisite degree of ownership shall effect a
5 like reduction of such investment from the net worth of the
6 taxpayer, if the foreign entity is considered a corporation for any
7 purpose under the United States federal income tax laws, such as
8 (but not by way of sole examples) for the purpose of supplying
9 deemed paid foreign tax credits or for the purpose of status as a
10 controlled foreign corporation. In calculating the net worth of a
11 taxpayer entitled to reduction for investment in subsidiaries, the
12 amount of liabilities of the taxpayer shall be reduced by such
13 proportion of the liabilities as corresponds to the ratio which the
14 excluded portion of the subsidiary values bears to the total assets of
15 the taxpayer.

16 In the case of banking corporations which have international
17 banking facilities as defined in subsection (n), the foregoing
18 aggregate of values shall also be reduced by retained earnings of the
19 international banking facility. Retained earnings means the earnings
20 accumulated over the life of such facility and shall not include the
21 distributive share of dividends paid and federal income taxes paid
22 or payable during the tax year.

23 If in the opinion of the director, the corporation's books do not
24 disclose fair valuations the director may make a reasonable
25 determination of the net worth which, in his opinion, would reflect
26 the fair value of the assets, exclusive of subsidiary investments as
27 defined aforesaid, carried on the books of the corporation, in
28 accordance with sound accounting principles, and such
29 determination shall be used as net worth for the purpose of this act.

30 (e) (Deleted by amendment, P.L.1998, c.114.)

31 (f) "Investment company" shall mean any corporation whose
32 business during the period covered by its report consisted, to the
33 extent of at least 90 percent thereof of holding, investing and
34 reinvesting in stocks, bonds, notes, mortgages, debentures, patents,
35 patent rights and other securities for its own account, but this shall
36 not include any corporation which: (1) is a merchant or a dealer of
37 stocks, bonds and other securities, regularly engaged in buying the
38 same and selling the same to customers; or (2) had less than 90
39 percent of its average gross assets in New Jersey, at cost, invested
40 in stocks, bonds, debentures, mortgages, notes, patents, patent rights
41 or other securities or consisting of cash on deposit during the period
42 covered by its report; or (3) is a banking corporation, a savings
43 institution, or a financial business corporation as defined in the
44 Corporation Business Tax Act.

45 (g) "Regulated investment company" shall mean any corporation
46 which for a period covered by its report, is registered and regulated
47 under the Investment Company Act of 1940 (54 Stat. 789), as
48 amended.

1 (h) "Taxpayer" shall mean any corporation, any combined group
2 filing a mandatory or elective New Jersey combined return, and any
3 partnership required, or consenting, to report or to pay taxes,
4 interest or penalties under this act. "Taxpayer" shall not include a
5 partnership that is listed on a United States national stock exchange.

6 (i) "Fiscal year" shall mean an accounting period ending on any
7 day other than the last day of December on the basis of which the
8 taxpayer is required to report for federal income tax purposes.

9 (j) Except as herein provided, "privilege period" shall mean the
10 calendar or fiscal accounting period for which a tax is payable
11 under this act.

12 (k) "Entire net income" shall mean total net income from all
13 sources, whether within or without the United States, and shall
14 include the gain derived from the employment of capital or labor, or
15 from both combined, as well as profit gained through a sale or
16 conversion of capital assets.

17 For the purpose of this act, the amount of a taxpayer's entire net
18 income shall be deemed prima facie to be equal in amount to the
19 taxable income, before net operating loss deduction and special
20 deductions, which the taxpayer is required to report, or, if the
21 taxpayer is classified as a partnership for federal tax purposes,
22 would otherwise be required to report, to the United States Treasury
23 Department for the purpose of computing its federal income tax,
24 provided however, that in the determination of such entire net
25 income,

26 (1) Entire net income shall exclude for the periods set forth in
27 paragraph (2)(F)(i) of this subsection, any amount, except with
28 respect to qualified mass commuting vehicles as described in
29 section 168(f)(8)(D)(v) of the Internal Revenue Code as in effect
30 immediately prior to January 1, 1984, which is included in a
31 taxpayer's federal taxable income solely as a result of an election
32 made pursuant to the provisions of paragraph (8) of that section.

33 (2) Entire net income shall be determined without the exclusion,
34 deduction or credit of:

35 (A) The amount of any exemption or credit allowed in any law
36 of the United States imposing any tax on or measured by the income
37 of corporations.

38 (B) Any part of any income from dividends or interest on any
39 kind of stock, securities or indebtedness, except as provided in
40 paragraph (5) of subsection (k) of this section.

41 (C) Taxes paid or accrued to the United States, a possession or
42 territory of the United States, a state, a political subdivision thereof,
43 or the District of Columbia, or to any foreign country, state,
44 province, territory or subdivision thereof, on or measured by profits
45 or income, or business presence or business activity, or the tax
46 imposed by this act, or any tax paid or accrued with respect to
47 subsidiary dividends excluded from entire net income as provided
48 in paragraph (5) of subsection (k) of this section.

1 (D) (Deleted by amendment, P.L.1985, c.143.)

2 (E) (Deleted by amendment, P.L.1995, c.418.)

3 (F) (i) The amount by which depreciation reported to the United
4 States Treasury Department for property placed in service on and
5 after January 1, 1981, but prior to taxpayer fiscal or calendar
6 accounting years beginning on and after the effective date of
7 P.L.1993, c.172, for purposes of computing federal taxable income
8 in accordance with section 168 of the Internal Revenue Code in
9 effect after December 31, 1980, exceeds the amount of depreciation
10 determined in accordance with the Internal Revenue Code
11 provisions in effect prior to January 1, 1981, but only with respect
12 to a taxpayer's accounting period ending after December 31, 1981;
13 provided, however, that where a taxpayer's accounting period
14 begins in 1981 and ends in 1982, no modification shall be required
15 with respect to this paragraph (F) for the report filed for such period
16 with respect to property placed in service during that part of the
17 accounting period which occurs in 1981. The provisions of this
18 subparagraph shall not apply to assets placed in service prior to
19 January 1, 1998 of a gas, gas and electric, and electric public utility
20 that was subject to the provisions of P.L.1940, c.5 (C.54:30A-49 et
21 seq.) prior to 1998.

22 (ii) For the periods set forth in subparagraph (F)(i) of paragraph
23 (2) of this subsection, any amount, except with respect to qualified
24 mass commuting vehicles as described in section 168(f)(8)(D)(v) of
25 the Internal Revenue Code as in effect immediately prior to January
26 1, 1984, which the taxpayer claimed as a deduction in computing
27 federal income tax pursuant to a qualified lease agreement under
28 paragraph (8) of that section.

29 The director shall promulgate rules and regulations necessary to
30 carry out the provisions of this section, which rules shall provide,
31 among others, the manner in which the remaining life of property
32 shall be reported.

33 (G) (i) The amount of any civil, civil administrative, or criminal
34 penalty or fine, including a penalty or fine under an administrative
35 consent order, assessed and collected for a violation of a State or
36 federal environmental law, an administrative consent order, or an
37 environmental ordinance or resolution of a local governmental
38 entity, and any interest earned on the penalty or fine, and any
39 economic benefits having accrued to the violator as a result of a
40 violation, which benefits are assessed and recovered in a civil, civil
41 administrative, or criminal action, or pursuant to an administrative
42 consent order. The provisions of this paragraph shall not apply to a
43 penalty or fine assessed or collected for a violation of a State or
44 federal environmental law, or local environmental ordinance or
45 resolution, if the penalty or fine was for a violation that resulted
46 from fire, riot, sabotage, flood, storm event, natural cause, or other
47 act of God beyond the reasonable control of the violator, or caused

1 by an act or omission of a person who was outside the reasonable
2 control of the violator.

3 (ii) The amount of treble damages paid to the Department of
4 Environmental Protection pursuant to subsection a. of section 7 of
5 P.L.1976, c.141 (C.58:10-23.11f), for costs incurred by the
6 department in removing, or arranging for the removal of, an
7 unauthorized discharge upon failure of the discharger to comply
8 with a directive from the department to remove, or arrange for the
9 removal of, the discharge.

10 (H) The amount of any sales and use tax paid by a utility vendor
11 pursuant to section 71 of P.L.1997, c.162.

12 (I) With respect to privilege periods ending before July 31,
13 2023, interest paid, accrued or incurred for the privilege period to a
14 related member, as defined in section 5 of P.L.2002, c.40
15 (C.54:10A-4.4), except that a deduction shall be permitted to the
16 extent that the taxpayer establishes by clear and convincing
17 evidence, as determined by the director, that: (i) a principal purpose
18 of the transaction giving rise to the payment of the interest was not
19 to avoid taxes otherwise due under Title 54 of the Revised Statutes
20 or Title 54A of the New Jersey Statutes, (ii) the interest is paid
21 pursuant to arm's length contracts at an arm's length rate of interest,
22 and (iii)(aa) the related member was subject to a tax on its net
23 income or receipts in this State or another state or possession of the
24 United States or in a foreign nation, (bb) a measure of the tax
25 includes the interest received from the related member, and (cc) the
26 rate of tax applied to the interest received by the related member is
27 equal to or greater than a rate three percentage points less than the
28 rate of tax applied to taxable interest by this State pursuant to
29 section 5 of P.L.1945, c.162 (C.54:10A-5).

30 With respect to privilege periods ending before July 31, 2023, a
31 deduction shall also be permitted if the taxpayer establishes by clear
32 and convincing evidence, as determined by the director, that the
33 disallowance of a deduction is unreasonable, or the taxpayer and the
34 director agree in writing to the application or use of an alternative
35 method of apportionment under section 8 of P.L.1945, c.162
36 (C.54:10A-8); nothing in this subsection shall be construed to limit
37 or negate the director's authority to otherwise enter into agreements
38 and compromises otherwise allowed by law.

39 With respect to privilege periods ending before July 31, 2023, a
40 deduction shall also be permitted to the extent that the taxpayer
41 establishes by a preponderance of the evidence, as determined by
42 the director, that the interest is directly or indirectly paid, accrued
43 or incurred to (i) a related member in a foreign nation which has in
44 force a comprehensive income tax treaty with the United States and
45 the related member (aa) was subject to tax in the foreign nation on a
46 tax base that included the payment paid, accrued, or incurred; and
47 (bb) under which the related member's income received from the
48 transaction was taxed at an effective tax rate equal to or greater than

1 a rate of three percentage points less than the rate of tax applied to
2 taxable interest by the State of New Jersey pursuant to section 5 of
3 P.L.1945, c.162 (C.54:10A-5), provided however that the taxpayer
4 shall disclose on its return for the privilege period the name of the
5 related member, the amount of the interest, the relevant foreign
6 nation, and such other information as the director may prescribe or
7 (ii) to an independent lender and the taxpayer guarantees the debt
8 on which the interest is required. The adjustments required by this
9 subparagraph shall not apply to transactions between related
10 members included in a combined group reported on a New Jersey
11 combined return.

12 (J) (i) Amounts deducted for federal tax purposes pursuant to
13 section 199 of the federal Internal Revenue Code of 1986, 26
14 U.S.C. s.199, except that this exclusion shall not apply to amounts
15 deducted pursuant to that section that are exclusively based upon
16 domestic production gross receipts of the taxpayer which are
17 derived only from any lease, rental, license, sale, exchange, or other
18 disposition of qualifying production property which the taxpayer
19 demonstrates to the satisfaction of the director was manufactured or
20 produced by the taxpayer in whole or in significant part within the
21 United States but not qualified production property that was grown
22 or extracted by the taxpayer. "Manufactured or produced" as used in
23 this paragraph shall be limited to performance of an operation or
24 series of operations the object of which is to place items of tangible
25 personal property in a form, composition, or character different
26 from that in which they were acquired. The change in form,
27 composition, or character shall be a substantial change, and result in
28 a transformation of property into a different or substantially more
29 usable product.

30 (ii) For privilege periods beginning after December 31, 2017,
31 notwithstanding the provisions of P.L.1945, c.162 (C.54:10A-1 et
32 seq.) or any other law to the contrary, for the purposes of
33 determining the amount of income pursuant to P.L.1945, c.162
34 (C.54:10A-1 et seq.) that is net of expenses, no amounts shall be
35 taken as a deduction pursuant to section 199A of the Internal
36 Revenue Code (26 U.S.C. s.199A).

37 (K) (i) For privilege periods beginning after December 31, 2017
38 and ending before July 31, 2022, the interest deduction limitation in
39 subsection (j) of section 163 of the Internal Revenue Code
40 (26 U.S.C. s.163), shall apply on a pro-rata basis to interest paid to
41 both related and unrelated parties, regardless of whether the related
42 parties are subject to the add-back provision of either subparagraph
43 (I) of paragraph (2) of this subsection or in section 5 of P.L.2002,
44 c.40 (C.54:10A-4.4).

45 (ii) For privilege periods beginning after December 31, 2017
46 and ending on and after July 31, 2022, the interest deduction
47 limitation in subsection (j) of section 163 of the Internal Revenue
48 Code (26 U.S.C. s.163), shall apply to a combined group as though

1 the combined group filed a federal consolidated return; provided,
2 however, for the purposes of applying the limitation in subsection
3 (j) of section 163 of the Internal Revenue Code (26 U.S.C. s.163),
4 with regard to affiliates that were members of the federal
5 consolidated return but were not members of the combined group
6 included on the New Jersey combined return, the combined group
7 and the affiliates will also be treated as having filed one federal
8 consolidated return.

9 (3) The director may, whenever necessary to properly reflect the
10 entire net income of any taxpayer, determine the year or period in
11 which any item of income or deduction shall be included, without
12 being limited to the method of accounting employed by the
13 taxpayer.

14 (4) There shall be allowed as a deduction from entire net income
15 of a banking corporation, to the extent not deductible in
16 determining federal taxable income, the eligible net income of an
17 international banking facility determined as follows:

18 (A) The eligible net income of an international banking facility
19 shall be the amount remaining after subtracting from the eligible
20 gross income the applicable expenses;

21 (B) Eligible gross income shall be the gross income derived by
22 an international banking facility, which shall include, but not be
23 limited to, gross income derived from:

24 (i) Making, arranging for, placing or carrying loans to foreign
25 persons, provided, however, that in the case of a foreign person
26 which is an individual, or which is a foreign branch of a domestic
27 corporation (other than a bank), or which is a foreign corporation or
28 foreign partnership which is controlled by one or more domestic
29 corporations (other than banks), domestic partnerships or resident
30 individuals, all the proceeds of the loan are for use outside of the
31 United States;

32 (ii) Making or placing deposits with foreign persons which are
33 banks or foreign branches of banks (including foreign subsidiaries)
34 or foreign branches of the taxpayers or with other international
35 banking facilities;

36 (iii) Entering into foreign exchange trading or hedging
37 transactions related to any of the transactions described in this
38 paragraph; or

39 (iv) Such other activities as an international banking facility
40 may, from time to time, be authorized to engage in;

41 (C) Applicable expenses shall be any expense or other
42 deductions attributable, directly or indirectly, to the eligible gross
43 income described in subparagraph (B) of this paragraph.

44 (5) (A) (i) Entire net income shall exclude 100% of dividends
45 which were included in computing such taxable income for federal
46 income tax purposes, paid to the taxpayer by one or more
47 subsidiaries owned by the taxpayer to the extent of the 80% or more

1 ownership of investment described in subsection (d) of this section
2 for privilege periods beginning on or before December 31, 2016.

3 (ii) For privilege periods beginning after December 31, 2016
4 and before January 1, 2019, entire net income shall exclude 95% of
5 dividends which were included in computing such taxable income
6 for federal income tax purposes, paid or deemed paid, to the
7 taxpayer by one or more subsidiaries owned by the taxpayer to the
8 extent of the 80% or more ownership of investment described in
9 subsection (d) of this section. For the purposes of calculating the
10 tax liability owed for the paid or deemed paid dividends included in
11 entire net income by this subsubparagraph (ii), the taxpayer shall
12 use either their three-year average allocation factor for the
13 taxpayer's 2014 through 2016 tax years reported on the taxpayer's
14 tax returns or 3.5 percent, whichever is lower.

15 (iii) For privilege periods beginning on and after January 1, 2019
16 and ending before July 31, 2023, entire net income shall exclude
17 95% of dividends which were included in computing such taxable
18 income for federal income tax purposes, paid or deemed paid to the
19 taxpayer by one or more subsidiaries owned by the taxpayer to the
20 extent of the 80% or more ownership of investment described in
21 subsection (d) of this section.

22 (iv) For privilege periods ending on and after July 31, 2023,
23 entire net income shall exclude 100 percent of dividends and
24 deemed dividends that were included in computing such taxable
25 income for federal income tax purposes, paid or deemed paid to the
26 taxpayer by one or more subsidiaries owned by the taxpayer to the
27 extent of the 80 percent or more ownership of investment described
28 in subsection (d) of this section.

29 (B) Entire net income shall exclude 50% of dividends which
30 were included in computing such taxable income for federal income
31 tax purposes, paid or deemed paid to the taxpayer by one or more
32 subsidiaries owned by the taxpayer to the extent of 50% or more
33 ownership of investment, such ownership of investment calculated
34 in the same manner as the 80% or more of ownership of investment
35 is calculated as described in subsection (d) of this section.

36 (C) To the extent a subsidiary received dividends from other
37 subsidiaries and included those dividends in its entire net income
38 for the purposes of determining its tax liability pursuant to section 5
39 of P.L.1945, c.162 (C.54:10A-5) and paid tax on those dividends,
40 the taxpayer receiving those same dividends from the subsidiary
41 shall exclude those dividends from its entire net income based on
42 the subsidiary's allocation factor used by the subsidiary in
43 determining its tax liability pursuant to section 5 of P.L.1945, c.162
44 (C.54:10A-5). This subparagraph (C) shall not apply to privilege
45 periods ending on and after July 31, 2019.

46 (D) For privilege periods ending on and after July 31, 2019 but
47 before July 31, 2020, to the extent a subsidiary received dividends
48 from other subsidiaries and included those dividends in its entire net

1 income for the purposes of determining its tax liability pursuant to
2 section 5 of P.L.1945, c.162 (C.54:10A-5) and paid tax on those
3 dividends, the taxpayer receiving those same dividends from the
4 subsidiary shall exclude those dividends from its entire net income.

5 (E) For privilege periods ending on and after July 31, 2020, for
6 purposes of this paragraph (5), the members of a combined group
7 filing a New Jersey combined return shall be treated as one taxpayer
8 with regard to dividends and deemed dividends that were received
9 as part of the unitary business of the combined group.

10 (F) For privilege periods ending on and after July 31, 2023:

11 (i) The exclusion provided by this paragraph (5) shall be
12 deducted from entire net income after the State modifications that
13 increase federal entire net income but before the other State
14 modifications that reduce entire net income and before the
15 allocation of entire net income to this State.

16 (ii) In computing the total amount of the dividends and deemed
17 dividends excluded by this paragraph (5) for privilege periods
18 ending on and after July 31, 2023, the amount of dividends and
19 deemed dividends excluded shall be reduced by the amount of the
20 expenses and deductions that are attributable to those dividends and
21 deemed dividends. For purposes of this paragraph (5), expenses
22 and deductions related to dividends shall equal five percent of all
23 dividends and deemed dividends received by a taxpayer during an
24 income year.

25 (G) For privilege periods ending on and after July 31, 2023, for
26 the purposes of this paragraph (5) and for subsection d. of section
27 18 of P.L.2018, c.48 (C.54:10A-4.6), the income amounts required
28 to be included in federal taxable income pursuant to 26 U.S.C.
29 s.951A, shall be considered a dividend.

30 (6) (A) Net operating loss deduction. For privilege periods
31 ending before July 31, 2019, there shall be allowed as a deduction
32 for the privilege period the net operating loss carryover to that
33 period.

34 (B) Net operating loss carryover. A net operating loss for any
35 privilege period ending after June 30, 1984 shall be a net operating
36 loss carryover to each of the seven privilege periods following the
37 period of the loss and a net operating loss for any privilege period
38 ending after June 30, 2009 shall be a net operating loss carryover to
39 each of the twenty privilege periods following the period of the
40 loss. The entire amount of the net operating loss for any privilege
41 period (the "loss period") shall be carried to the earliest of the
42 privilege periods to which the loss may be carried. The portion of
43 the loss which shall be carried to each of the other privilege periods
44 shall be the excess, if any, of the amount of the loss over the sum of
45 the entire net income, computed without the exclusions permitted in
46 paragraphs (4) and (5) of this subsection or the net operating loss
47 deduction provided by subparagraph (A) of this paragraph, for each
48 of the prior privilege periods to which the loss may be carried.

1 (C) Net operating loss. For purposes of this paragraph the term
2 "net operating loss" means the excess of the deductions over the
3 gross income used in computing entire net income without the net
4 operating loss deduction provided for in subparagraph (A) of this
5 paragraph and the exclusions in paragraphs (4) and (5) of this
6 subsection.

7 (D) Change in ownership. Where there is a change in 50% or
8 more of the ownership of a corporation because of redemption or
9 sale of stock and the corporation changes the trade or business
10 giving rise to the loss, no net operating loss sustained before the
11 changes may be carried over to be deducted from income earned
12 after such changes. In addition where the facts support the premise
13 that the corporation was acquired under any circumstances for the
14 primary purpose of the use of its net operating loss carryover, the
15 director may disallow the carryover.

16 (E) Notwithstanding the provisions of this paragraph (6) of
17 subsection (k) of this section to the contrary, for privilege periods
18 beginning during calendar year 2002 and calendar year 2003, no
19 deduction for any net operating loss carryover shall be allowed and
20 for privilege periods beginning during calendar year 2004 and
21 calendar year 2005, there shall be allowed as a deduction for the
22 privilege period so much of the net operating loss carryover as
23 reduces entire net income otherwise calculated by 50%. If and only
24 to the extent that any net operating loss carryover deduction is
25 disallowed by reason of this subparagraph (E), the date on which
26 the amount of the disallowed net operating loss carryover deduction
27 would otherwise expire shall be extended by a period equal to the
28 period for which application of the net operating loss was
29 disallowed by this subparagraph.

30 Provided, that this subparagraph (E) shall not restrict the
31 surrender or acquisition of corporation business tax benefit
32 certificates pursuant to section 1 of P.L.1997, c.334
33 (C.34:1B-7.42a) and shall not restrict the application of corporation
34 business tax benefit certificates pursuant to section 2 of P.L.1997,
35 c.334 (C.54:10A-4.2).

36 (F) Reduction for discharge of indebtedness. A net operating
37 loss for any privilege period ending after June 30, 2014, and any net
38 operating loss carryover to such privilege period, shall be reduced
39 by the amount excluded from federal taxable income under
40 subparagraph (A), (B), or (C) of paragraph (1) of subsection (a) of
41 section 108 of the federal Internal Revenue Code (26 U.S.C. s.108),
42 for the privilege period of the discharge of indebtedness.

43 (7) The entire net income of gas, electric and gas and electric
44 public utilities that were subject to, or would have been subject to
45 tax if doing business in this State, the provisions of P.L.1940, c.5
46 (C.54:30A-49 et seq.) prior to 1998, shall be adjusted by
47 substituting the New Jersey depreciation allowance for federal tax
48 depreciation with respect to assets placed in service prior to January

1 1, 1998. For gas, electric, and gas and electric public utilities that
2 were subject to, or would have been subject to tax if doing business
3 in this State, the provisions of P.L.1940, c.5 (C.54:30A-49 et seq.)
4 prior to 1998, the New Jersey depreciation allowance shall be
5 computed as follows: All depreciable assets placed in service prior
6 to January 1, 1998 shall be considered a single asset account. The
7 New Jersey tax basis of this depreciable asset account shall be an
8 amount equal to the carryover adjusted basis for federal income tax
9 purposes on December 31, 1997 of all depreciable assets in service
10 on December 31, 1997, increased by the excess, of the "net carrying
11 value," defined to be adjusted book basis of all assets and liabilities,
12 excluding deferred income taxes, recorded on the public utility's
13 books of account on December 31, 1997, over the carryover
14 adjusted basis for federal income tax purposes on December 31,
15 1997 of all assets and liabilities owned by the gas, electric, or gas
16 and electric public utility as of December 31, 1997. "Books of
17 account" for gas, gas and electric, and electric public utilities means
18 the uniform system of accounts as promulgated by the Federal
19 Energy Regulatory Commission and adopted by the Board of Public
20 Utilities. The following adjustments to entire net income shall be
21 made pursuant to this section:

22 (A) Depreciation for property placed in service prior to January
23 1, 1998 shall be adjusted as follows:

24 (i) Depreciation for federal income tax purposes shall be
25 disallowed in full.

26 (ii) A deduction shall be allowed for the New Jersey
27 depreciation allowance. The New Jersey depreciation allowance
28 shall be computed for the single asset account described above
29 based on the New Jersey tax basis as adjusted above as if all assets
30 in the single asset account were first placed in service on January 1,
31 1998. Depreciation shall be computed using the straight line method
32 over a thirty-year life. A full year's depreciation shall be allowed in
33 the initial tax year. No half-year convention shall apply. The
34 depreciable basis of the single account shall be reduced by the
35 adjusted federal tax basis of assets sold, retired, or otherwise
36 disposed of during any year on which gain or loss is recognized for
37 federal income tax purposes as described in subparagraph (B) of
38 this paragraph.

39 (B) Gains and losses on sales, retirements and other dispositions
40 of assets placed in service prior to January 1, 1998 shall be
41 recognized and reported on the same basis as for federal income tax
42 purposes.

43 (C) The Director of the Division of Taxation shall promulgate
44 regulations describing the methodology for allocating the single
45 asset account in the event that a portion of the utility's operations
46 are separated, spun-off, transferred to a separate company or
47 otherwise desegregated.

1 (8) In the case of taxpayers that are gas, electric, gas and
2 electric, or telecommunications public utilities as defined pursuant
3 to subsection (q) of this section, the director shall have authority to
4 promulgate rules and issue guidance correcting distortions and
5 adjusting timing differences resulting from the adoption of
6 P.L.1997, c.162 (C.54:10A-5.25 et al.).

7 (9) Notwithstanding paragraph (1) of this subsection, entire net
8 income shall not include the income derived by a corporation
9 organized in a foreign country from the international operation of a
10 ship or ships, or from the international operation of aircraft, if such
11 income is exempt from federal taxation pursuant to section 883 of
12 the federal Internal Revenue Code of 1986, 26 U.S.C. s.883.

13 (10)Entire net income shall exclude all income of an alien
14 corporation the activities of which are limited in this State to
15 investing or trading in stocks and securities for its own account,
16 investing or trading in commodities for its own account, or any
17 combination of those activities, within the meaning of section 864
18 of the federal Internal Revenue Code of 1986, 26 U.S.C. s.864, as in
19 effect on December 31, 1998. Notwithstanding the previous
20 sentence, if an alien corporation undertakes one or more infrequent,
21 extraordinary or non-recurring activities, including but not limited
22 to the sale of tangible property, only the income from such
23 infrequent, extraordinary or non-recurring activity shall be subject
24 to the tax imposed pursuant to P.L.1945, c.162 (C.54:10A-1 et
25 seq.), and that amount of income subject to tax shall be determined
26 without regard to the allocation to that specific transaction of any
27 general business expense of the taxpayer and shall be specifically
28 assigned to this State for taxation by this State without regard to
29 section 6 of P.L.1945, c.162 (C.54:10A-6). For the purposes of this
30 paragraph, "alien corporation" means a corporation organized under
31 the laws of a jurisdiction other than the United States or its political
32 subdivisions.

33 (11)No deduction shall be allowed for research and experimental
34 expenditures, to the extent that those research and experimental
35 expenditures are qualified research expenses or basic research
36 payments for which an amount of credit is claimed pursuant to
37 section 1 of P.L.1993, c.175 (C.54:10A-5.24) unless those research
38 and experimental expenditures are also used to compute a federal
39 credit claimed pursuant to section 41 of the federal Internal
40 Revenue Code of 1986, 26 U.S.C. s.41; provided, however, for
41 privilege periods beginning on and after January 1, 2022, a
42 deduction for research and experimental expenditures shall be
43 allowed during the same privilege period for which a credit is
44 claimed pursuant to section 1 of P.L.1993, c.175 (C.54:10A-5.24),
45 notwithstanding the timing schedule required by the federal Internal
46 Revenue Code of 1986, 26 U.S.C. s.174, for the deduction of
47 specified research and experimental expenditures.

1 (12)(A) Notwithstanding the provisions of subsection (k) of
2 section 168 of the federal Internal Revenue Code of 1986, 26
3 U.S.C. s.168, subsection (b) of section 1400L of the federal Internal
4 Revenue Code of 1986, 26 U.S.C. s.1400L, or any other federal
5 law, for property acquired after September 10, 2001, the
6 depreciation deduction otherwise allowed pursuant to section 167 of
7 the federal Internal Revenue Code of 1986, 26 U.S.C. s.167, shall
8 be determined pursuant to the provisions of the federal Internal
9 Revenue Code of 1986 (26 U.S.C. s.1 et seq.) in effect on
10 December 31, 2001.

11 (B) The director shall prescribe the rules and regulations
12 necessary to carry out the provisions of this paragraph, including,
13 among others, those for determining the adjusted basis of the
14 acquired property for the purposes of the Corporation Business Tax
15 Act (1945), P.L.1945, c.162.

16 (13)(A) Notwithstanding the provisions of section 179 of the
17 federal Internal Revenue Code of 1986, 26 U.S.C. s.179, for
18 property placed in service on or after January 1, 2004, the costs that
19 a taxpayer may otherwise elect to treat as an expense which is not
20 chargeable to a capital account shall be determined pursuant to the
21 provisions of the federal Internal Revenue Code of 1986 (26 U.S.C.
22 s.1 et seq.) in effect on December 31, 2002.

23 (B) The director shall prescribe the rules and regulations
24 necessary to carry out the provisions of this paragraph, including,
25 among others, those for determining the adjusted basis of the
26 acquired property for the purposes of the Corporation Business Tax
27 Act (1945), P.L.1945, c.162.

28 (14)Notwithstanding the provisions of subsection (i) of section
29 108 of the federal Internal Revenue Code of 1986 (26 U.S.C. s.108),
30 for privilege periods beginning after December 31, 2008 and before
31 January 1, 2011, entire net income shall include the amount of
32 discharge of indebtedness income excluded for federal income tax
33 purposes pursuant to subsection (i) of section 108 of the federal
34 Internal Revenue Code of 1986 (26 U.S.C. s.108), and for privilege
35 periods beginning on or after January 1, 2014 and before January 1,
36 2019, entire net income shall exclude the amount of discharge of
37 indebtedness income included for federal income tax purposes,
38 pursuant to subsection (i) of section 108 of the federal Internal
39 Revenue Code of 1986 (26 U.S.C. s.108).

40 (15)Entire net income shall exclude the gain or income derived
41 from the sale or assignment of a tax credit transfer certificate
42 pursuant to section 7 of P.L.2011, c.149 (C.34:1B-248) **[and]**,
43 section 10 of P.L.2014, c.63 (C.34:1B-251), or the "New Jersey
44 Economic Recovery Act of 2020," P.L.2020, c.156 (C.34:1B-269 et
45 al.), as amended and supplemented.

46 (16)(A) There shall be allowed as a deduction an amount
47 computed in accordance with this paragraph.

1 (B) For purposes of this paragraph, "net deferred tax liability"
2 means deferred tax liabilities that exceed the deferred tax assets of
3 the combined group, as computed in accordance with generally
4 accepted accounting principles, and "net deferred tax asset" means
5 that deferred tax assets exceed the deferred tax liabilities of the
6 combined group, as computed in accordance with generally
7 accepted accounting principles.

8 (C) Only publicly traded companies, including affiliated
9 corporations participating in the filing of a publicly traded
10 company's financial statements prepared in accordance with
11 generally accepted accounting principles, as of the effective date of
12 this paragraph, shall be eligible for this deduction.

13 (D) If the provisions of sections 18 through 23 of P.L.2018, c.48
14 (C.54:10A-4.6 to C.54:10A-4.11) result in an aggregate increase to
15 the members' net deferred tax liability or an aggregate decrease to
16 the members' net deferred tax asset, or an aggregate change from a
17 net deferred tax asset to a net deferred tax liability, the combined
18 group shall be entitled to a deduction, as determined in this
19 paragraph.

20 (E) (i) Beginning with the combined group's first privilege
21 period on or after January 1 of the fifth year after the effective date
22 of P.L.2018, c.48 (C.54:10A-5.41 et al.), a combined group shall be
23 entitled to a deduction from combined group entire net income
24 equal to one-tenth of the amount necessary to offset the increase in
25 the net deferred tax liability or decrease in the net deferred tax
26 asset, or aggregate change from a net deferred tax asset to a net
27 deferred tax liability, according to the schedule provided by
28 subsubparagraphs (ii) and (iii) of this subparagraph (E). Such
29 increase in the net deferred tax liability or decrease in the net
30 deferred tax asset or the aggregate change from a net deferred tax
31 asset to a net deferred tax liability shall be computed based on the
32 change that would result from the imposition of the unitary
33 reporting requirements under sections 1 and 18 through 23 of
34 P.L.2018, c.48 (C.54:10A-5.41 and C.54:10A-4.6 to
35 C.54:10A-4.11) but for the deduction provided under this paragraph
36 as of the effective date of this paragraph.

37 (ii) For group privilege periods beginning on and after January
38 1, 2023, but before January 1, 2030, the combined group may
39 deduct one percent of the amount necessary to offset the increase in
40 the net deferred tax liability or decrease in the net deferred tax
41 asset, or aggregate change from a net deferred tax asset to a net
42 deferred tax liability, during a group privilege period. Such
43 increase in the net deferred tax liability or decrease in the net
44 deferred tax asset or the aggregate change from a net deferred tax
45 asset to a net deferred tax liability shall be computed based on the
46 change that would result from the imposition of the unitary
47 reporting requirements under sections 1 and 18 through 23 of
48 P.L.2018, c.48 (C.54:10A-5.41 and C.54:10A-4.6 to C.54:10A-

1 4.11) but for the deduction provided under this paragraph as of the
2 effective date of this paragraph.

3 (iii) For group privilege periods beginning on and after January
4 1, 2030, the combined group may deduct up to five percent of any
5 remaining unused amount of the deduction during the group
6 privilege period, until the group privilege period in which the total
7 deduction amount has been fully utilized. Such increase in the net
8 deferred tax liability or decrease in the net deferred tax asset or the
9 aggregate change from a net deferred tax asset to a net deferred tax
10 liability shall be computed based on the change that would result
11 from the imposition of the unitary reporting requirements under
12 sections 1 and 18 through 23 of P.L.2018, c.48 (C.54:10A-5.41 and
13 C.54:10A-4.6 to C.54:10A-4.11) but for the deduction provided
14 under this paragraph as of the effective date of this paragraph.

15 (F) The deferred tax impact determined in subparagraph (E) of
16 this paragraph must be converted to the annual Deferred Tax
17 Deduction amount, as follows:

18 (i) the deferred tax impact determined in subparagraph (E) of
19 this paragraph shall be divided by the rate determined under section
20 5 of P.L.1945, c.162 (C.54:10A-5) at the effective date of P.L.2018,
21 c.48 (C.54:10A-5.41 et al.);

22 (ii) the resulting amount shall be further divided by the New
23 Jersey unitary business allocation factor that was used by the
24 combined group in the calculation of the deferred tax assets and
25 deferred tax liabilities as described in subparagraph (E) of this
26 paragraph;

27 (iii) the resulting amount represents the total net Deferred Tax
28 Deduction available over the period as described in subparagraph
29 (E) of this paragraph.

30 (G) The deduction calculated under this paragraph shall not be
31 adjusted as a result of any events happening subsequent to such
32 calculation, including, but not limited to, any disposition or
33 abandonment of assets. Such deduction shall be calculated without
34 regard to the federal tax effect and shall not alter the tax basis of
35 any asset. If the deduction under this section is greater than
36 combined group entire net income, any excess deduction shall be
37 carried forward and applied as a deduction to combined group entire
38 net income in future privilege periods until fully utilized.

39 (H) Any combined group intending to claim a deduction under
40 this paragraph shall file a statement with the director on or before
41 July 1 of the year subsequent to the first privilege period for which
42 a combined return is required. Such statement shall specify the total
43 amount of the deduction which the combined group claims on such
44 form and in such manner as prescribed by the director. No
45 deduction shall be allowed under this paragraph for any privilege
46 period except to the extent claimed on such timely filed statement
47 in accordance with this paragraph.

1 (17)(A) In the case of a taxpayer that is a cannabis licensee,
2 there shall be allowed as a deduction an amount equal to any
3 expenditure that is eligible to be claimed as a federal income tax
4 deduction but is disallowed because cannabis is a controlled
5 substance under federal law, and income shall be determined
6 without regard to section 280E of the Internal Revenue Code (26
7 U.S.C. s.280E) for cannabis licensees.

8 (B) In the case of a taxpayer that is a cannabis licensee, there
9 shall be allowed as a deduction an amount equal to any expenditure
10 that would qualify as a specified research or experimental
11 expenditure pursuant to section 174 of the Internal Revenue Code
12 but is disallowed as a deduction for federal tax purposes because
13 cannabis is a controlled substance under federal law. Any
14 expenditure that is claimed as a deduction pursuant to this
15 subparagraph may also be claimed as a qualified research expense
16 for purposes of the credit allowed pursuant to section 1 of P.L.1993,
17 c.175 (C.54:10A-5.24).

18 (C) For purposes of this paragraph, "licensee" means the same as
19 that term is defined in section 3 of P.L.2021, c.16 (C.24:6I-33).

20 (18)For privilege periods ending on and after July 31, 2022:

21 (A) Notwithstanding subparagraph (A) of paragraph (2) of this
22 subsection or any other law or treaty to the contrary, for a
23 corporation that is incorporated or formed in a foreign nation with a
24 comprehensive tax treaty with the United States, and that is not a
25 member of a world-wide group combined return filed pursuant to
26 subsection b. of section 23 of P.L.2018, c.48 (C.54:10A-4.11),
27 entire net income shall not include an item of income or loss
28 excluded or exempted from federal taxable income under the terms
29 of the treaty, and no other deduction, exclusion, or elimination shall
30 be permitted for an item of income or loss excluded by this
31 paragraph.

32 (B) For a non-U.S. corporation that files a federal tax return and
33 is not a member of a combined group filing a New Jersey combined
34 return on a world-wide basis pursuant to subsection b. of section 23
35 of P.L.2018, c.48 (C.54:10A-4.11), the non-U.S. corporation shall
36 only include its income or loss included in federal taxable income,
37 which shall be limited to only the non-U.S. corporation's effectively
38 connected income or loss, as modified by the provisions of the
39 Corporation Business Tax Act (1945), P.L.1945, c.162 (C.54:10A-1
40 et seq.), and the items of expense and the allocation factor receipts
41 attributable to such items of income or loss.

42 (l) "Real estate investment trust" shall mean any corporation,
43 trust or association qualifying and electing to be taxed as a real
44 estate investment trust under federal law.

45 (m) "Financial business corporation" shall mean any corporate
46 enterprise which is (1) in substantial competition with the business
47 of national banks and which (2) employs moneyed capital with the
48 object of making profit by its use as money, through discounting

1 and negotiating promissory notes, drafts, bills of exchange and
2 other evidences of debt; buying and selling exchange; making of or
3 dealing in secured or unsecured loans and discounts; dealing in
4 securities and shares of corporate stock by purchasing and selling
5 such securities and stock without recourse, solely upon the order
6 and for the account of customers; or investing and reinvesting in
7 marketable obligations evidencing indebtedness of any person,
8 copartnership, association or corporation in the form of bonds,
9 notes or debentures commonly known as investment securities; or
10 dealing in or underwriting obligations of the United States, any
11 state or any political subdivision thereof, or of a corporate
12 instrumentality of any of them. This shall include, without
13 limitation of the foregoing, business commonly known as industrial
14 banks, dealers in commercial paper and acceptances, sales finance,
15 personal finance, small loan and mortgage financing businesses, as
16 well as any other enterprise employing moneyed capital coming
17 into competition with the business of national banks; provided that
18 the holding of bonds, notes, or other evidences of indebtedness by
19 individual persons not employed or engaged in the banking or
20 investment business and representing merely personal investments
21 not made in competition with the business of national banks, shall
22 not be deemed financial business. Nor shall "financial business"
23 include national banks, production credit associations organized
24 under the Farm Credit Act of 1933 or the Farm Credit Act of 1971,
25 Pub.L.92-181 (12 U.S.C. s.2091 et seq.), stock and mutual
26 insurance companies duly authorized to transact business in this
27 State, security brokers or dealers or investment companies or
28 bankers not employing moneyed capital coming into competition
29 with the business of national banks, real estate investment trusts, or
30 any of the following entities organized under the laws of this State:
31 credit unions, savings banks, savings and loan and building and
32 loan associations, pawnbrokers, and State banks and trust
33 companies.

34 (n) "International banking facility" shall mean a set of asset and
35 liability accounts segregated on the books and records of a
36 depository institution, United States branch or agency of a foreign
37 bank, or an Edge or Agreement Corporation that includes only
38 international banking facility time deposits and international
39 banking facility extensions of credit as such terms are defined in
40 section 204.8(a)(2) and section 204.8(a)(3) of Regulation D of the
41 board of governors of the Federal Reserve System, 12 CFR Part
42 204, effective December 3, 1981. In the event that the United States
43 enacts a law, or the board of governors of the Federal Reserve
44 System adopts a regulation which amends the present definition of
45 international banking facility or of such facilities' time deposits or
46 extensions of credit, the Commissioner of Banking and Insurance
47 shall forthwith adopt regulations defining such terms in the same
48 manner as such terms are set forth in the laws of the United States

1 or the regulations of the board of governors of the Federal Reserve
2 System. The regulations of the Commissioner of Banking and
3 Insurance shall thereafter provide the applicable definitions.

4 (o) "S corporation" means a corporation that has elected to be an
5 "S corporation" pursuant to section 1361 of the federal Internal
6 Revenue Code of 1986, 26 U.S.C. s.1361, for the taxable year.

7 (p) "New Jersey S corporation" means a taxpayer that has made
8 a valid election to be an S corporation for federal tax purposes, and
9 that has not made a valid election pursuant to subsection d. of
10 section 20 of P.L.2022, c.133 (C.54:10A-5.22).

11 (q) "Public Utility" means "public utility" as defined in
12 R.S.48:2-13.

13 (r) "Qualified investment partnership" means a partnership
14 under this act that has more than 10 members or partners with no
15 member or partner owning more than a 50% interest in the entity
16 and that derives at least 90% of its gross income from dividends,
17 interest, payments with respect to securities loans, and gains from
18 the sale or other disposition of stocks or securities or foreign
19 currencies or commodities or other similar income (including but
20 not limited to gains from swaps, options, futures or forward
21 contracts) derived with respect to its business of investing or
22 trading in those stocks, securities, currencies or commodities, but
23 "investment partnership" shall not include a "dealer in securities"
24 within the meaning of section 1236 of the federal Internal Revenue
25 Code of 1986, 26 U.S.C. s.1236.

26 (s) "Savings institution" means a state or federally chartered
27 building and loan association, savings and loan association, or
28 savings bank.

29 (t) "Partnership" means an entity classified as a partnership for
30 federal income tax purposes.

31 (u) "Prior net operating loss conversion carryover" means a net
32 operating loss incurred in a privilege period ending prior to July 31,
33 2019 and converted from a pre-allocation net operating loss to a
34 post-allocation net operating loss as follows:

35 (1) As used in this subsection:

36 "Base year" means the last privilege period ending prior to July
37 31, 2019.

38 "Base year BAF" means the taxpayer's business allocation factor
39 as provided in sections 6 through 10 of P.L.1945, c.162 (C.54:10A-
40 6 through C.54:10A-10) for purposes of calculating entire net
41 income for the base year, as such section was in effect for the last
42 privilege period ending prior to July 31, 2019.

43 "UNOL" means the unabsorbed portion of net operating loss as
44 calculated under paragraph (6) of subsection (k) of this section as
45 such paragraph was in effect for the last privilege period ending
46 prior to July 31, 2019, that was not deductible in previous privilege
47 periods and was eligible for carryover on the last day of the base
48 year subject to the limitations for deduction under such subsection,

1 including any net operating loss sustained by the taxpayer during
2 the base year.

3 (2) The prior net operating loss conversion carryover shall be
4 calculated as follows:

5 (A) The taxpayer shall first calculate the tax value of its UNOL
6 for the base year and for each preceding privilege period for which
7 there is a UNOL. The value of the UNOL for each privilege period
8 is equal to the product of (I) the amount of the taxpayer's UNOL for
9 a privilege period, and (II) the taxpayer's base year BAF. This result
10 shall equal the taxpayer's prior net operating loss conversion
11 carryover.

12 (B) The taxpayer shall continue to carry over its prior net
13 operating loss conversion carryover to offset its allocated entire net
14 income as provided in sections 6 through 10 of P.L.1945, c.162
15 (C.54:10A-6 through C.54:10A-10) for privilege periods ending on
16 and after July 31, 2019. Such carryover periods shall not exceed the
17 twenty privilege periods following the privilege period of the initial
18 loss. The entire amount of the prior net operating loss conversion
19 carryover for any privilege period shall be carried to the earliest of
20 the privilege periods to which the loss may be carried. The portion
21 of the prior net operating loss conversion carryover which shall be
22 carried to each of the other privilege periods shall be the excess, if
23 any, of the amount of the prior net operating loss conversion
24 carryover over the sum of the entire net income, computed without
25 the exclusions permitted in paragraphs (4) and (5) of subsection (k)
26 of this section allocated to this State. For privilege periods ending
27 on and after July 31, 2023, for the purpose of computing taxable net
28 income for a current privilege period, the amount of the prior net
29 operating loss conversion carryover shall be subtracted from entire
30 net income allocated to this State, after the application of
31 paragraphs (4) and (5) of subsection (k) of this section against
32 current privilege period income when the entire net income
33 allocated to this State for the privilege period is greater than zero.

34 (C) The prior net operating loss conversion carryover computed
35 under this subsection shall be applied against the entire net income
36 allocated to this State before the net operating loss carryover
37 computed under subsection (v) of this section.

38 (v) "Net operating loss deduction" means the amount allowed as
39 a deduction for the net operating loss carryover to the privilege
40 period, calculated as follows:

41 (1) Net operating loss carryover. A net operating loss for any
42 privilege period ending on or after July 31, 2019, shall be a net
43 operating loss carryover to each of the twenty privilege periods
44 following the period of the loss. The entire amount of the net
45 operating loss for any privilege period shall be carried to the earliest
46 of the privilege periods to which the loss may be carried. For
47 privilege periods ending before July 31, 2023, the portion of the
48 loss which shall be carried to each of the other privilege periods

1 shall be the excess, if any, of the amount of the loss over the sum of
2 the entire net income, computed without the exclusions permitted in
3 paragraphs (4) and (5) of subsection (k) of this section allocated to
4 this State. For privilege periods ending on and after July 31, 2023,
5 the portion of the loss that shall be carried to each of the other
6 privilege periods shall be the excess, if any, of the amount of the
7 loss over the sum of the entire net income, after the application of
8 paragraphs (4) and (5) of subsection (k) of this section allocated to
9 this State; provided, however, for the purpose of computing taxable
10 net income for the privilege period, the net operating loss carryover
11 shall only be subtracted from entire net income allocated to this
12 State when the entire net income allocated to this State is greater
13 than zero.

14 (2) Net operating loss. For purposes of this paragraph the term
15 "net operating loss" means the excess of the deductions over the
16 gross income used in computing entire net income, without regard
17 to any net operating loss carryover, and for privilege periods ending
18 before July 31, 2023, computed without the exclusions in
19 paragraphs (4) and (5) of subsection (k) of this section, and for
20 privilege periods ending on and after July 31, 2023, computed after
21 the application of paragraphs (4) and (5) of subsection (k) of this
22 section, allocated to this State pursuant to sections 6 through 10 of
23 P.L.1945, c.162 (C.54:10A-6 through C.54:10A-10).

24 (3) Reduction for discharge of indebtedness. A net operating
25 loss for any privilege period ending on or after July 31, 2019, and
26 any net operating loss carryover to such privilege period, shall be
27 reduced by the amount excluded from federal taxable income under
28 subparagraph (A), (B), or (C) of paragraph (1) of subsection (a) of
29 section 108 of the federal Internal Revenue Code, 26 U.S.C. s.108,
30 for the privilege period of the discharge of indebtedness.

31 (4) A net operating loss carryover shall not include any net
32 operating loss incurred during any privilege period ending prior to
33 July 31, 2019.

34 (5) Change in ownership. Where there is a change in 50% or
35 more of the ownership of a corporation because of redemption or
36 sale of stock and the corporation changes the trade or business
37 giving rise to the loss, no net operating loss sustained before the
38 changes may be carried over to be deducted from income earned
39 after such changes. In addition, where the facts support the premise
40 that the corporation was acquired under any circumstances for the
41 primary purpose of the use of its net operating loss carryover, the
42 director may disallow the carryover; provided, however, this
43 paragraph shall not apply between members of a combined group
44 reported on a New Jersey combined return.

45 (w) "Taxable net income" means entire net income allocated to
46 this State as calculated pursuant to sections 6 through 8 of
47 P.L.1945, c.162 (C.54:10A-6 through 54:10A-8) as modified by
48 subtracting any prior net operating loss conversion carryforward

1 calculated pursuant to subsection (u) of this section, and any net
2 operating loss calculated pursuant to subsection (v) of this section;
3 provided, however, for privilege periods ending on and after July
4 31, 2023, when subtracting any net operating losses calculated
5 pursuant to subsection (v) of this section or the combined group net
6 operating losses calculated pursuant to subsection h. of section 18
7 of P.L.2018, c.48 (C.54:10A-4.6), the limitation set forth in
8 paragraph (2) of subsection (a) of Internal Revenue Code Section
9 172 (26 U.S.C. s.172(a)(2)) shall apply, except that August 1, 2023
10 is substituted for the reference to January 1, 2018 in subparagraph
11 (A) of paragraph (2) of subsection a. of Internal Revenue Code
12 Section 172 (26 U.S.C. s.172), and July 31, 2023 is substituted for
13 the reference to December 31, 2017 in subparagraph (B) of
14 paragraph (2) of subsection (a) of Internal Revenue Code Section
15 172 (26 U.S.C. s.172). For privilege periods ending on and after
16 July 31, 2023, for a combined group, before subtracting the prior
17 net operating loss conversion carryforwards and subtracting the net
18 operating losses of the combined group when computing the total
19 taxable net income, the combined group shall first add together the
20 allocated entire net income from the unitary business of the
21 combined group and the portion of allocated entire net income of
22 members with activities independent of the group, and then subtract
23 the prior net operating loss conversion carryforwards and then the
24 net operating losses.

25 (x) "Affiliated group" means, for purposes of section 23 of
26 P.L.2018, c.48 (C.54:10A-4.11), an affiliated group as defined in
27 section 1504 of the federal Internal Revenue Code, 26 U.S.C.
28 s.1504, except such affiliated group shall include all U.S. domestic
29 corporations that are commonly owned, directly or indirectly, by
30 any member of such affiliated group, without regard to whether the
31 affiliated group includes (1) corporations included in more than one
32 federal consolidated return, (2) corporations engaged in one or more
33 unitary businesses, or (3) corporations that are not engaged in a
34 unitary business with any other member of the affiliated group.

35 For purposes of this subsection:

36 "U.S. domestic corporations" means: (1) business entities
37 wherever incorporated or formed that are U.S. domestic
38 corporations, are deemed to be, or are treated as U.S. domestic
39 corporations under the provisions of the federal Internal Revenue
40 Code; or (2) any entities incorporated or formed under the laws of a
41 foreign nation that are required to file federal tax returns if such
42 entities have effectively connected income within the meaning of
43 the federal Internal Revenue Code; and

44 "Commonly owned" means that more than 50 percent of the
45 voting control of each member of an affiliated group is directly or
46 indirectly owned by a common owner or owners, either corporate or
47 non-corporate, whether or not the owner or owners are members of
48 the affiliated group. Whether voting control is indirectly owned

1 shall be determined in accordance with section 318 of the federal
2 Internal Revenue Code (26 U.S.C. s.318).

3 (y) "Combinable captive insurance company" means an entity
4 that is treated as an association taxable as a corporation under the
5 federal Internal Revenue Code:

6 (1) more than 50% of the voting stock of which is owned or
7 controlled, directly or indirectly, by a single entity that is treated as
8 an association taxable as a corporation under the federal Internal
9 Revenue Code, and not exempt from federal income tax;

10 (2) that is licensed as a captive insurance company under the
11 laws of this State or another jurisdiction;

12 (3) whose business includes providing, directly and indirectly,
13 insurance or reinsurance covering the risks of its parent, members
14 of its affiliated group, or both; and

15 (4) 50% or less of whose gross receipts for the privilege period
16 consist of premiums from arrangements that constitute insurance for
17 federal income tax purposes.

18 A combinable captive insurance company shall not be exempt
19 under section 3 of P.L.1945, c.162 (C.54:10A-3). A captive
20 insurance company that does not meet the definition of combinable
21 captive insurance company shall be excluded as provided in
22 subsection k. of section 18 of P.L.2018, c.48 (C.54:10A-4.6) and
23 shall be exempt under section 3 of P.L.1945, c.162 (C.54:10A-3).

24 For purposes of this definition:

25 "Affiliated group" shall have the same meaning as that term is
26 given by section 1504 of the federal Internal Revenue Code, 26
27 U.S.C. s.1504, except that the term "common parent corporation" as
28 used in section 1504 of the federal Internal Revenue Code, 26
29 U.S.C. s.1504, shall mean any person, as defined in section 7701 of
30 the federal Internal Revenue Code, 26 U.S.C. s.7701, and references
31 to "at least 80%" in section 1504 of the federal Internal Revenue
32 Code, 26 U.S.C. s.1504, shall be read as "50% or more." Section
33 1504 of the federal Internal Revenue Code, 26 U.S.C. s.1504, shall
34 be read without regard to the exclusions provided for in subsection
35 (b) of that section.

36 "Gross receipts" includes the amounts included in gross receipts
37 for purposes of paragraph (15) of subsection (c) of section 501 of
38 the federal Internal Revenue Code, 26 U.S.C. s.501, except that
39 those amounts also include all premiums.

40 "Premiums" includes consideration for annuity contracts and
41 excludes any part of the consideration for insurance, reinsurance, or
42 annuity contracts that do not provide bona fide insurance,
43 reinsurance, or annuity benefits.

44 (z) "Combined group" means the group of all companies that
45 have common ownership and are engaged in a unitary business,
46 where at least one company is subject to tax under this chapter, and
47 shall include all business entities, except as provided for under any

1 section of the Corporation Business Tax Act (1945), P.L.1945,
2 c.162 (C.54:10A-1 et seq.).

3 A combined group shall be treated, for privilege periods ending
4 on and after July 31, 2020, as one taxpayer for purposes of
5 paragraph (1) of subsection (c) of section 5 of P.L.1945, c.162
6 (C.54:10A-5) and section 1 of P.L.2018, c.48 (C.54:10A-5.41) for
7 the income derived from the unitary business; provided however,
8 with regard to the surtax imposed pursuant to section 1 of P.L.2018,
9 c.48 (C.54:10A-5.41) and for that purpose only, the portion of
10 income that is attributable to a member which is a public utility
11 exempt from the surtax shall not be included when computing the
12 surtax due.

13 (aa) "Common ownership" means that more than 50% of the
14 voting control of each member of a combined group is directly or
15 indirectly owned by a common owner or owners, either corporate or
16 non-corporate, whether or not the owner or owners are members of
17 the combined group. Whether voting control is indirectly owned
18 shall be determined in accordance with section 318 of the federal
19 Internal Revenue Code, 26 U.S.C. s.318.

20 (bb) "Group privilege period" means, if two or more members in
21 the combined group file in the same federal consolidated tax return,
22 the same income year as that used on the federal consolidated tax
23 return and, in all other cases, the privilege period of the managerial
24 member.

25 (cc) "Managerial member" means if the combined group has a
26 common parent corporation and that common parent corporation is
27 a taxable member, the managerial member shall be the common
28 parent corporation. In other cases, the combined group shall select a
29 taxable member as its managerial member or, in the discretion of
30 the director or upon failure of the combined group to select its
31 managerial member, the director shall designate a taxable member
32 of the combined group as managerial member.

33 (dd) "Member" means a business entity that is a part of a
34 combined group.

35 A corporation exempt pursuant to section 3 of P.L.1945, c.162
36 (C.54:10A-3) from the tax imposed by P.L.1945, c.162 (C.54:10A-1
37 et seq.) shall not be a member of a combined group.

38 (ee) "Nontaxable member" means a member that is: (i) not
39 subject to tax pursuant to the Corporation Business Tax Act (1945),
40 P.L.1945, c.162 (C.54:10A-1 et seq.); or (ii) (deleted by
41 amendment, P.L.2020, c.118 (C.54:10A-5.46 et al.).

42 (ff) "Taxable member" means a member that is subject to tax
43 pursuant to the Corporation Business Tax Act (1945), P.L.1945,
44 c.162 (C.54:10A-1 et seq.).

45 A New Jersey S corporation shall only be included as a taxable
46 member of a combined group filing a New Jersey combined return
47 if the New Jersey S Corporation elects to be included as a member
48 and taxed at the same rate as the other members of the combined

1 group. A New Jersey S corporation that does not elect to be
2 included shall be excluded as a member of the combined return and
3 shall file a separate return.

4 (gg)"Unitary business" means, for privilege periods ending
5 before July 31, 2023, a single economic enterprise that is made up
6 either of separate parts of a single business entity or of a group of
7 business entities under common ownership that are sufficiently
8 interdependent, integrated, and interrelated through their activities
9 so as to provide a synergy and mutual benefit that produces a
10 sharing or exchange of value among them and a significant flow of
11 value among the separate parts. For privilege periods ending on
12 and after July 31, 2023, "unitary business" means a single economic
13 enterprise that is made up either of separate parts of a single
14 business entity or of a group of business entities under common
15 ownership that are sufficiently interdependent, integrated, or
16 interrelated through their activities so as to provide a synergy and
17 mutual benefit that produces a sharing or exchange of value among
18 them and a significant flow of value among the separate parts.
19 "Unitary business" shall be construed to the broadest extent
20 permitted under the Constitution of the United States. A business
21 conducted by a partnership which is in a unitary business with the
22 combined group shall be treated as the business of the partners that
23 are members of the combined group, whether the partnership
24 interest is held directly or indirectly through a series of
25 partnerships, to the extent of a partner's distributive share of
26 partnership income. The amount of partnership income to be
27 included in the partner's entire net income shall be determined in
28 accordance with subsection a. of section 3 of P.L.2001, c.136
29 (C.54:10A-15.6) or subsection a. of section 4 of P.L.2001, c.136
30 (C.54:10A-15.7), as applicable. A business conducted directly or
31 indirectly by one corporation is unitary with that portion of a
32 business conducted by another corporation through its direct or
33 indirect interest in a partnership.

34 (hh)"Captive investment company" shall mean, for privilege
35 periods ending on and after July 31, 2023, an investment company
36 that is not regularly traded on an established securities market and
37 of which more than 50 percent of the voting stock is owned or
38 controlled, directly or indirectly, by a single corporation, other than
39 an investment company, that is not exempt from federal income tax.
40 For purposes of this subsection, a captive investment company shall
41 not include any captive investment company of which at least 50
42 percent of the shares, by vote or value, is owned or controlled,
43 directly or indirectly, by a state or federally chartered bank, savings
44 bank, or savings and loan association with assets that do not exceed
45 \$15 billion.

46 For privilege periods ending on and after July 31, 2023, any
47 voting stock in an investment company that is held in a segregated
48 asset account of a life insurance corporation, as described in section

1 817 of the Internal Revenue Code, shall not be taken into account
2 for purposes of determining whether an investment company is a
3 captive regulated investment company.

4 For privilege periods ending on and after July 31, 2023, a captive
5 investment company shall be taxed in the same manner as a C
6 corporation, and subsection d. of section 5 of P.L. 1945, c. 162 (C.
7 54:10A-5) shall not apply. A captive investment company shall not
8 be permitted to claim any deductions or expenses that were
9 permitted for federal purposes, solely as a result of the entity being
10 an investment company, when computing federal taxable net
11 income. A captive investment company shall be a member of a
12 combined group and shall be included as a member on the
13 combined return.

14 (ii) "Captive real estate investment trust" shall mean, for
15 privilege periods ending on and after July 31, 2023, a real estate
16 investment trust that is not regularly traded on an established
17 securities market and of which more than 50 percent of the voting
18 stock is owned or controlled, directly or indirectly, by a single
19 entity that is treated as an association taxable as a corporation under
20 the Internal Revenue Code, is not exempt from federal income tax,
21 and is not a real estate investment trust. For purposes of this
22 subsection, a captive real estate investment trust shall not include
23 any captive real estate investment trust of which at least 50 percent
24 of the shares, by vote or value, is owned or controlled, directly or
25 indirectly, by a state or federally chartered bank, savings bank, or
26 savings and loan association with assets that do not exceed \$15
27 billion.

28 For privilege periods ending on and after July 23, 2023, any
29 voting stock in a real estate investment trust that is held in a
30 segregated asset account of a life insurance corporation, as
31 described in section 817 of the Internal Revenue Code (26 U.S.C.
32 s.817), shall not be taken into account for purposes of determining
33 whether a real estate investment trust is a captive real estate
34 investment trust. For purposes of this subsection, an association
35 taxable as a corporation shall not include any listed Australian
36 property trust or any qualified foreign entity.

37 For privilege periods ending on and after July 31, 2023, a captive
38 real estate investment trust shall be taxed in the same manner as a C
39 corporation, and subsection d. of section 5 of P.L.1945, c.162
40 (C.54:10A-5) shall not apply. A captive real estate investment trust
41 shall not be permitted to claim any deductions or expenses that were
42 permitted for federal purposes, solely as a result of the entity being
43 a real estate investment trust, when computing federal taxable net
44 income. A captive real estate investment trust shall be a member of
45 a combined group and shall be included as a member on the
46 combined return.

47 As used in this subsection:

1 "Australian property trust" means an Australian unit trust that is
2 registered as a managed investment scheme under the Australian
3 Corporations Act, and in which the principal class of units is listed
4 on a recognized stock exchange in Australia and is regularly traded
5 on an established securities market; or an entity organized as a trust,
6 provided that a listed Australian property trust owns or controls,
7 directly or indirectly, 75 percent or more of the voting power or
8 value of the beneficial interests of shares of the trust.

9 "Qualified foreign entity" means a corporation, trust, association,
10 or partnership that is organized outside the laws of the United States
11 and that satisfies the following criteria:

12 (1) At least 75 percent of the entity's total asset value at the
13 close of its taxable year is represented by real estate assets, as
14 defined at subparagraph (B) of paragraph (5) of subsection (c) of
15 section 856 of the Internal Revenue Code (26 U.S.C. s.856),
16 including shares or certificates of beneficial interest in any real
17 estate investment trust, cash and cash equivalents, and United States
18 Government securities;

19 (2) The entity is not subject to tax on amounts distributed to its
20 beneficial owners, or is exempt from entity-level taxation;

21 (3) The entity distributes, on an annual basis, at least 85 percent
22 of its taxable income, as computed in the jurisdiction in which it is
23 organized, to the holders of its shares or certificates of beneficial
24 interest;

25 (4) No more than 10 percent of the voting power or value in the
26 entity is held directly, indirectly, or constructively by a single entity
27 or individual, or the shares or certificates of beneficial interests of
28 the entity are regularly traded on an established securities market;
29 and

30 (5) The entity is organized in a country that has a tax treaty with
31 the United States.

32 (jj) "Captive regulated investment company" shall mean, for
33 privilege periods ending on and after July 31, 2023, a regulated
34 investment company that is not regularly traded on an established
35 securities market, and of which more than 50 percent of the voting
36 stock is owned or controlled, directly or indirectly, by a single
37 corporation, other than a regulated investment company, that is not
38 exempt from federal income tax. For purposes of this subsection, a
39 captive regulated investment company shall not include any captive
40 regulated investment company of which at least 50 percent of the
41 shares, by vote or value, is owned or controlled, directly or
42 indirectly, by a state or federally chartered bank, savings bank, or
43 savings and loan association with assets that do not exceed \$15
44 billion.

45 For privilege periods ending on and after July 31, 2023, any
46 voting stock in a regulated investment company that is held in a
47 segregated asset account of a life insurance corporation, as
48 described in section 817 of the Internal Revenue Code (26 U.S.C.

1 s.817), shall not be taken into account for purposes of determining
2 whether a regulated investment company is a captive regulated
3 investment company.

4 For privilege periods ending on and after July 31, 2023, a captive
5 regulated investment company shall be taxed in the same manner as
6 a C corporation and subsection d. of section 5 of P.L.1945, c.162
7 (C.54:10A-5) shall not apply. A captive real estate investment
8 company shall not be permitted to claim any deductions or expenses
9 that were permitted for federal purposes, solely as a result of the
10 entity being a regulated investment company, when computing
11 federal taxable net income. A captive regulated investment
12 company shall be a member of a combined group and shall be
13 included as a member on the combined return.

14 (kk)"World-wide basis" and "world-wide group" shall mean, for
15 privilege periods ending on and after July 31, 2022, for the
16 purposes of sections 18 through 23 of P.L.2018, c.48 (C.54:10A-4.6
17 through C.54:10A-4.11) and for the purposes of combined reporting
18 in general under the Corporation Business Tax Act (1945),
19 P.L.1945, c.162 (C.54:10A-1 et seq.), that the combined group shall
20 include all of the members of the combined group, wherever located
21 or formed. For privilege periods ending on and after July 31, 2022,
22 the combined group shall include all of the income and attributes of
23 those members regardless of how or whether those members file
24 federal returns or report or include their income in federal taxable
25 income for federal purposes, and without regard to any exemption
26 or exclusion from federal taxable income under the terms of a tax
27 treaty; provided, however, any deductions that are allowed under
28 the federal Internal Revenue Code that are also allowable under the
29 Corporation Business Tax Act (1945), P.L.1945, c.162 (C.54:10A-1
30 et seq.), that would apply to a U.S. corporation, but that a non-U.S.
31 corporation is prohibited from claiming for federal corporation
32 income tax purposes because the corporation's income was not
33 included in federal taxable income for any reason or because the
34 corporation is a non-U.S. corporation, shall be allowed for the non-
35 U.S. corporation members of the combined group for New Jersey
36 corporation business tax purposes as though those non-U.S.
37 corporation members were U.S. corporations.

38 (cf: P.L.2023, c.96, s.1)

39
40 15. N.J.S.54A:5-1 is amended to read as follows:

41 54A:5-1. New Jersey Gross Income Defined. New Jersey gross
42 income shall consist of the following categories of income:

43 a. Salaries, wages, tips, fees, commissions, bonuses, and other
44 remuneration received for services rendered whether in cash or in
45 property, and amounts paid or distributed, or deemed paid or
46 distributed, out of a medical savings account that are not excluded
47 from gross income pursuant to section 5 of P.L.1997, c.414
48 (C.54A:6-27).

1 b. Net profits from business. The net income from the
2 operation of a business, profession or other activity after provision
3 for all costs and expenses incurred in the conduct thereof,
4 determined either on a cash or accrual basis in accordance with the
5 method of accounting allowed for federal income tax purposes but
6 without deduction of the amount of:

7 (1) taxes based on income;

8 (2) a civil, civil administrative, or criminal penalty or fine,
9 including a penalty or fine under an administrative consent order,
10 assessed and collected for a violation of a State or federal
11 environmental law, an administrative consent order, or an
12 environmental ordinance or resolution of a local governmental
13 entity, and any interest earned on the penalty or fine, and any
14 economic benefits having accrued to the violator as a result of a
15 violation, which benefits are assessed and recovered in a civil, civil
16 administrative, or criminal action, or pursuant to an administrative
17 consent order. The provisions of this paragraph shall not apply to a
18 penalty or fine assessed or collected for a violation of a State or
19 federal environmental law, or local environmental ordinance or
20 resolution, if the penalty or fine was for a violation that resulted
21 from fire, riot, sabotage, flood, storm event, natural cause, or other
22 act of God beyond the reasonable control of the violator, or caused
23 by an act or omission of a person who was outside the reasonable
24 control of the violator; and

25 (3) treble damages paid to the Department of Environmental
26 Protection pursuant to subsection a. of section 7 of P.L.1976, c.141
27 (C.58:10-23.11f) for costs incurred by the department in removing,
28 or arranging for the removal of, an unauthorized discharge upon the
29 failure of the discharger to comply with a directive from the
30 department to remove, or arrange for the removal of, a discharge.

31 c. Net gains or income from disposition of property. Net gains
32 or net income, less net losses, derived from the sale, exchange or
33 other disposition of property, including real or personal, whether
34 tangible or intangible as determined in accordance with the method
35 of accounting allowed for federal income tax purposes. For the
36 purpose of determining gain or loss, the basis of property shall be
37 the adjusted basis used for federal income tax purposes, except as
38 expressly provided for under this act, but without a deduction for
39 penalties, fines, or economic benefits excepted pursuant to
40 paragraph (2), or for treble damages excepted pursuant to paragraph
41 (3) of subsection b. of this section.

42 A taxpayer's net gain or loss on the sale, exchange or other
43 disposition of a share of an S corporation shall be calculated by
44 increasing the adjusted basis of the share by an amount equal to the
45 shareholder's net losses and deductions in respect of the share
46 allowed and deducted from income for federal income tax purposes,
47 not including any personal net operating loss deductions, to the
48 extent that such net losses were not offset by the taxpayer's pro rata

1 share of S corporation income otherwise subject to taxation
2 pursuant to subsection p. of this section in respect of another S
3 corporation, subject to rules of priority and assignment determined
4 by the director.

5 For the tax year 1976, any taxpayer with a tax liability under this
6 subsection, or under the "Tax on Capital Gains and Other Unearned
7 Income Act," P.L.1975, c.172 (C.54:8B-1 et seq.), shall not be
8 subject to payment of an amount greater than the amount he would
9 have paid if either return had covered all capital transactions during
10 the full tax year 1976; provided, however, that the rate which shall
11 apply to any capital gain shall be that in effect on the date of the
12 transaction. To the extent that any loss is used to offset any gain
13 under P.L.1975, c.172, it shall not be used to offset any gain under
14 the "New Jersey Gross Income Tax Act," N.J.S.54A:1-1 et seq.

15 The term "net gains or income" shall not include gains or income
16 derived from obligations which are referred to in clause (1) or (2) of
17 N.J.S.54A:6-14 of this act or from securities which evidence
18 ownership in a qualified investment fund as defined in section 2 of
19 P.L.1987, c.310 (C.54A:6-14.1). The term "net gains or income"
20 shall not include gains or income derived from the sale or
21 assignment of a tax credit transfer certificate pursuant to section 7
22 of P.L.2011, c.149 (C.34:1B-248) **and**, section 10 of P.L.2014,
23 c.63 (C.34:1B-251), or the "New Jersey Economic Recovery Act of
24 2020," P.L.2020, c.156 (C.34:1B-269 et al.), as amended and
25 supplemented, from any sale or assignment of a tax credit issued
26 pursuant to an award of tax credits approved by the New Jersey
27 Economic Development Authority **prior to July 1, 2018**,
28 regardless of when such sale or assignment occurs. The term "net
29 gains or net income" shall not include gains or income from
30 transactions to the extent to which nonrecognition is allowed for
31 federal income tax purposes. The term "sale, exchange or other
32 disposition" shall not include the exchange of stock or securities in
33 a corporation a party to a reorganization in pursuance of a plan of
34 reorganization, solely for stock or securities in such corporation or
35 in another corporation a party to the reorganization and the transfer
36 of property to a corporation by one or more persons solely in
37 exchange for stock or securities in such corporation if immediately
38 after the exchange such person or persons are in control of the
39 corporation. For purposes of this clause, stock or securities issued
40 for services shall not be considered as issued in return for property.

41 For purposes of this clause, the term "reorganization" means~~---~~:

- 42 (i) A statutory merger or consolidation;
- 43 (ii) The acquisition by one corporation, in exchange solely for
44 all or part of its voting stock (or in exchange solely for all or a part
45 of the voting stock of a corporation which is in control of the
46 acquiring corporation) of stock of another corporation if,
47 immediately after the acquisition, the acquiring corporation has

- 1 control of such other corporation (whether or not such acquiring
2 corporation had control immediately before the acquisition);
- 3 (iii) The acquisition by one corporation, in exchange solely for
4 all or part of its voting stock (or in exchange solely for all or a part
5 of the voting stock of a corporation which is in control of the
6 acquiring corporation), of substantially all of the properties of
7 another corporation, but in determining whether the exchange is
8 solely for stock the assumption by the acquiring corporation of a
9 liability of the other, or the fact that property acquired is subject to
10 a liability, shall be disregarded;
- 11 (iv) A transfer by a corporation of all or a part of its assets to
12 another corporation if immediately after the transfer the transferor,
13 or one or more of its shareholders (including persons who were
14 shareholders immediately before the transfer), or any combination
15 thereof, is in control of the corporation to which the assets are
16 transferred;
- 17 (v) A recapitalization;
- 18 (vi) A mere change in identity, form, or place of organization
19 however effected; or
- 20 (vii) The acquisition by one corporation, in exchange for stock of
21 a corporation (referred to in this subclause as "controlling
22 corporation") which is in control of the acquiring corporation, of
23 substantially all of the properties of another corporation which in
24 the transaction is merged into the acquiring corporation shall not
25 disqualify a transaction under subclause (i) if such transaction
26 would have qualified under subclause (i) if the merger had been into
27 the controlling corporation, and no stock of the acquiring
28 corporation is used in the transaction;
- 29 (viii) A transaction otherwise qualifying under subclause (i) shall
30 not be disqualified by reason of the fact that stock of a corporation
31 (referred to in this subclause as the "controlling corporation") which
32 before the merger was in control of the merged corporation is used
33 in the transaction, if after the transaction, the corporation surviving
34 the merger holds substantially all of its properties and of the
35 properties of the merged corporation (other than stock of the
36 controlling corporation distributed in the transaction); and in the
37 transaction, former shareholders of the surviving corporation
38 exchanged, for an amount of voting stock of the controlling
39 corporation, an amount of stock in the surviving corporation which
40 constitutes control of such corporation.
- 41 For purposes of this clause, the term "control" means the
42 ownership of stock possessing at least 80% of the total combined
43 voting power of all classes of stock entitled to vote and at least 80%
44 of the total number of shares of all other classes of stock of the
45 corporation.
- 46 For purposes of this clause, the term "a party to a reorganization"
47 includes a corporation resulting from a reorganization, and both
48 corporations, in the case of a reorganization resulting from the

1 acquisition by one corporation of stock or properties of another. In
2 the case of a reorganization qualifying under subclause (i) by reason
3 of subclause (vii) the term "a party to a reorganization" includes the
4 controlling corporation referred to in such subclause (vii).

5 Notwithstanding any provisions hereof, upon every such
6 exchange or conversion, the taxpayer's basis for the stock or
7 securities received shall be the same as the taxpayer's actual or
8 attributed basis for the stock, securities or property surrendered in
9 exchange therefor.

10 d. Net gains or net income derived from or in the form of rents,
11 royalties, patents, and copyrights.

12 e. Interest, except interest referred to in clause (1) or (2) of
13 N.J.S.54A:6-14, or distributions paid by a qualified investment fund
14 as defined in section 2 of P.L.1987, c.310 (C.54A:6-14.1), to the
15 extent provided in that section.

16 f. Dividends. "Dividends" means any distribution in cash or
17 property made by a corporation, association or business trust that is
18 not an S corporation, (1) out of accumulated earnings and profits, or
19 (2) out of earnings and profits of the year in which such dividend is
20 paid and any distribution in cash or property made by an S
21 corporation, as specifically determined pursuant to section 16 of
22 P.L.1993, c.173 (C.54A:5-14).

23 The term "dividends" shall not include distributions paid by a
24 qualified investment fund as defined in section 2 of P.L.1987, c.310
25 (C.54A:6-14.1), to the extent provided in that section.

26 g. Gambling winnings.

27 h. Net gains or income derived through estates or trusts.

28 i. Income in respect of a decedent.

29 j. Amounts distributed or withdrawn from an employee trust
30 attributable to contributions to the trust which were excluded from
31 gross income under the provisions of chapter 6 of Title 54A of the
32 New Jersey Statutes, amounts rolled over from an IRA, as defined
33 pursuant to subsection (a) of section 408 of the federal Internal
34 Revenue Code of 1986, 26 U.S.C. s.408, that is not a Roth IRA, as
35 defined pursuant to subsection b. of section 2 of P.L.1998,c.57
36 (C.54A:6-28) to an IRA that is a Roth IRA, and pensions and
37 annuities except to the extent of exclusions in N.J.S.54A:6-10
38 hereunder, notwithstanding the provisions of N.J.S.18A:66-51,
39 P.L.1973, c.140, s.41 (C.43:6A-41), P.L.1954, c.84, s.53
40 (C.43:15A-53), P.L.1944, c.255, s.17 (C.43:16A-17), P.L.1965,
41 c.89, s.45 (C.53:5A-45), R.S.43:10-14, P.L.1943, c.160, s.22
42 (C.43:10-18.22), P.L.1948, c.310, s.22 (C.43:10-18.71), P.L.1954,
43 c.218, s.32 (C.43:13-22.34), P.L.1964, c.275, s.11 (C.43:13-22.60),
44 R.S.43:10-57, P.L.1938, c.330, s.13 (C.43:10-105), R.S.43:13-44,
45 and P.L.1943, c.189, s.5 (C.43:13-37.5).

46 k. Distributive share of partnership income, excluding the gain
47 or income derived from the sale or assignment of a tax credit
48 transfer certificate pursuant to section 7 of P.L.2011, c.149

1 (C.34:1B-248) **【and】**, section 10 of P.L.2014, c.63 (C.34:1B-251),
2 or the "New Jersey Economic Recovery Act of 2020," P.L.2020,
3 c.156 (C.34:1B-269 et al.), as amended and supplemented, from any
4 sale or assignment of a tax credit issued pursuant to an award of tax
5 credits approved by the New Jersey Economic Development
6 Authority **【prior to July 1, 2018】**, regardless of when such sale or
7 assignment occurs.

8 l. Amounts received as prizes and awards, except as provided
9 in N.J.S.54A:6-8 and N.J.S.54A:6-11 hereunder.

10 m. Rental value of a residence furnished by an employer or a
11 rental allowance paid by an employer to provide a home.

12 n. Alimony and separate maintenance payments to the extent
13 that such payments are required to be made under a decree of
14 divorce or separate maintenance but not including payments for
15 support of minor children.

16 o. Income, gain or profit derived from acts or omissions
17 defined as crimes or offenses under the laws of this State or any
18 other jurisdiction.

19 p. Net pro rata share of S corporation income, excluding the
20 gain or income derived from the sale or assignment of a tax credit
21 transfer certificate pursuant to section 7 of P.L.2011, c.149
22 (C.34:1B-248) **【and】**, section 10 P.L.2014, c.63 (C.34:1B-251), or
23 the "New Jersey Economic Recovery Act of 2020," P.L.2020, c.156
24 (C.34:1B-269 et al.), as amended and supplemented, from any sale
25 or assignment of a tax credit issued pursuant to an award of tax
26 credits approved by the New Jersey Economic Development
27 Authority **【prior to July 1, 2018】**, regardless of when such sale or
28 assignment occurs.

29 (cf: P.L.2018, c.131, s.8)

30
31 16. This act shall take effect immediately.

32 33 34 STATEMENT

35
36 This bill amends and supplements the “New Jersey Aspire
37 Program Act” (Aspire Program) and provides for certain related
38 changes to the New Jersey Gross Income Tax and Corporation
39 Business Tax.

40 41 *Aspire Program Definitions*

42 The bill revises the definition of a “commercial project” to
43 include space that is predominantly used for warehouse distribution
44 or fulfillment centers. The bill amends the definition of an
45 “incentive area” to include an endorsed plan and removes certain
46 transportation connectivity requirements that exist under current
47 law. The bill defines a “mixed-use project” as a redevelopment

1 project including a residential component and a nonresidential
2 component.

3 The bill also clarifies that the definition of the term “project
4 cost” also applies to the term “total project cost.” The definition for
5 “total project cost” under current law instead applies for the term
6 “total development cost” or “total redevelopment cost” under the
7 bill.

8 The bill provides that for a redevelopment project that is located
9 in a government restricted municipality, the following costs are also
10 included in the “project cost” or “total project cost”: the costs of
11 land and building acquisition, professional services, environmental
12 remediation, and infrastructure improvements.

13

14 *Aspire Program Changes Concerning Residential Projects*

15 The bill provides that the New Jersey Economic Development
16 Authority’s (authority) housing affordability controls are to be
17 consistent with those in the “Fair Housing Act,” except not
18 including the bedroom distribution requirements for three-bedroom
19 housing units.

20 The bill provides that, in addition to the exemption for certain
21 commercial tenants, commercial subtenants, or other commercial
22 occupants with rights in a redevelopment project, any residential
23 tenant of a redevelopment project is also exempt from the
24 requirement to pay the prevailing wage rate for each worker’s craft
25 or trade when that worker is employed to perform building services
26 work at the redevelopment project.

27

28 *Sale of Buildings Under the Aspire Program*

29 A developer is permitted, under the bill, to sell one or more
30 buildings during the eligibility period if the sale is an arms-length
31 sale and is subject to the purchaser’s assumption of all obligations
32 under the Aspire Program.

33

34 *Aspire Program Community Benefit Requirement*

35 The bill amends current law to exempt the developers of certain
36 projects from the requirements of a community benefits agreement
37 once the host municipality certifies the approval letter or adopts the
38 redevelopment agreement at a public meeting, which documents are
39 required to state that the community benefit under a community
40 benefits agreement has been met.

41

42 *Aspire Program Occupancy Requirement*

43 Beginning on the third year following the date of issuance of a
44 final certificate of occupancy during the eligibility period of a
45 commercial project and through the eligibility period, the developer
46 and any co-applicant is required to maintain at least 60 percent
47 occupancy or to forfeit all tax credits for the tax period in which
48 occupancy falls below this minimum requirement. Tax credits are

1 allowed in full upon restoration of 60 percent or greater occupancy.
2 Occupancy is to be measured by the average occupancy rate during
3 the relevant tax period. Residential projects are exempt from this
4 requirement.

5

6 *Eligibility Period Under Aspire Program*

7 The bill reduces the maximum duration of an eligibility period
8 for a commercial project, mixed-use project, or residential project
9 to 10 years. Under current law, the maximum duration of an
10 eligibility period for a commercial or mixed-use project is 15 years,
11 and for a residential project is 10 years. The bill adds that the
12 authority may determine a shorter eligibility period if this reduction
13 would enhance access to tax credit monetization or otherwise
14 enhance the effectiveness of the program.

15

16 *Total Tax Credit Eligibility Under Aspire Program*

17 The bill increases the amount of tax credits that may be awarded
18 to a developer in certain circumstances. Specifically, the bill
19 provides that a developer may be allowed each of the following
20 enhancements to the developer's total tax credit award: (1) for a
21 redevelopment project that includes redevelopment of a stranded
22 asset, an increase of up to 10 percent of the project cost. Under the
23 bill, a "stranded asset" is defined as any building previously used
24 for commercial, retail, office space, manufacturing, or industrial
25 purposes, which building is no longer used for such purposes, and
26 which has been abandoned, experienced significant vacancies for at
27 least two consecutive years, or has fallen into such disrepair as to be
28 untenable; (2) for a residential project meeting the three-
29 bedroom distribution requirements of the Uniform Housing
30 Affordability Controls, an increase of up to five percent of the
31 project cost; or (3) for a redevelopment project meeting local first
32 source hiring requirements for the municipality or county where the
33 project is located, an increase of up to three percent of the project
34 cost.

35 However, except for any redevelopment project that is located in
36 a government restricted municipality, the bill limits a developer's
37 total tax credits awarded under the Aspire Program, together with
38 any program administered by the authority for a redevelopment
39 project, to: 90 percent of the project cost for redevelopment projects
40 that receive tax credits under the federal Low-Income Housing Tax
41 Credit Program; and 80 percent of the project cost for all other
42 redevelopment projects.

43

44 *Aspire Program Tax Credit Carry Forward and Transfer*

45 Under current law, a developer is required to apply tax credits
46 during the tax periods approved by the authority. This bill
47 additionally authorizes a developer to apply tax credits within the
48 three successive tax periods immediately following the tax period in

1 which the tax credit certificate is received by the developer.
2 Similarly, a developer is authorized under the bill to transfer the tax
3 credits, and a transferee is authorized to use the tax credits, within
4 the three successive tax periods immediately following the tax
5 period in which the tax credit certificate is received by the
6 developer.

7
8 *Transformative Projects Under Aspire Program*

9 This bill amends current requirements for certain transformative
10 projects. Under current law, a residential project with fewer than
11 700 new residential units is required to include the construction of
12 50,000 square feet or more of commercial space to qualify as a
13 transformative project. Under this bill, this requirement is reduced
14 to 20,000 or more of commercial space, which may include retail
15 space.

16 Additionally, the bill permits a parking component to be included
17 in the calculation of the total square footage of a transformative
18 project, but only if constructed in agreement with local zoning,
19 planning, or similar requirements and with the Residential Site
20 Improvement Standards. Portions of a parking component that
21 exceed local parking requirements or the Residential Site
22 Improvement Standards are not to be included in these calculations.
23 However, if the project is located within a government restricted
24 municipality, the entire parking component is required to be
25 included in the calculation of square footage requirements for a
26 transformative project, regardless of agreement with local
27 requirements or Residential Site Improvement Standards.

28
29 *Aspire Program Fees*

30 The bill requires that the fees charged by the authority under the
31 program be proportional to tax credit amount allowed for a
32 redevelopment project. The authority is required to promulgate a
33 schedule of fees that are limited to coverage of actual direct costs of
34 administering the program, coverage of reasonable indirect costs of
35 administering the program, and maintenance of reasonable reserves
36 for administering the program.

37 The bill provides that applications submitted prior to the
38 effective date of this bill remain subject to the authority's fees in
39 effect immediately prior to the effective date of this bill.

40
41 *Applicability to Aspire Program Applications Already Received*

42 The bill provides that any application submitted on or after the
43 date six months prior to the bill's effective date is subject to the
44 new requirements provided for in the bill, except for the fees
45 imposed on applications that precede the effective date of the bill.

1 *Redevelopment Project Bridge Financing Program Under Aspire*
2 *Program*

3 The bill provides for the establishment of a “Redevelopment
4 Project Bridge Financing Program” for the purpose of offering
5 loans or loan guarantees, at the discretion of the authority, to
6 developers whose redevelopment projects have an outstanding
7 financing gap. The purpose of the Redevelopment Project Bridge
8 Financing Program is to offer additional financing to the developer
9 of a redevelopment project, prior to the issuance of tax credits under
10 the Aspire Program, to ensure the completion of the project.

11 To apply for a loan under the program, the developer is required
12 to submit to the authority a proposed loan and interest amount, a
13 repayment plan, an accounting of the remaining project financing
14 gap, and any other information the authority requires. To apply for
15 a loan guarantee, the developer is required to submit to the authority
16 a proposed loan guarantee amount and terms, an accounting of the
17 remaining project gap, and any other information the authority
18 requires.

19 The bill authorizes the authority to issue loans and loan
20 guarantees using a “Redevelopment Project Bridge Financing
21 Revolving Fund,” into which all monies received from loan
22 repayments are to be deposited. All monies received in the fund are
23 to support the program until such time as the authority determines
24 there remains no need for bridge financing, or until December 31,
25 2028, whichever occurs first, at which point the monies in the
26 Redevelopment Project Bridge Financing Revolving Fund are to be
27 deposited into the General Fund.

28 The bill requires that the authority recommend to the Governor
29 and the Legislature an amount for appropriation, which amount is
30 necessary for the administration of the Redevelopment Project
31 Bridge Financing Program.

32

33 *Aspire Program Tax Credit Redemption*

34 The bill requires the Department of the Treasury to redeem
35 unused tax credits, as the department deems necessary. The bill
36 authorizes the department to purchase such certificates at a discount
37 of their face value, which discount may not exceed 10 percent. The
38 tax credit redemptions are to be paid in the same manner as tax
39 refunds, except that the proceeds of the redemption may be issued
40 over one or more tax periods, but not to exceed the eligibility
41 period.

42

43 *Changes to Corporate Business Tax and Gross Income Tax*

44 The bill amends current law to exclude gains from the transfer of
45 tax credits issued pursuant to the “New Jersey Economic Recovery
46 Act of 2020” from the calculation of “entire net income” under the
47 New Jersey Corporate Business Tax and “gross income” under the
48 New Jersey Gross Income Tax.

[First Reprint]

ASSEMBLY, No. 2076

STATE OF NEW JERSEY
221st LEGISLATURE

PRE-FILED FOR INTRODUCTION IN THE 2024 SESSION

Sponsored by:

Assemblywoman ELIANA PINTOR MARIN

District 29 (Essex and Hudson)

Assemblywoman ELLEN J. PARK

District 37 (Bergen)

Assemblyman BENJIE E. WIMBERLY

District 35 (Bergen and Passaic)

SYNOPSIS

Revises various requirements of New Jersey Aspire Program and establishes Redevelopment Project Bridge Financing Program.

CURRENT VERSION OF TEXT

As reported by the Assembly Commerce, Economic Development and Agriculture Committee on May 13, 2024, with amendments.



(Sponsorship Updated As Of: 6/24/2024)

1 **AN ACT** concerning the New Jersey Aspire Program, amending
2 various parts of the statutory law, and supplementing P.L.2020,
3 c.156.

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

7
8 1. Section 55 of P.L.2020, c.156 (C.34:1B-323) is amended to
9 read as follows:

10 55. As used in sections 54 through 67 of P.L.2020, c.156
11 (C.34:1B-322 through 34:1B-335):

12 "Agency" means the New Jersey Housing and Mortgage Finance
13 Agency established pursuant to P.L.1983, c.530 (C.55:14K-1 et seq.).

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

16 "Aviation district" means all areas within the boundaries of the
17 Atlantic City International Airport, established pursuant to section 24
18 of P.L.1991, c.252 (C.27:25A-24), and the Federal Aviation
19 Administration William J. Hughes Technical Center and the area
20 within a one-mile radius of the outermost boundary of the Atlantic
21 City International Airport and the Federal Aviation Administration
22 William J. Hughes Technical Center.

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

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

36 "Cash flow" means the profit or loss that an investment property
37 earns from rent, deposits, and other fees after financial obligations,
38 such as debt, maintenance, government payments, and other expenses,
39 have been paid.

40 "Collaborative workspace" means coworking, accelerator,
41 incubator, or other shared working environments that promote
42 collaboration, interaction, socialization, and coordination among
43 tenants through the clustering of multiple businesses or individuals.
44 For this purpose, the collaborative workspace shall be the greater of:

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 ACE committee amendments adopted May 13, 2024.

1 2,500 of dedicated square feet or 10 percent of the total property on
2 which the redevelopment project is situated. The collaborative
3 workspace shall include a community manager, be focused on
4 collaboration among the community members, and include regularly
5 scheduled education events for the community members. The
6 collaborative workspace shall also include a physical open space that
7 supports the engagement of its community members.

8 "Commercial project" means a redevelopment project, which is
9 predominantly commercial and, if located in a government-restricted
10 municipality, contains 25,000 or more square feet, or if located in any
11 other municipality, contains 50,000 or more square feet of office and
12 retail space, industrial space including¹, but not limited to, any
13 industrial¹ space¹ that is¹ predominantly used for warehouse
14 distribution or fulfillment centers¹ and has at least \$10 million in
15 environmental remediation costs¹, or film studios, professional stages,
16 television studios, recording studios, screening rooms, or other
17 infrastructure for film production, and may include a parking
18 component. The term "commercial project" includes a redevelopment
19 project comprised solely of a health care or health services center,
20 which contains not less than 10,000 square feet devoted to health care
21 or health services, and which may include a parking component.

22 "Developer" means a person who enters or proposes to enter into
23 an incentive award agreement pursuant to the provisions of section 60
24 of P.L.2020, c.156 (C.34:1B-328), including, but not limited, to a
25 lender that completes a redevelopment project, operates a
26 redevelopment project, or completes and operates a redevelopment
27 project.

28 "Director" means the Director of the Division of Taxation in the
29 Department of the Treasury.

30 "Distressed municipality" means a municipality that is qualified to
31 receive assistance under P.L.1978, c.14 (C.52:27D-178 et seq.), a
32 municipality under the supervision of the Local Finance Board
33 pursuant to the provisions of the "Local Government Supervision Act
34 (1947)," P.L.1947, c.151 (C.52:27BB-1 et seq.), a municipality
35 identified by the Director of the Division of Local Government
36 Services in the Department of Community Affairs to be facing serious
37 fiscal distress, a SDA municipality, or a municipality in which a major
38 rail station is located.

39 "Economic development incentive" means a financial incentive,
40 awarded by the authority, or agreed to between the authority and a
41 business or person, for the purpose of stimulating economic
42 development or redevelopment in New Jersey, including, but not
43 limited to, a bond, grant, loan, loan guarantee, matching fund, tax
44 credit, or other tax expenditure.

45 "Eligibility period" means the period not to exceed 15 years for a
46 commercial or mixed-use project or the period not to exceed 10 years
47 for a residential project specified in an incentive award agreement

1 during which a developer may claim a tax credit under the program, as
2 such period shall be determined by the authority pursuant to subsection
3 b. of section 60 of P.L.2020, c.156 (C.34:1B-328).

4 "Enhanced area" means (1) a municipality that contains an urban
5 transit hub, as defined in section 2 of P.L.2007, c.346 (C.34:1B-208);
6 (2) the five municipalities with the highest poverty rates according to
7 the 2017 Municipal Revitalization Index; and (3) the three
8 municipalities with the highest percentage of SNAP recipients
9 according to the 2017 Municipal Revitalization Index.

10 "Environmental remediation costs" means any costs incurred by a
11 developer in the completion of any actions necessary to investigate,
12 clean up, or respond to a known, suspected, or threatened discharge of
13 contaminants, including, as necessary, the preliminary assessment, site
14 investigation, remedial investigation, and remedial action, pursuant to
15 sections 23 through 43 and section 45 of P.L.1993, c.139 (C.58:10B-1
16 et seq.).

17 "Food delivery source" means access to nutritious foods, such as
18 fresh fruits and vegetables, through grocery operators, including, but
19 not limited to a full-service supermarket or grocery store, and other
20 healthy food retailers of at least 16,000 square feet, including, but not
21 limited to, a prepared food establishment selling primarily nutritious
22 ready-to-serve meals.

23 "Food desert community" means a physically contiguous area in
24 the State in which residents have limited access to nutritious foods,
25 such as fresh fruits and vegetables, and that has been designated as a
26 food desert community pursuant to subsection b. of section 38 of
27 P.L.2020, c.156 (C.34:1B-306).

28 "Government-restricted municipality" means a municipality in this
29 State with a municipal revitalization index distress score of at least 75,
30 that met the criteria for designation as an urban aid municipality in the
31 2019 State fiscal year, and that, on the effective date of P.L.2020,
32 c.156 (C.34:1B-269 et al.), is subject to financial restrictions imposed
33 pursuant to the "Municipal Stabilization and Recovery Act," P.L.2016,
34 c.4 (C.52:27BBBB-1 et seq.), or is restricted in its ability to levy
35 property taxes on property in that municipality as a result of the State
36 of New Jersey owning or controlling property representing at least 25
37 percent of the total land area of the municipality or as a result of the
38 federal government of the United States owning or controlling at least
39 50 acres of the total land area of the municipality, which is dedicated
40 as a national natural landmark.

41 "Health care or health services center" means an establishment that
42 consists of not less than 10,000 square feet devoted to health care or
43 health services, where patients are admitted for or seek examination
44 and treatment by one or more physicians, dentists, psychologists, or
45 other medical practitioners, and which is located in a municipality with
46 a Municipal Revitalization Index distress score of at least 50, a
47 distressed municipality, or a qualified incentive tract.

1 "Hospitality establishment" means a hotel, motel, or any business,
2 however organized, that sells food, beverages, or both for consumption
3 by patrons on the premises.

4 "Incentive area" means an aviation district; a port district; an area
5 designated pursuant to the "State Planning Act," P.L.1985, c.398
6 (C.52:18A-196 et seq.), as Planning Area 1 (Metropolitan), Planning
7 Area 2 (Suburban), **or** a Designated Center, **provided** an area
8 designated as Planning Area 2 (Suburban) or a Designated Center shall
9 be located within a one-half mile radius of the mid-point, with bicycle
10 and pedestrian connectivity, of a New Jersey Transit Corporation, Port
11 Authority Transit Corporation, or Port Authority Trans-Hudson
12 Corporation rail, bus, or ferry station, including all light rail stations,
13 or a high-frequency bus stop as certified by the New Jersey Transit
14 Corporation **or an Endorsed Plan**; an area designated as a brownfield
15 site pursuant to the "Brownfield and Contaminated Site Remediation
16 Act," sections 23 through 43 and section 45 of P.L.1993, c.139
17 (C.58:10B-1 et seq.); and an area of not less than 100 acres for which a
18 licensed site remediation professional has certified environmental
19 remediation costs, as defined in this section and in accordance with the
20 "Site Remediation Reform Act," sections 1 through 29 of P.L.2009,
21 c.60 (C.58:10C-1 et seq.), in an amount not less than \$10,000,000,
22 provided that any portion of such area is located in an area that
23 otherwise qualifies as an incentive area.

24 "Incentive award" means an award of tax credits to reimburse a
25 developer for all or a portion of the project financing gap of a
26 redevelopment project pursuant to the provisions of sections 54
27 through 67 of P.L.2020, c.156 (C.34:1B-322 through 34:1B-335).

28 "Incentive award agreement" means the contract executed between
29 a developer and the authority pursuant to section 60 of P.L.2020, c.156
30 (C.34:1B-328), which sets forth the terms and conditions under which
31 the developer may receive the incentive awards authorized pursuant to
32 the provisions of sections 54 through 67 of P.L.2020, c.156 (C.34:1B-
33 322 through 34:1B-335).

34 "Incubator facility" means a commercial property, which contains
35 5,000 or more square feet of office, laboratory, or industrial space,
36 which is located near, and presents opportunities for collaboration
37 with, a research institution, teaching hospital, college, or university,
38 and within which at least 75 percent of the gross leasable area is
39 restricted for use by one or more technology startup companies.

40 "Individuals with special needs" means individuals with mental
41 illness, individuals with physical or developmental disabilities, and
42 individuals in other emerging special needs groups identified by the
43 authority, based on guidelines established for the administration of the
44 Special Needs Housing Trust Fund established pursuant to section 1 of
45 P.L.2005, c.163 (C.34:1B-21.25a) or developed in consultation with
46 other State agencies.

1 "Labor harmony agreement" means an agreement between a
2 business that serves as the owner or operator of a retail establishment,
3 hospitality establishment, or distribution center and one or more labor
4 organizations, which requires, for the duration of the agreement: that
5 any participating labor organization and its members agree to refrain
6 from picketing, work stoppages, boycotts, or other economic
7 interference against the business; and that the business agrees to
8 maintain a neutral posture with respect to efforts of any participating
9 labor organization to represent employees at an establishment or other
10 unit in the retail establishment, hospitality establishment, or
11 distribution center, agrees to permit the labor organization to have
12 access to the employees, and agrees to guarantee to the labor
13 organization the right to obtain recognition as the exclusive collective
14 bargaining representatives of the employees in an establishment or unit
15 at the retail establishment, hospitality establishment, or distribution
16 center by demonstrating to the New Jersey State Board of Mediation,
17 Division of Private Employment Dispute Settlement, or a mutually
18 agreed-upon, neutral, third party that a majority of workers in the unit
19 have shown their preference for the labor organization to be their
20 representative by signing authorization cards indicating that
21 preference. The labor organization or organizations shall be from a list
22 of labor organizations which have requested to be on the list and which
23 the Commissioner of Labor and Workforce Development has
24 determined represent substantial numbers of retail establishment,
25 hospitality establishment, or distribution center employees in the State.

26 "Low-income housing" means housing affordable according to
27 federal Department of Housing and Urban Development or other
28 recognized standards for home ownership and rental costs and
29 occupied or reserved for occupancy by households with a gross
30 household income equal to 50 percent or less of the median gross
31 household income for households of the same size within the housing
32 region in which the housing is located.

33 "Major cultural institution" means a public or nonprofit institution,
34 not including an institution of higher education, within this State that
35 engages in the cultural, intellectual, scientific, environmental,
36 educational, or artistic enrichment of the people of this State, and
37 which institution is designated by the board as a major cultural
38 institution.

39 "Major rail station" means a railroad station that is located within a
40 qualified incentive area and that provides to the public access to a
41 minimum of six rail passenger service lines operated by the New
42 Jersey Transit Corporation.

43 "Minimum environmental and sustainability standards" means
44 standards established by the authority in accordance with the green
45 building manual prepared by the Commissioner of Community Affairs
46 pursuant to section 1 of P.L.2007, c.132 (C.52:27D-130.6), regarding
47 the use of renewable energy, energy-efficient technology, and non-

1 renewable resources to reduce environmental degradation and
2 encourage long-term cost reduction.

3 "Mixed-use project" means a redevelopment project that includes
4 both a residential component and a nonresidential component.

5 "Moderate-income housing" means housing affordable according
6 to federal Department of Housing and Urban Development or other
7 recognized standards for home ownership and rental costs and
8 occupied or reserved for occupancy by households with a gross
9 household income equal to more than 50 percent, but less than 80
10 percent, of the median gross household income for households of the
11 same size within the housing region in which the housing is located.

12 "Municipal Revitalization Index" means the index by the
13 Department of Community Affairs ranking New Jersey's
14 municipalities according to eight separate indicators that measure
15 diverse aspects of social, economic, physical, and fiscal conditions in
16 each locality.

17 "Port district" means the portions of a qualified incentive area that
18 are located within:

19 a. the "Port of New York District" of the Port Authority of New
20 York and New Jersey, as defined in Article II of the Compact Between
21 the States of New York and New Jersey of 1921; or

22 b. a 15-mile radius of the outermost boundary of each marine
23 terminal facility established, acquired, constructed, rehabilitated, or
24 improved by the South Jersey Port District established pursuant to
25 "The South Jersey Port Corporation Act," P.L.1968, c.60 (C.12:11A-1
26 et seq.).

27 "Program" means the New Jersey Aspire Program established by
28 section 56 of P.L.2020, c.156 (C.34:1B-324).

29 "Project cost" or "total project cost" means the costs incurred in
30 connection with a redevelopment project by a developer until the
31 issuance of a permanent certificate of occupancy, or until such other
32 time specified by the authority, for a specific investment or
33 improvement, including the costs relating to lands, except the cost of
34 acquiring such lands, buildings, improvements, real or personal
35 property, or any interest therein, including leases discounted to present
36 value, including lands under water, riparian rights, space rights, and air
37 rights acquired, owned, developed or redeveloped, constructed,
38 reconstructed, rehabilitated, or improved, any environmental
39 remediation costs, plus costs not directly related to construction,
40 including capitalized interest paid to third parties, of an amount not to
41 exceed 20 percent of the total costs and the cost of infrastructure
42 improvements, including ancillary infrastructure projects. When 100
43 percent of the residential units constructed in a residential project are
44 reserved for occupancy by low- and moderate-income households, the
45 term "project cost" shall also include the developer fees paid before
46 acquiring permanent financing, as well as the deferred developer fees
47 approved pursuant to the rules established by the agency. In addition

1 to the foregoing, the term "project cost" shall include the following
2 costs when incurred by a developer for a redevelopment project
3 located in a government restricted municipality: any development,
4 redevelopment, and relocation costs, including, but not limited to, land
5 and building acquisition costs; any soft costs, including engineering,
6 legal, accounting, and other professional services required for the
7 completion of the project; any environmental remediation costs; and
8 any infrastructure improvement for the project area, including, but not
9 limited to, costs of on- and off-site utility, road, pier, wharf, bulkhead,
10 or sidewalk construction or repair. The fees associated with the
11 application or administration of a grant under sections 54 through 67
12 of P.L.2020, c.156 (C.34:1B-322 through 34:1B-335) shall not
13 constitute a project cost, regardless of the location of the
14 redevelopment project.

15 "Project financing gap" means the part of the total project cost,
16 including reasonable and appropriate return on investment, that
17 remains to be financed after all other sources of capital have been
18 accounted for, including, but not limited to developer contributed
19 capital, which shall not be less than 20 percent of the total project cost,
20 and investor or financial entity capital or loans for which the
21 developer, after making all good faith efforts to raise additional
22 capital, certifies that additional capital cannot be raised from other
23 sources on a non-recourse basis; provided, however, that for a
24 redevelopment project located in a government-restricted municipality,
25 the developer contributed capital shall not be less than 10 percent of
26 the total project cost. Developer contributed capital may consist of
27 cash, deferred development fees, costs for project feasibility incurred
28 within the 12 months prior to application, property value less any
29 mortgages when the developer owns the project site, and any other
30 investment by the developer in the project deemed acceptable by the
31 authority, as provided by regulations promulgated by the authority.
32 Property value shall be valued at the lesser of: (i) the purchase price,
33 provided the property was purchased pursuant to an arm's length
34 transaction within 12 months of application; or (ii) the value as
35 determined by a current appraisal.

36 "Project labor agreement" means a form of pre-hire collective
37 bargaining agreement covering terms and conditions of a specific
38 project that satisfies the requirements set forth in section 5 of
39 P.L.2002, c.44 (C.52:38-5).

40 "Qualified incentive tract" means (i) a population census tract
41 having a poverty rate of 20 percent or more; or (ii) a census tract in
42 which the median family income for the census tract does not exceed
43 80 percent of the greater of the Statewide median family income or the
44 median family income of the metropolitan statistical area in which the
45 census tract is situated.

46 "Quality childcare facility" is a child care center licensed by the
47 Department of Children and Families or a registered family child care

1 home with the Department of Human Services, operating
2 continuously, which has not been subject to an enforcement action,
3 and which has and maintains a licensed capacity for children age 13
4 years or younger who attend for less than 24 hours a day.

5 "Reasonable and appropriate return on investment" means the
6 discount rate at which the present value of the future cash flows of an
7 investment equals the cost of the investment. In determining the
8 "reasonable and appropriate return on investment," an investment shall
9 not include any federal, State, or local tax credits. For a residential
10 project that utilizes federal low-income housing tax credits awarded by
11 the agency, the "reasonable and appropriate return on investment"
12 shall be based on the approval of deferred developer fees pursuant to
13 the rules established by the agency. In the event that a residential
14 project, which utilizes federal low-income housing tax credits awarded
15 by the agency, generates returns on equity other than federal or local
16 grants or proceeds from the sale of federal or local tax credits, the
17 "reasonable and appropriate return on investment" shall be based on
18 both the discount rate at which the present value of the future cash
19 flows of an investment equal the cost of the investment for the entire
20 project, and when evaluating only the units financed with federal low-
21 income housing tax credits awarded by the agency, the approval of
22 deferred developer fees pursuant to the rules established by the
23 agency.

24 "Redevelopment project" means a specific construction project or
25 improvement or phase of a project or improvement undertaken by a
26 developer, owner or tenant, or both, and any ancillary infrastructure
27 project. A redevelopment project may involve construction or
28 improvement upon lands, buildings, improvements, or real and
29 personal property, or any interest therein, including lands under water,
30 riparian rights, space rights, and air rights, acquired, owned, developed
31 or redeveloped, constructed, reconstructed, rehabilitated, or improved.

32 "Residential project" means a redevelopment project that is
33 predominantly residential, intended for multi-family residency, and
34 may include a parking component.

35 "SDA district" means an SDA district as defined in section 3 of
36 P.L.2000, c.72 (C.18A:7G-3).

37 "SDA municipality" means a municipality in which an SDA
38 district is situated.

39 "Stranded asset" means any building previously used for
40 commercial, retail, office space, manufacturing, or industrial purposes,
41 which building is no longer used for such purposes, and which has
42 been abandoned, experienced significant vacancies for at least two
43 consecutive years, or has fallen into such disrepair as to be
44 untenantable.

45 "Technology startup company" means a for-profit business that has
46 been in operation fewer than seven years at the time that it initially
47 occupies or expands in a qualified business facility and is developing

1 or possesses a proprietary technology or business method of a high
2 technology or life science-related product, process, or service, which
3 proprietary technology or business method the business intends to
4 move to commercialization. The business shall be deemed to have
5 begun operation on the date that the business first hired at least one
6 employee in a full-time position.

7 "Total **[project]** development cost" or "total redevelopment cost"
8 means the costs incurred in connection with the redevelopment project
9 by the developer until the issuance of a permanent certificate of
10 occupancy, or upon such other event evidencing project completion as
11 set forth in the incentive grant agreement, for a specific investment or
12 improvement.

13 "Tourism destination project" means a non-gaming business
14 facility that will be among the most visited privately owned or
15 operated tourism or recreation sites in the State, and which has been
16 determined by the authority to be in an area appropriate for
17 development and in need of economic development incentive
18 assistance, including a non-gaming business within an established
19 Tourism District with a significant impact on the economic viability of
20 that district.

21 "Transit hub" means an urban transit hub, as defined in section 2 of
22 P.L.2007, c.346 (C.34:1B-208), that is located within an eligible
23 municipality, as defined in section 2 of P.L.2007, c.346 (C.34:1B-208)
24 and is located within a qualified incentive area.

25 "Transit hub municipality" means a Transit Village or a
26 municipality: a. which qualifies for State aid pursuant to P.L.1978,
27 c.14 (C.52:27D-178 et seq.), or which has continued to be a qualified
28 municipality thereunder pursuant to P.L.2007, c.111; and b. in which
29 30 percent or more of the value of real property was exempt from local
30 property taxation during tax year 2006. The percentage of exempt
31 property shall be calculated by dividing the total exempt value by the
32 sum of the net valuation which is taxable and that which is tax exempt.

33 "Transit Village" means a municipality that has been designated as
34 a transit village by the Commissioner of Transportation and the Transit
35 Village Task Force established pursuant to P.L.1985, c.398 (C.27:1A-
36 5).

37 (cf: P.L.2023, c.98, s.1)

38
39 2. Section 56 of P.L.2020, c.156 (C.34:1B-324) is amended to
40 read as follows:

41 56. a. (1) The New Jersey Aspire Program is hereby established
42 as a program under the jurisdiction of the New Jersey Economic
43 Development Authority. The authority shall administer the
44 program to encourage redevelopment projects through the provision
45 of incentive awards to reimburse developers for certain project
46 financing gap costs. The board may approve the award of an
47 incentive award to a developer upon application to the authority

1 pursuant to sections 58 and 59 of P.L.2020, c.156 (C.34:1B-326 and
2 C.34:1B-327). The value of all tax credits approved by the
3 authority pursuant to sections 54 through 67 of P.L.2020, c.156
4 (C.34:1B-322 through 34:1B-335) shall be subject to the limitations
5 set forth in section 98 of P.L.2020, c.156 (C.34:1B-362).

6 (2) The authority, in consultation with the agency, shall adopt
7 rules and regulations, pursuant to subsection b. of section 67 of
8 P.L.2020, c.156 (C.34:1B-335), concerning the establishment and
9 administration of the affordability controls that shall apply to the
10 residential units constructed for occupancy by low- and moderate-
11 income households under the program, including, but not limited to,
12 residential units within residential projects that utilize federal low-
13 income housing tax credits awarded by the agency.
14 Notwithstanding any provision of law or regulation to the contrary,
15 the affordability controls shall, at a minimum, be consistent with the
16 affordability controls established in the rules and regulations
17 adopted pursuant to the "Fair Housing Act," P.L.1985, c.222
18 (C.52:27D-301 et al.), as in effect immediately prior to the effective
19 date of P.L.2023, c.98 (C.34:1B-335.1 et al.), including, but not
20 limited to, any requirements concerning the **【**bedroom
21 distributions,**】** affordability averages, affirmative marketing, and
22 long-term deed restrictions of residential units constructed for
23 occupancy by low- and moderate-income households, except not
24 including the bedroom distribution requirements for three-bedroom
25 housing units.

26 b. The chief executive officer of the authority shall designate
27 one staff member per government-restricted municipality in order to
28 keep the municipality informed on activities within the municipality
29 and to coordinate economic development initiatives.

30 (cf: P.L.2023, c.98, s.2)

31
32 3. Section 57 of P.L.2020, c.156 (C.34:1B-325) is amended to
33 read as follows:

34 57. a. Prior to March 1, 2029, a developer shall be eligible to
35 receive an incentive award for a redevelopment project only if the
36 developer demonstrates to the authority at the time of application that:

37 (1) without the incentive award, the redevelopment project is not
38 economically feasible;

39 (2) a project financing gap exists, or the authority determines that
40 the redevelopment project will generate a below market rate of return;

41 (3) the redevelopment project, except a film studio, professional
42 stage, television studio, recording studio, screening room, or other
43 infrastructure used for film production, is located in the incentive area;

44 (4) ^{1(a)} except for demolition and site remediation activities, the
45 developer has not commenced any construction at the site of the
46 redevelopment project prior to submitting an application, unless the
47 authority determines that the redevelopment project would not be

1 completed otherwise or, in the event the redevelopment project is to be
2 undertaken in phases, the requested incentive award is limited to only
3 phases for which construction has not yet commenced;

4 ¹(b) if the developer has commenced demolition and site
5 remediation activities at the site of the redevelopment project prior to
6 submitting an application, all construction workers employed to
7 undertake demolition and site remediation activities at the site were
8 paid not less than the prevailing wage rate for the worker's craft or
9 trade, as determined by the Commissioner of Labor and Workforce
10 Development pursuant to P.L.1963, c.150 (C.34:11-56.25 et seq.) and
11 P.L.2005, c.379 (C.34:11-56.58 et seq.):¹

12 (5) the redevelopment project shall comply with minimum
13 environmental and sustainability standards;

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

17 (7) (a) during the eligibility period, each worker employed to
18 perform construction work at the redevelopment project shall be paid
19 not less than the prevailing wage rate for the worker's craft or trade, as
20 determined by the Commissioner of Labor and Workforce
21 Development pursuant to P.L.1963, c.150 (C.34:11-56.25 et seq.) and
22 P.L.2005, c.379 (C.34:11-56.58 et seq.);

23 (b) during the eligibility period, each worker employed to perform
24 building services work at the redevelopment project, whether pursuant
25 to contract by the developer or a commercial tenant, commercial
26 subtenant, or other commercial occupant, shall be paid not less than
27 the prevailing wage rate for the worker's craft or trade, as determined
28 by the Commissioner of Labor and Workforce Development pursuant
29 to P.L.1963, c.150 (C.34:11-56.25 et seq.) and P.L.2005, c.379
30 (C.34:11-56.58 et seq.), except that this requirement shall not apply to
31 workers employed to perform building services work by **[a]** any
32 residential tenant or any commercial tenant, commercial subtenant, or
33 other commercial occupant that has a leasehold interest or other
34 occupancy right in a redevelopment project, which leasehold interest
35 or other occupancy right encompasses less than 5,000 square feet of
36 space within the project. The developer shall include in all
37 commercial leases or other commercial occupancy agreements, and
38 shall require that all subleases or other commercial occupancy
39 agreements applicable to the redevelopment project include, a
40 provision setting forth the requirements of this subparagraph, which
41 provision shall be in a form acceptable to the authority.
42 Notwithstanding any provisions of law to the contrary, if a commercial
43 tenant, commercial subtenant, or other commercial occupant violates
44 this provision due to the underpayment of the required prevailing wage
45 rate, then the issuance of tax credits to the developer and any co-
46 applicant shall be delayed until such time as documentation
47 demonstrating compliance has been provided to the Commissioner of

1 Labor and Workforce Development, subsequently reviewed and
2 approved by the Commissioner of Labor and Workforce Development,
3 and verified by the authority, which reviews and verification shall be
4 completed. If a violation is not cured, or is not capable of being cured,
5 within one year of receipt of notice of the violation, then the developer
6 and any co-applicant shall forfeit 50 percent of the tax credits
7 otherwise authorized for the tax period in which the notice of violation
8 was issued. If the violation is not cured on or before the conclusion of
9 that tax period, the developer and any co-applicant shall forfeit up to
10 100 percent of the tax credits otherwise authorized, as determined by
11 the authority, in each subsequent tax period until the first tax period
12 for which documentation demonstrating compliance has been provided
13 to the Commissioner of Labor and Workforce Development,
14 subsequently reviewed and approved by the Commissioner of Labor
15 and Workforce Development, and verified by the authority, which
16 reviews and verifications shall be completed. In this event, the
17 developer and any co-applicant shall be allowed the full tax credit
18 amount beginning in the tax period in which documentation of
19 compliance was reviewed and approved by the Commissioner of
20 Labor and Workforce Development and verified by the authority,
21 including each subsequent tax period in which the tax credits are
22 otherwise authorized;

23 (c) in the event a redevelopment project, or any portion thereof, is
24 undertaken by a tenant pursuant to a contract and the tenant has a
25 leasehold of more than 55 percent of space in the building owned or
26 controlled by the developer, the requirement that each worker
27 employed to perform building service work at the building be paid not
28 less than the prevailing wage shall apply to the entire building, except
29 as otherwise provided in subparagraph (b) of this paragraph for all
30 residential tenants and all commercial tenants, commercial subtenants,
31 or other commercial occupants with a leasehold interest or other
32 occupancy right encompassing less than 5,000 square feet;

33 (8) (a) the redevelopment project shall be completed, and the
34 developer shall be issued a certificate of occupancy for the
35 redevelopment project facilities by the applicable enforcing agency,
36 within four years of executing the incentive award agreement, or in the
37 case of a redevelopment project with a project cost in excess of
38 \$50,000,000, the incentive phase agreement corresponding to the
39 redevelopment project; or

40 (b) in the discretion of the authority, a redevelopment project with
41 a project cost in excess of \$50,000,000, and that is authorized to be
42 completed in phases, may be allowed no more than six years from the
43 date on which the incentive award agreement is executed to be issued a
44 certificate of occupancy by the applicable enforcement agency;

45 (9) the developer has complied with all requirements for filing tax
46 and information returns and for paying or remitting required State
47 taxes and fees by submitting, as a part of the application, a tax

1 clearance certificate, as described in section 1 of P.L.2007, c.101
2 (C.54:50-39); and
3 (10) the developer is not more than 24 months in arrears at
4 the time of application.
5 b. In addition to the requirements set forth in subsection a. of this
6 section, for a commercial project to qualify for an incentive award the
7 developer shall demonstrate that the developer shall contribute capital
8 of at least 20 percent of the total project cost, except that if a
9 redevelopment project is located in a government-restricted
10 municipality, the developer shall contribute capital of at least 10
11 percent of the total project cost.
12 c. In addition to the requirements set forth in subsection a. of this
13 section, for a residential project or a commercial project comprised
14 solely of a health care or health service center to qualify for an
15 incentive award, the residential project or health care or health service
16 center shall:
17 (1) have a total project cost of at least \$17,500,000, if the project is
18 located in a municipality with a population greater than 200,000
19 according to the latest federal decennial census;
20 (2) have a total project cost of at least \$10,000,000 if the project is
21 located in a municipality with a population less than 200,000
22 according to the latest federal decennial census; or
23 (3) have a total project cost of at least \$5,000,000 if the project is
24 in a qualified incentive tract or government-restricted municipality.
25 d. In addition to the requirements set forth in subsections a. and c.
26 of this section, for a residential project consisting of newly-constructed
27 residential units to qualify for an incentive award, the developer shall
28 reserve at least 20 percent of the residential units constructed for
29 occupancy by low- and moderate-income households with
30 affordability controls as adopted by the authority, in consultation with
31 the agency, in accordance with paragraph (2) of subsection a. of
32 section 56 of P.L.2020, c.156 (C.34:1B-324), except that a residential
33 project receiving a federal historic rehabilitation tax credit pursuant to
34 section 47 of the federal Internal Revenue Code of 1986, 26 U.S.C.
35 s.47, or a tax credit pursuant to the "Historic Property Reinvestment
36 Act," sections 2 through 8 of P.L.2020, c.156 (C.34:1B-270 through
37 34:1B-276), shall be exempt from the affordability controls related to
38 bedroom distribution.
39 e. Prior to the board considering an application submitted by a
40 developer, the authority shall confirm with the Department of Labor
41 and Workforce Development, the Department of Environmental
42 Protection, and the Department of the Treasury whether the developer
43 is in substantial good standing with the respective department, or has
44 entered into an agreement with the respective department that includes
45 a practical corrective action plan for the developer. The developer
46 shall certify that any contractors or subcontractors that will perform
47 work at the redevelopment project: (1) are registered as required by

1 "The Public Works Contractor Registration Act," P.L.1999, c.238
2 (C.34:11-56.48 et seq.); (2) have not been debarred by the Department
3 of Labor and Workforce Development from engaging in or bidding on
4 Public Works Contracts in the State; and (3) possess a tax clearance
5 certificate issued by the Division of Taxation in the Department of the
6 Treasury. The authority may also contract with an independent third
7 party to perform a background check on the developer.

8 f. Beginning on the third year following the date of issuance of a
9 final certificate of occupancy for a commercial project, and through
10 the conclusion of the eligibility period, if the average occupancy rate
11 of the commercial project is less than 60 percent during any applicable
12 tax period, the developer and co-applicant shall forfeit all credits
13 otherwise allowed for the tax period and for each subsequent tax
14 period until the authority verifies documentation, submitted by the
15 developer or co-applicant, demonstrating that the average occupancy
16 rate has reached or surpassed 60 percent for the tax period. The full
17 amount of credit shall be allowed to a developer and any co-applicant
18 for the tax period in which the average occupancy rate reaches or
19 surpasses 60 percent. Occupancy for the tax period shall be
20 determined by the average of the monthly occupancy for the applicable
21 tax period. The occupancy requirement in this subsection shall not
22 apply to residential projects.

23 (cf: P.L.2023, c.98, s.3)

24
25 4. Section 60 of P.L.2020, c.156 (C.34:1B-328) is amended to
26 read as follows:

27 60. a. (1) Following approval and selection of an application
28 pursuant to sections 58 and 59 of P.L.2020, c.156 (C.34:1B-326 and
29 C.34:1B-327), the authority shall enter into an incentive award
30 agreement with the developer. The chief executive officer of the
31 authority shall negotiate the terms and conditions of the incentive
32 award agreement on behalf of the State.

33 (2) For a phased project, the incentive phase agreement shall set
34 forth, for each phase of the project and for the total project, the capital
35 investment requirements and the time periods in which each phase of
36 the project shall be commenced and completed. The awarding of tax
37 credits shall be conditioned on the developer's compliance with the
38 requirements of the agreement. A redevelopment project may be
39 completed in phases in accordance with rules adopted by the authority
40 if the redevelopment project has a total project cost in excess of
41 \$50,000,000.

42 b. An incentive award agreement shall specify the amount of the
43 incentive award the authority shall award to the developer and the
44 duration of the eligibility period. The duration of the eligibility period
45 **【shall not exceed 15 years for a commercial or mixed-use project and】**
46 **shall not exceed 10 years for a commercial project, mixed-use project,**
47 **or residential project, except that 【to】 the authority shall consider**

1 reducing the eligibility period if a shorter period would reduce the total
2 value of tax credits needed to reimburse a developer for all or part of
3 the project financing gap of a redevelopment project, **the authority**
4 may, in its discretion, approve a duration for the eligibility period that
5 is shorter than the applicable maximum periods **enhance access to tax**
6 credit monetization on cost effective terms, or otherwise enhance the
7 effectiveness of the program. The incentive award agreement shall
8 provide an estimated date of completion and include a requirement for
9 periodic progress reports, including the submittal of executed
10 financing commitments and documents that evidence site control;
11 provided however, that the developer may sell one or more buildings
12 during the eligibility period, provided that such sale is: an arms-length
13 transaction to an unrelated party, or for an amount at least equal to fair
14 market value based on an appraisal conducted within one year; and
15 subject to the purchaser's assumption of all obligations relating to the
16 buildings pursuant to sections 54 through 67 of P.L.2020, c.156
17 (C.34:1B-322 through C.34:1B-335). If the authority does not receive
18 periodic progress reports, or if the progress reports demonstrate
19 unsatisfactory progress, then the authority may rescind the incentive
20 award. If the authority rescinds an incentive award in the same
21 calendar year in which the authority approved the incentive award,
22 then the authority may assign the incentive award to another applicant.
23 The incentive award agreement may also provide for a verification of
24 the financing gap at the time the developer provides executed
25 financing commitments to the authority and a verification of the
26 developer's projected cash flow at the time of certification that the
27 project is completed.

28 c. To ensure the protection of taxpayer money, if the authority
29 determines at project certification that the actual capital financing
30 approach utilized by the project has resulted in a financing gap that is
31 smaller than the financing gap determined at board approval, the
32 authority shall reduce the amount of the tax credit or accept payment
33 from the developer on a pro rata basis. If there is no project financing
34 gap due to the actual capital financing approach utilized by the project,
35 then the developer shall forfeit the incentive award. At the end of the
36 seventh year of the eligibility period, the authority shall evaluate the
37 developer's rate of return on investment and compare that rate of return
38 on investment to the reasonable and appropriate rate of return at the
39 time of board approval. If the actual rate of return on investment
40 exceeds the reasonable and appropriate rate of return on investment at
41 the time of board approval by more than 15 percent, the authority shall
42 require the developer to pay up to 20 percent of the amount in excess
43 of the reasonable and appropriate rate of return on investment. The
44 authority shall require an escrow account to be held by the authority
45 until the end of the eligibility period. Following the final year of the
46 eligibility period, the authority shall determine if the developer's rate
47 of return exceeded the reasonable and appropriate rate of return

1 determined at board approval. If the final rate of return does not
2 exceed the reasonable and appropriate rate of return determined at
3 board approval, the authority shall release to the developer the
4 escrowed funds. If the project final rate of return exceeds the
5 reasonable and appropriate rate of return determined at board approval,
6 the authority shall require the developer to pay up to 20 percent of the
7 amount of the excess, which shall include the funds held in escrow,
8 and such funds shall be deposited in the State General Fund.

9 d. The incentive award agreement shall include a requirement that
10 the authority confirm with the Department of Environmental
11 Protection, the Department of Labor and Workforce Development, and
12 the Department of the Treasury that the developer is in substantial
13 good standing with the respective department, or the developer has
14 entered into an agreement with the respective department that includes
15 a practical corrective action for the developer, and the developer shall
16 confirm that each contractor or subcontractor performing work at the
17 redevelopment project: (1) is registered as required by "The Public
18 Works Contractor Registration Act," P.L.1999, c.238 (C.34:11-56.48
19 et seq.); (2) has not been debarred ¹, suspended, or disqualified¹ by the
20 Department of Labor and Workforce Development from engaging in
21 or bidding on Public Works Contracts in the State ¹, or been debarred,
22 suspended, or disqualified by a federal agency from engaging in
23 federally-funded construction projects or bidding on federal
24 contracting opportunities¹; and (3) possesses a tax clearance certificate
25 issued by the Division of Taxation in the Department of the Treasury.
26 The incentive award agreement shall also include a provision that the
27 developer shall forfeit the incentive award in any year in which the
28 developer is neither in substantial good standing with each department
29 nor has entered into a practical corrective action. The incentive award
30 agreement shall also require a developer to engage in on-site
31 consultations with the Division of Workplace Safety and Health in the
32 Department of Health.

33 e. (1) Except as provided in paragraph (2) of this subsection, the
34 authority shall not enter into an incentive award agreement for a
35 redevelopment project that includes at least one retail establishment
36 which will have more than 10 employees, at least one distribution
37 center which will have more than 20 employees, or at least one
38 hospitality establishment which will have more than 10 employees,
39 unless the incentive award agreement includes a precondition that any
40 business that serves as the owner or operator of the retail
41 establishment, distribution center, or hospitality establishment enters
42 into a labor harmony agreement with a labor organization or
43 cooperating labor organizations which represent retail establishment,
44 hospitality establishment, or distribution center employees in the State.

45 (2) A labor harmony agreement shall be required only if the State
46 has a proprietary interest in the redevelopment project and shall remain
47 in effect for as long as the State acts as a market participant in the

1 redevelopment project. The authority may enter into an incentive
2 award agreement with a developer without the labor harmony
3 agreement required under paragraph (1) of this subsection if the
4 authority determines that the redevelopment project would not be able
5 to go forward if a labor harmony agreement is required. The authority
6 shall support the determination by a written finding, which provides
7 the specific basis for the determination.

8 (3) (Deleted by amendment, P.L.2023, c.98)

9 f. (1) Except for a residential project that is located in a
10 government-restricted municipality, and in which 100 percent of the
11 residential units constructed in the residential project are reserved for
12 occupancy by low- and moderate-income households, for a
13 redevelopment project whose total project cost equals or exceeds \$10
14 million, in addition to the incentive award agreement, a developer shall
15 enter into a community benefits agreement with the authority and the
16 county or municipality in which the redevelopment project is located.
17 The agreement may include, but shall not be limited to, requirements
18 for training, employment, and youth development and free services to
19 underserved communities in and around the community in which the
20 redevelopment project is located. Prior to entering a community
21 benefits agreement, the governing body of the county or municipality
22 in which the redevelopment project is located shall hold at least one
23 public hearing at which the governing body shall hear testimony from
24 residents, community groups, and other stakeholders on the needs of
25 the community that the agreement should address.

26 (2) The community benefits agreement shall provide for the
27 creation of a community advisory committee to oversee the
28 implementation of the agreement, monitor successes, ensure
29 compliance with the terms of the agreement, and produce an annual
30 public report. The community advisory committee created pursuant to
31 this paragraph shall be comprised of representatives of diverse
32 community groups and residents of the county or municipality in
33 which the redevelopment project is located.

34 (3) At the time the developer submits the annual report required
35 pursuant to section 62 of P.L.2020, c.156 (C.34:1B-330) to the
36 authority, the developer shall certify, under the penalty of perjury, that
37 it is in compliance with the terms of the community benefits
38 agreement. If the developer fails to provide the certification required
39 pursuant to this paragraph or the authority determines that the
40 developer is not in compliance with the terms of the community
41 benefits agreement based on the reports submitted by the community
42 advisory committee pursuant to paragraph (2) of this subsection, then
43 the authority may rescind an award or recapture all or part of any tax
44 credits awarded.

45 (4) Notwithstanding any requirement of this subsection to the
46 contrary, a developer shall be considered to have met the requirements
47 of a community benefits agreement **[pursuant to this subsection], and**

1 the requirements of paragraphs (2) and (3) of this subsection shall not
2 apply, if the developer submits to the authority:

3 (a) a copy of either the developer's approval letter from the
4 authority or a redevelopment agreement applicable to the qualified
5 business facility, provided that the approval letter is certified by the
6 municipality or the redevelopment agreement is **【certified】** adopted by
7 resolution at a public meeting by the municipality in which the
8 redevelopment project is located, and includes provisions that meet **【or**
9 **exceed】** the **【standards】** community benefit required **【for】** under a
10 community benefits agreement in this subsection **【**, as determined by
11 the chief executive officer pursuant to rules adopted by the authority**】**;
12 or

13 (b) a resolution adopted by the governing body of the municipality
14 in which the redevelopment project is located, which resolution shall
15 be adopted after at least one public hearing at which the governing
16 body provides an opportunity for residents, community groups, and
17 other stakeholders to testify, and which resolution shall state that the
18 governing body has determined that the redevelopment project will
19 provide economic and social benefits to the community that fulfill the
20 purposes of this subsection, which benefits render a separate
21 community benefit agreement unnecessary, and explain the reasons
22 supporting the governing body's determination.

23 g. A developer shall submit, prior to the first disbursement of tax
24 credits under the incentive award agreement, but no later than six
25 months following project completion, satisfactory evidence of actual
26 project costs, as certified by a certified public accountant, evidence of
27 a temporary certificate of occupancy, or other event evidencing project
28 completion that begins the eligibility period indicated in the incentive
29 award agreement. The developer, or an authorized agent of the
30 developer, shall certify that the information provided pursuant to this
31 subsection is true under the penalty of perjury. Claims, records, or
32 statements submitted by a developer to the authority in order to receive
33 tax credits shall not be considered claims, records, or statements made
34 in connection with State tax laws.

35 h. The incentive award agreement shall include a provision
36 allowing the authority to extend, in individual cases, the deadline for
37 any annual reporting or certification requirement.

38 i. The incentive award agreement shall include one or more
39 provisions, as determined by the authority, concerning the terms and
40 conditions for default and the remedies for the developer of a
41 redevelopment project in the event of default. The incentive award
42 agreement shall not allow the authority to declare a cross-default when
43 the developer of a redevelopment project, including any business
44 affiliate of the developer or any other entity with common principals
45 as the developer, is in default with any other assistance program
46 administered by the authority.

47 (cf: P.L.2023, c.98, s.6)

1 5. Section 61 of P.L.2020, c.156 (C.34:1B-329) is amended to
2 read as follows:

3 61. a. Up to the limits established in subsection b. of this section
4 and in accordance with an incentive award agreement, beginning upon
5 the receipt of occupancy permits for any portion of the redevelopment
6 project, or upon any other event evidencing project completion as set
7 forth in the incentive award agreement, a developer shall be allowed a
8 total tax credit **that shall not exceed** as follows, subject to the
9 enhancements set forth in subsection c. of this section:

10 (1) 80 percent of the total project cost for a redevelopment project
11 that is located in a government-restricted municipality;

12 (2) 60 percent of the total project cost for a residential project that
13 receives a four-percent allocation from the federal Low Income
14 Housing Tax Credit Program administered by the agency ¹, ¹ or a
15 redevelopment project that is located in a qualified incentive tract,
16 enhanced area, or a municipality with a Municipal Revitalization Index
17 score of at least 50; or

18 (3) 50 percent of the total project cost for any other redevelopment
19 project.

20 b. The value of all tax credits approved by the authority under the
21 program for a redevelopment project phase shall not exceed:

22 (1) \$120,000,000 per redevelopment project or phase for a
23 redevelopment project that is located in a government-restricted
24 municipality;

25 (2) \$90,000,000 per redevelopment project or phase for a
26 redevelopment project that is allowed a tax credit under paragraph (2)
27 of subsection a. of this section; and

28 (3) \$60,000,000 for any other redevelopment project or phase.

29 c. Notwithstanding the limitations set forth in subsection a. of this
30 section, but subject to the limitations of subsections b. and d. of this
31 section and the demonstration of a financing gap, a developer shall be
32 eligible for each of the following enhancements to the total tax credit
33 award:

34 (1) for a redevelopment project that includes the redevelopment of
35 a stranded asset, an enhancement of up to 10 percent of the project cost
36 of the redevelopment project;

37 (2) for a residential project that meets the three-bedroom
38 distribution requirement under the Uniform Housing Affordability
39 Controls, an enhancement of up to five percent of the project cost of
40 the residential project; and

41 (3) for a redevelopment project that meets local first source hiring
42 requirements for residents in the municipality or county ¹ [where] in
43 which¹ the project is located ¹ and in surrounding municipalities, as
44 appropriate¹, an enhancement of up to three percent of the project cost
45 of the redevelopment project.

46 d. Except for a redevelopment project that is located in a
47 government restricted municipality:

1 (1) the total tax credits awarded for the redevelopment project,
2 together with all tax credits awarded under any other program
3 administered by the authority, shall not exceed 80 percent of the
4 project cost of the redevelopment project; and

5 (2) for a redevelopment project that receives tax credits under the
6 Federal Low-Income Housing Tax Credit Program, the total tax credits
7 awarded for the redevelopment project, together with all tax credits
8 awarded under any other program administered by the authority and
9 under the Federal Low-Income Housing Tax Credit Program, shall not
10 exceed 90 percent of the project cost.

11 (cf: P.L.2023, c.98, s.7)

12
13 6. Section 62 of P.L.2020, c.156 (C.34:1B-330) is amended to
14 read as follows:

15 62. a. A developer approved for an incentive award pursuant to
16 sections 58 and 59 of P.L.2020, c.156 (C.34:1B-326 and
17 C.34:1B-327) and that enters an incentive award agreement
18 pursuant to section 60 of P.L.2020, c.156 (C.34:1B-328) shall
19 submit annually, commencing in the year in which the incentive
20 award is issued and for the remainder of the eligibility period, a
21 report indicating whether the developer is aware of any condition,
22 event, or act that would cause the developer not to be in compliance
23 with the incentive award agreement or the provisions of sections 54
24 through 67 of P.L.2020, c.156 (C.34:1B-322 through C.34:1B-335)
25 and any additional reporting requirements contained in the incentive
26 award agreement or tax credit certificate. The developer, or an
27 authorized agent of the developer, shall certify that the information
28 provided pursuant to this subsection is true under the penalty of
29 perjury.

30 b. (1) Upon receipt and review of each report submitted during
31 the eligibility period, the authority shall provide to the developer
32 and the director a certificate of compliance indicating the amount of
33 tax credits that the developer may apply against the developer's tax
34 liability.

35 (2) Upon receipt by the director of the certificate of compliance,
36 the director shall allow the developer a credit against the tax
37 imposed pursuant to section 5 of P.L.1945, c.162 (C.54:10A-5). A
38 developer shall apply the credit awarded against the developer's
39 liability under section 5 of P.L.1945, c.162 (C.54:10A-5), sections 2
40 and 3 of P.L.1945, c.132 (C.54:18A-2 and C.54:18A-3), section 1
41 of P.L.1950, c.231 (C.17:32-15), or N.J.S.17B:23-5 for the privilege
42 period **【during】** identified in the tax credit certificate which the
43 director **【allows】** issues to the developer 【a tax credit】 pursuant to
44 this subsection, or within the three successive tax periods
45 immediately following the tax period in which the tax credit
46 certificate is received by the developer. A developer may carry
47 forward an unused credit resulting from the limitations of paragraph

(3) of this subsection, if necessary, for use in the seven privilege periods next following the privilege period for which the credits are **【awarded】** applied. Credits granted to a partnership shall be passed through to the partners, members, or owners, respectively, pro-rata, or pursuant to an executed agreement among the partners, members, or owners documenting an alternate distribution method provided to the director accompanied by any additional information as the director may prescribe.

(3) The director shall prescribe the order of priority of the application of the credit allowed under this section and any other credits allowed by law against the tax imposed under section 5 of P.L.1945, c.162 (C.54:10A-5). The amount of the credit applied under this section against the tax imposed pursuant to section 5 of P.L.1945, c.162 (C.54:10A-5) for a privilege period, together with any other credits allowed by law, shall not reduce the tax liability to an amount less than the statutory minimum provided in subsection (e) of section 5 of P.L.1945, c.162 (C.54:10A-5).
(cf: P.L.2022, c.46, s.1)

7. Section 63 of P.L.2020, c.156 (C.34:1B-331) is amended to read as follows:

63. a. A developer may apply to the director and the chief executive officer of the authority for a tax credit transfer certificate, covering one or more years, in lieu of the developer being allowed any amount of the credit against the tax liability of the developer. The tax credit transfer certificate, upon receipt thereof by the developer from the director and the chief executive officer of the authority, may be sold or assigned, in full or in part in an amount not less than \$25,000, in the privilege period during which the developer receives the tax credit transfer certificate from the director, to another person, who may apply the credit against a tax liability pursuant to section 5 of P.L.1945, c.162 (C.54:10A-5), sections 2 and 3 of P.L.1945, c.132 (C.54:18A-2 and C.54:18A-3), section 1 of P.L.1950, c.231 (C.17:32-15), or N.J.S.17B:23-5. The certificate provided to the developer shall include a statement waiving the developer's right to claim the amount of the credit that the developer has elected to sell or assign against the developer's tax liability.

b. The developer shall not sell or assign, including a collateral assignment, a tax credit transfer certificate allowed under this section for consideration received by the developer of less than 85 percent of the transferred credit amount before considering any further discounting to present value which shall be permitted, except a developer of a residential project consisting of newly-constructed residential units may assign a tax credit transfer certificate for consideration of less than 85 percent subject to the submission of a plan to the authority and the agency to use the

1 proceeds derived from the assignment of tax credits to complete the
2 residential project, except a developer of a residential project
3 consisting of newly-constructed residential units that has received
4 federal low income housing tax credits under 26 U.S.C.
5 s.42(b)(1)(B)(i) may assign a tax credit transfer certificate for
6 consideration of no less than 65 percent subject to the submission of
7 a plan to the authority and the New Jersey Housing and Mortgage
8 Finance Agency to use the proceeds derived from the assignment of
9 tax credits to complete the residential project. The tax credit
10 transfer certificate issued to a developer by the director shall be
11 subject to any limitations and conditions imposed on the application
12 of State tax credits pursuant to sections 54 through 67 of P.L.2020,
13 c.156 (C.34:1B-322 through 34:1B-335) and any other terms and
14 conditions that the director may prescribe; provided, however, that
15 the holder of a tax credit certificate may transfer all or part of the
16 tax credit amount, within the three successive tax periods
17 immediately following the tax period in which the tax credit
18 certificate is received by the developer, on or after the date of
19 issuance of the tax credit transfer certificate, for use by the
20 transferee in the tax period for which it was issued or within the
21 three successive tax periods immediately following the tax period in
22 which the tax credit transfer certificate is received by the transferee,
23 and the transferee may carry forward all or part of the tax credit
24 amount in any of the next five successive tax periods after the tax
25 period for which it was used. Notwithstanding any provision of this
26 section to the contrary, the amount of tax credits that may be
27 claimed by the transferee in any tax period shall not exceed the total
28 tax credit amount divided by the duration of the eligibility period in
29 years.

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

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

- 36 (1) the name of the transferor;
37 (2) the name of the transferee;
38 (3) the value of the tax credit transfer certificate; and
39 (4) the consideration received by the transferor.

40 e. When a tax credit certificate is issued to a developer after
41 the tax period in which all or part of the tax credits may be used by
42 the developer or a holder of the credit transfer certificate, the
43 developer or transferee shall be allowed to use the tax credit for the
44 same tax period specified in the tax credit certificate, or within the
45 three successive tax periods immediately following the tax period in
46 which the certificate is received by the developer or transferee. In
47 this circumstance, the developer or transferee shall not be required

1 to amend its tax return for the tax period in which it applies the tax
2 credit or for a tax period preceding the tax period in which the tax
3 credit is applied.

4 (cf: P.L.2023, c.98, s.8)

5
6 8. Section 65 of P.L.2020, c.156 (C.34:1B-333) is amended to
7 read as follows:

8 65. a. As used in this section, "transformative project" means a
9 redevelopment project: that has a project financing gap; that has a total
10 project cost of at least \$150,000,000; that, subject to the provisions of
11 subsection h. of this section, includes 200,000 or more square feet of
12 new or substantially renovated industrial, commercial, or residential
13 space for a project located in a government-restricted municipality,
14 that includes 250,000 or more square feet of film studios, professional
15 stages, television studios, recording studios, screening rooms, or other
16 infrastructure for film production, that includes 300,000 or more
17 square feet of new or substantially renovated industrial, commercial,
18 or residential space for a project located in an enhanced area, or that
19 includes 500,000 or more square feet of new or substantially renovated
20 industrial, commercial, or residential space for any other project; and,
21 for a commercial project, that is of special economic importance as
22 measured by the level of new jobs, new capital investment,
23 opportunities to leverage leadership in a high-priority targeted
24 industry, or other state priorities as determined by the authority
25 pursuant to rules and regulations promulgated to implement this
26 section. Notwithstanding the provisions of subsection b. of section 14
27 of P.L.2023, c.98 (C.34:1B-335.1) to the contrary, for applications
28 submitted on and after the effective date of P.L.2023, c.98 (C.34:1B-
29 335.1 et al.), if the redevelopment project is located entirely on land
30 designated by the Department of Environmental Protection as a
31 brownfield development area pursuant to section 7 of P.L.2005, c.223
32 (C.58:10B-25.1), and the project cost of the redevelopment project
33 includes at least \$15,000,000 in environmental remediation costs, the
34 redevelopment project shall constitute a project of special economic
35 importance. A transformative project may be completed in phases,
36 which phases may be determined by the authority based on factors
37 such as written architectural plans and specifications completed before
38 or during the physical work, certificates of occupancy, or financial and
39 operational plans. The criteria developed by the authority shall
40 include, but shall not be limited to:

41 (1) the extent to which the proposed transformative project would
42 create modern facilities that enhance the State's competitiveness in
43 attracting targeted industries;

44 (2) (a) for a residential project, the construction of 700 or more
45 new residential units; ¹or¹

46 (b) for a residential project containing **[less]** fewer than 700 new
47 residential units, the construction of 200 or more new residential units

1 if the project is located in a government-restricted municipality, 300 or
2 more residential units if the project is located in an enhanced area, or
3 400 or more residential units for all other mixed-use projects; ¹or¹

4 (c) for a residential project containing **【less】** fewer than 700 new
5 residential units, the construction of **【50,000】** 20,000 square feet or
6 more of commercial space, which commercial space may include retail
7 space; and

8 (d) for a residential project, 20 percent of the new residential units
9 shall be constructed for occupancy by low- and moderate-income
10 households with affordability controls as adopted by the authority, in
11 consultation with the agency, in accordance with paragraph (2) of
12 subsection a. of section 56 of P.L.2020, c.156 (C.34:1B-324), except
13 that a residential project receiving a federal historic rehabilitation tax
14 credit pursuant to section 47 of the federal Internal Revenue Code of
15 1986, 26 U.S.C. s.47, or a tax credit pursuant to the "Historic Property
16 Reinvestment Act," sections 2 through 8 of P.L.2020, c.156 (C.34:1B-
17 270 through 34:1B-276), shall be exempt from the affordability
18 controls related to bedroom distribution; and

19 (3) the extent to which the proposed project would leverage the
20 competitive economic development advantages of the State's mass
21 transit assets, higher education assets, and other economic
22 development assets in attracting or retaining both employers and
23 skilled workers generally or in targeted industries.

24 A "transformative project" shall not include a redevelopment
25 project at which more than 50 percent of the premises is occupied by
26 one or more businesses engaged in final point of sale retail.

27 b. (1) The authority may award incentive awards to
28 transformative projects in accordance with the provisions of sections
29 55 through 67 of P.L.2020, c.156 (C.34:1B-323 through 34:1B-335).

30 (2) (a) For transformative projects completed in phases, the
31 developer shall enter into a transformative phase agreement with the
32 authority.

33 (b) As used in this subsection, "transformative phase agreement"
34 shall mean a sub-agreement of the incentive award agreement that
35 governs the timing, capital investment, and other applicable details of
36 the respective phase of a phased project.

37 (3) Notwithstanding the provisions of section 57 of P.L.2020,
38 c.156 (C.34:1B-325), or any other section of P.L.2020, c.156
39 (C.34:1B-269 et al.) to the contrary, a transformative project shall be
40 completed, and the developer shall be issued a certificate of occupancy
41 for the transformative project facilities by the applicable enforcing
42 agency, within five years of executing the incentive award agreement,
43 except that the authority may, in its discretion, extend this deadline by
44 up to one additional year. For transformative projects completed in
45 phases, the transformative project shall be completed, and the
46 developer shall be issued certificates of occupancy for all phases of the
47 transformative project facilities by the applicable enforcing agency,

1 within 10 years of executing either the incentive award agreement or
2 the first transformative phase agreement corresponding to the
3 transformative project.

4 (4) Notwithstanding the provisions of sections 55 and 60 of
5 P.L.2020, c.156 (C.34:1B-323 and C.34:1B-328), or any other section
6 of P.L.2020, c.156 (C.34:1B-269 et al.) to the contrary, each phase of a
7 transformative project completed in phases shall have a separate
8 eligibility period. After completing each phase, the developer shall
9 submit a certification that the phase is completed. If the authority
10 approves the certification, the tax credit allowed to the developer shall
11 be increased by the tax credit amount corresponding to that phase.
12 Notwithstanding the different eligibility periods for each phase, all
13 conditions and requirements applicable during an eligibility period
14 pursuant to sections 55 through 67 of P.L.2020, c.156 (C.34:1B-323
15 through 34:1B-335) shall apply to the entire transformative project
16 until the end of the eligibility period for the last phase.

17 (5) Notwithstanding the provisions of section 60 of P.L.2020,
18 c.156 (C.34:1B-328), or any other section of P.L.2020, c.156
19 (C.34:1B-269 et al.) to the contrary, for a transformative project
20 completed in phases, a review of the project financing gap shall be
21 performed at the certification of completion of each phase, and the
22 authority shall re-evaluate the developer's rate of return in the seventh
23 year and at the end of the eligibility period for the last phase, provided
24 that the authority may also re-evaluate the developer's rate of return
25 during the fifth year of any earlier phase.

26 (6) A transformative project receiving an incentive award pursuant
27 to this section, other than a project that includes 250,000 or more
28 square feet of film studios, professional stages, television studios,
29 recording studios, screening rooms or other infrastructure for film
30 production, shall be located in an incentive area, a distressed
31 municipality, a government-restricted municipality, or an enhanced
32 area. A transformative project receiving an incentive award pursuant
33 to this section that includes 250,000 or more square feet of film
34 studios, professional stages, television studios, recording studios,
35 screening rooms or other infrastructure for film production may be
36 located anywhere in the State. The authority shall not consider an
37 application for a transformative project unless the applicant submits
38 with its application a letter evidencing support for the transformative
39 project from the governing body of the municipality in which the
40 transformative project is located.

41 c. The authority shall review the transformative project cost,
42 evaluate and validate the project financing gap estimated by the
43 developer, and conduct a State fiscal impact analysis to ensure that the
44 overall public assistance provided to the transformative project will
45 result in a net positive benefit to the State. In determining whether a
46 transformative project will result in a net positive benefit to the State,
47 the authority shall not consider the value of any taxes exempted,

1 abated, rebated, or retained under the "Five-Year Exemption and
2 Abatement Law," P.L.1991, c.441 (C.40A:21-1 et seq.), the "Long
3 Term Tax Exemption Law," P.L.1991, c.431 (C.40A:20-1 et al.), the
4 "New Jersey Urban Enterprise Zones Act," P.L.1983, c.303
5 (C.52:27H-60 et seq.), or any other law that has the effect of lowering
6 or eliminating the developer's State or local tax liability. The
7 determination made pursuant to this subsection shall be based on the
8 potential tax liability of the developer without regard for potential tax
9 losses if the developer were to locate in another state. The authority
10 shall assess the cost of these reviews to the applicant. A developer
11 shall pay to the authority the full amount of the direct costs of an
12 analysis concerning the developer's application for an incentive award
13 that a third party retained by the authority performs, if the authority
14 deems such retention to be necessary. The authority shall evaluate the
15 net economic benefits on a present value basis under which the
16 requested tax credit allocation amount is discounted to present value at
17 the same discount rate as the projected benefits from the
18 implementation of the proposed transformative project for which an
19 award of tax credits is being sought. Projects that are predominantly
20 residential shall be excluded from the calculation of the net benefit test
21 required pursuant to this subsection.

22 d. In determining net benefits for any business or person
23 considering locating in a transformative project and applying to
24 receive from the authority any other economic development incentive
25 subsequent to the award of transformative project tax credits pursuant
26 to section 65 of P.L.2020, c.156 (C.34:1B-333), the authority shall not
27 credit the business or person with any benefit that was previously
28 credited to the transformative project pursuant to section 65 of
29 P.L.2020, c.156 (C.34:1B-333).

30 e. The authority shall administer the credits awarded pursuant to
31 this section in accordance with the provisions of sections 62 and 63 of
32 P.L.2020, c.156 (C.34:1B-330 and C.34:1B-331).

33 f. Prior to allocating an incentive award to a developer, the
34 authority shall confirm with the Department of Labor and Workforce
35 Development, the Department of Environmental Protection, and the
36 Department of the Treasury that the developer is in substantial good
37 standing with the respective department, or the developer has entered
38 into an agreement with the respective department that includes a
39 practical corrective action plan, and the developer shall certify that
40 each contractor or subcontractor performing work at the transformative
41 project: (1) is registered as required by "The Public Works Contractor
42 Registration Act," P.L.1999, c.238 (C.34:11-56.48 et seq.); (2) has not
43 been debarred by the Department of Labor and Workforce
44 Development from engaging in or bidding on Public Works Contracts
45 in the State; and (3) possesses a tax clearance certificate issued by the
46 Division of Taxation in the Department of the Treasury. The authority

1 may also contract with an independent third party to perform a
2 background check on the developer.

3 g. Notwithstanding the limitation on incentive awards set forth in
4 subsection b. of section 61 and section 98 of P.L.2020, c.156
5 (C.34:1B-329 and C.34:1B-362) to the contrary, the authority may
6 allow a developer of a transformative project a tax credit in an amount
7 not to exceed the lesser of:

8 (1) (a) 80 percent of the total project cost for a transformative
9 project that is located in a government-restricted municipality;

10 (b) 60 percent of the total project cost for a residential
11 transformative project that receives a four-percent allocation from the
12 federal Low Income Housing Tax Credit Program administered by the
13 agency or a transformative project that is located in a qualified
14 incentive tract, enhanced area, or a municipality with a Municipal
15 Revitalization Index score of at least 50; or

16 (c) 50 percent of the total project cost for any other transformative
17 project;

18 (2) the total value of the project financing gap; or

19 (3) \$400,000,000, except that for a transformative project that is
20 developed in phases, the \$400,000,000 limitation on incentive awards
21 set forth in this paragraph shall apply to the total aggregate award for
22 all phases of the transformative project.

23 h. ¹Notwithstanding the limitations set forth in subsection g. of
24 this

25 section, a developer of a transformative project shall be eligible for
26 each of the following enhancements to the total tax credit award:

27 (1) for a transformative project that includes the redevelopment of
28 a stranded asset, an enhancement of up to 10 percent of the project cost
29 of the transformative project;

30 (2) for a residential transformative project that meets the three-
31 bedroom distribution requirement under the Uniform Housing
32 Affordability Controls, an enhancement of up to five percent of the
33 project cost of the residential transformative project; and

34 (3) for a transformative project that meets local first source hiring
35 requirements for residents in the municipality or county in which the
36 project is located and in surrounding municipalities, as appropriate, an
37 enhancement of up to three percent of the project cost of the
38 transformative project.

39 i. ¹ (1) The parking component of a transformative project shall be
40 included in the calculation of the total square footage of the project,
41 provided that the parking component shall be constructed in
42 conformity with local zoning, planning, or similar requirements
43 ¹[and] , or¹ up to the amount required by the Residential Site
44 Improvement Standards ¹, regardless of whether the Residential Site
45 Improvement Standards apply to the parking component¹ . Any
46 portion of the parking component that exceeds the local parking

1 requirements or the Residential Site Improvement Standards shall not
 2 be included in the calculation of the total square footage of the project.

3 (2) Notwithstanding any provision of paragraph (1) of this
 4 subsection to the contrary, the entire parking component of a project
 5 located in a government restricted municipality shall be included in the
 6 calculation of the total square footage of the project.

7 (cf: P.L.2023, c.98, s.9)

9 9. Section 14 of P.L.2023, c.98 (C.34:1B-335.1) is amended to
 10 read as follows:

11 14. a. (1) Except as otherwise provided in subsection b. of this
 12 section, all program applications **【completed after】** submitted to the
 13 authority on or after the date six months prior to the effective date
 14 of **【P.L.2023, c.98 (C.34:1B-335.1 et al.)】 P.L. , c. (C.)**
 15 (pending before the Legislature as this bill) shall be subject to the
 16 "New Jersey Aspire Program Act," sections 54 through 67 of
 17 P.L.2020, c.156 (C.34:1B-322 through 34:1B-335), as amended as
 18 supplemented by P.L.2023, c.98 (C.34:1B-335.1 et al.), and as
 19 further amended and supplemented by P.L. , c. (C.)
 20 (pending before the Legislature as this bill), including the rules and
 21 regulations adopted pursuant to subsection b. of section 67 of
 22 P.L.2020, c.156 (C.34:1B-335), except that applications submitted
 23 to the authority prior to the effective date of P.L. , c. (C.)
 24 (pending before the Legislature as this bill) shall be subject to the
 25 rules and regulations concerning application fees that were in effect
 26 immediately before the effective date of P.L. , c. (C.)
 27 (pending before the Legislature as this bill).

28 (2) **【**Except as otherwise provided in subsection b. of this
 29 section, all program applications completed on or before the
 30 effective date of P.L.2023, c.98 (C.34:1B-335.1 et al.) shall be
 31 subject to the provisions of the "New Jersey Aspire Program Act,"
 32 sections 54 through 67 of P.L.2020, c.156 (C.34:1B-322 through
 33 34:1B-335), as such provisions remained in effect immediately
 34 before the effective date of P.L.2023, c.98 (C.34:1B-335.1 et al.),
 35 including the rules and regulations adopted pursuant to subsection
 36 a. of section 67 of P.L.2020, c.156 (C.34:1B-335).**】** (Deleted by
 37 amendment, P.L. , c. (pending before the Legislature as this bill)

38 b. Notwithstanding any provision of P.L.2020, c.156
 39 (C.34:1B-269 et al.) to the contrary, if a completed application for a
 40 residential project is submitted to the authority on or before the
 41 121st calendar day next following effective date of P.L.2023, c.98
 42 (C.34:1B-335.1 et al.), the applicant for the residential project has
 43 received all applicable approvals pursuant to the "Municipal Land
 44 Use Law," P.L.1975, c.291 (C.40:55D-1 et seq.) on or before the
 45 121st calendar day next following the effective date of P.L.2023,
 46 c.98 (C.34:1B-335.1 et al.), and the applicant submits written notice
 47 to the authority, before the authority's approval or denial of the

1 application, electing for the application to be governed under the
2 provisions of this subsection, then the residential units constructed
3 for occupancy by low- and moderate-income households within the
4 residential project shall not be subject to the affordability controls
5 adopted by the authority, in consultation with the agency, pursuant
6 to paragraph (2) of subsection a. of section 56 of P.L.2020, c.156
7 (C.34:1B-324) and subsection b. of section 67 of P.L.2020, c.156
8 (C.34:1B-335). In this event, the application for the residential
9 project shall be reviewed, approved, and administered in accordance
10 with the provisions of the "New Jersey Aspire Program Act,"
11 sections 54 through 67 of P.L.2020, c.156 (C.34:1B-322 through
12 34:1B-335), as such provisions remained in effect immediately
13 before the effective date of P.L.2023, c.98 (C.34:1B-335.1 et al.),
14 including the rules and regulations adopted pursuant to subsection
15 a. of section 67 of P.L.2020, c.156 (C.34:1B-335), except that the
16 application shall be subject to:

17 (1) the determination of a reasonable and appropriate return on
18 investment, as defined in section 55 of P.L.2020, c.156
19 (C.34:1B-323), as amended by P.L.2023, c.98 (C.34:1B-335.1 et
20 al.); and

21 (2) the limitation on tax credit awards set forth in subsection b.
22 of section 61 of P.L.2020, c.156 (C.34:1B-329) and subsection g. of
23 section 65 of P.L.2020, c.156 (C.34:1B-333), respectively, as
24 amended by P.L.2023, c.98 (C.34:1B-335.1 et al.).

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

26
27 10. (New section) The authority shall promulgate a schedule of
28 application and other fees imposed under the program, which fees
29 shall be limited to the coverage of actual direct costs of
30 administering the program, the coverage of reasonable indirect costs
31 of administering the program, and the maintenance of reasonable
32 reserves for administering the program. Any application fee or
33 other fee charged by the authority shall be proportional to the tax
34 credit amount awarded for a redevelopment project under the
35 program.

36
37 11. (New section) a. The authority shall establish, as part of the
38 program, a "Redevelopment Project Bridge Financing Program" to
39 facilitate the ability of a developer to secure financing for a
40 redevelopment project until such time as tax credits are issued
41 pursuant to the "New Jersey Aspire Program Act," sections 54 through
42 67 of P.L.2020, c.156 (C.34:1B-322 through C.34:1B-335), as
43 amended as supplemented. Through the program, the authority shall
44 provide full or partial loans or loan guarantees, at the authority's
45 discretion, to the developers of redevelopment projects for the purpose
46 of ensuring the completion of the redevelopment projects. As

1 determined by the authority, the Redevelopment Project Bridge
2 Financing Program may consist of:

3 (1) the issuance of redevelopment project bridge financing loans,
4 subject to the provisions of subsection b. of this section; and

5 (2) the provision of redevelopment project loan guarantees, subject
6 to the provisions of subsection c. of this section.

7 b. (1) The authority may issue a redevelopment project bridge
8 financing loan to the developer of an approved redevelopment project,
9 upon application by the developer, provided that the authority
10 determines that:

11 (a) a project financing gap continues to exist after the award of tax
12 credits to the developer of the redevelopment project; and

13 (b) the redevelopment project bridge financing loan will enable the
14 completion of the redevelopment project.

15 (2) A developer who seeks a redevelopment project bridge
16 financing loan shall submit an application to the authority, which
17 application shall include:

18 (a) a proposed loan principle and interest amount;

19 (b) a proposed repayment schedule;

20 (c) an accounting of the remaining project financing gap; and

21 (d) any other information as the authority shall require.

22 (3) The authority may issue the redevelopment project bridge
23 financing loan in such amount as it deems appropriate, subject to such
24 terms, including, but not limited to, interest rates, collateral, and
25 repayment or release schedules, as the authority shall deem reasonable
26 and appropriate ¹, except that each worker employed to perform
27 construction work on the redevelopment project shall be paid not less
28 than the prevailing wage rate for the worker's craft or trade, as
29 determined by the Commissioner of Labor and Workforce
30 Development pursuant to P.L.1963, c.150 (C.34:11-56.25 et seq.) and
31 P.L.2005, c.379 (C.34:11-56.58 et seq.)¹.

32 c. (1) The authority may provide a loan guarantee to the
33 developer of an approved redevelopment project, upon application by
34 the developer, provided that the authority determines that:

35 (a) a project financing gap continues to exist after the initial award
36 of tax credits to the developer of the redevelopment project; and

37 (b) the loan guarantee will enable the developer to access the
38 financing needed to complete the redevelopment project.

39 (2) A developer who seeks a loan guarantee shall submit an
40 application to the authority, which application shall include:

41 (a) a proposed loan guarantee amount and terms;

42 (b) an accounting of the remaining project financing gap; and

43 (c) any other information as the authority shall require.

44 (3) The authority may issue the loan guarantees in such amounts as
45 it deems appropriate, subject to such terms as the authority deems
46 reasonable and appropriate ¹, except that each worker employed to
47 perform construction work on the redevelopment project shall be paid

1 not less than the prevailing wage rate for the worker's craft or trade, as
2 determined by the Commissioner of Labor and Workforce
3 Development pursuant to P.L.1963, c.150 (C.34:11-56.25 et seq.) and
4 P.L.2005, c.379 (C.34:11-56.58 et seq.)¹.

5 d. (1) The authority shall establish a Redevelopment Project
6 Bridge Financing Revolving Fund from which the authority shall
7 provide all loans issued pursuant to subsection b. of this section and
8 provide all loan guarantees issued pursuant to subsection c. of this
9 section. All monies received from payments of the principle and
10 interest for loans issued pursuant to this section shall be deposited into
11 the Redevelopment Project Bridge Financing Revolving Fund, which
12 fund shall remain until the authority determines that there no longer
13 remains a need for bridge financing or until December 31, 2028,
14 whichever occurs first. After the fund is no longer needed, or upon its
15 expiration, all monies in the fund shall be deposited into the General
16 Fund.

17 (2) Within 90 days after the effective date of P.L. , c. (C.)
18 (pending before the Legislature as this bill), the authority shall submit
19 a recommendation to the Governor and to the Legislature, pursuant to
20 section 2 of P.L.1991, c.164 (C.52:14-19.1), for the amount of
21 appropriations needed to fund the Redevelopment Project Bridge
22 Financing Program.

23

24 12. (New section)a. To facilitate the efficient monetization of
25 tax credits awarded under the program, the Department of the
26 Treasury shall, at such times as the department deems necessary,
27 redeem the tax credits awarded to a developer for a redevelopment
28 project at a discount from face value. The tax credit redemptions
29 shall be made at such discounts as the State Treasurer deems
30 appropriate, except that the discount shall not exceed 10 percent of
31 the face value of the tax credits.

32 b. The tax credit redemptions shall be paid in the same manner
33 as refunds of tax payable under section 5 of P.L.1945, c.162
34 (C.54:10A-5), sections 2 and 3 of P.L.1945, c.132 (C.54:18A-2 and
35 C.54:18A-3), section 1 of P.L.1950, c.231 (C.17:32-15), or
36 N.J.S.17B:23-5, notwithstanding that such tax is not applicable to
37 the person or entity seeking the redemption. The State Treasurer
38 shall allow the proceeds of the tax credit redemption to be issued
39 over one or more tax periods, but not to exceed the applicable
40 eligibility period.

41

42 13. Section 89 of P.L.2020, c.156 (C.52:18A-263) is amended to
43 read as follows:

44 89. a. The Director of the Division of Taxation in the
45 Department of the Treasury may purchase unused tax credits
46 awarded under a program listed in subsection b. of this section,
47 including tax credit transfer certificates issued by the director in

lieu of a tax credit allowed under such programs. The director shall not pay consideration in excess of 75 percent of the credit amount to be purchased, except for a credit awarded under:

(1) the "Emerge Program Act," sections 68 through 81 of P.L.2020, c.156 (C.34:1B-336 et al.), which shall be subject to the provisions of paragraph (4) of subsection d. of section 77 of P.L.2020, c.156 (C.34:1B-345); or

(2) the "New Jersey Aspire Program Act," sections 54 through 67 (C.34:1B-222 through C.34:1B-335), as amended and supplemented, which shall be subject to the provisions of section 12 of P.L. , c. (C.) (pending before the Legislature as this bill).

b. The Director of the Division of Taxation in the Department of the Treasury may purchase tax credits awarded under the following:

(1) the "Historic Property Reinvestment Act," sections 1 through 8 of P.L.2020, c.156 (C.34:1B-269 through C.34:1B-276);

(2) the "Brownfield Redevelopment Incentive Program Act," sections 9 through 19 of P.L.2020, c.156 (C.34:1B-277 through C.34:1B-287);

(3) the "New Jersey Innovation Evergreen Act," sections 20 through 34 of P.L.2020, c.156 (C.34:1B-288 through C.34:1B-302);

(4) the "Food Desert Relief Act," sections 35 through 42 of P.L.2020, c.156 (C.34:1B-303 through C.34:1B-310);

(5) the "New Jersey Community-Anchored Development Act," sections 43 through 53 of P.L.2020, c.156 (C.34:1B-311 through C.34:1B-321);

(6) the "New Jersey Aspire Program Act," sections 54 through 67 of P.L.2020, c.156 (C.34:1B-322 through C.34:1B-335);

(7) the " Emerge Program Act," sections 68 through 81 of P.L.2020, c.156 (C.34:1B-336 et al.);

(8) the Grow New Jersey Assistance Program established pursuant to section 3 of P.L.2011, c.149 (C.34:1B-244);

(9) section 6 of P.L.2010, c.57 (C.34:1B-209.4);

(10)the State Economic Redevelopment and Growth Grant program established pursuant to section 5 of P.L.2009, c.90 (C.52:27D-489e);

(11)section 1 of P.L.2018, c.56 (C.54:10A-5.39b); and

(12)section 2 of P.L.2018, c.56 (C.54A:4-12b).

(cf: P.L.2020, c.156, s.89)

14. Section 4 of P.L.1945, c.162 (C.54:10A-4) is amended to read as follows:

4. For the purposes of this act, unless the context requires a different meaning:

(a) "Commissioner" or "director" shall mean the Director of the Division of Taxation of the State Department of the Treasury.

1 (b) "Allocation factor" shall mean the proportionate part of a
2 taxpayer's net worth or entire net income used to determine a
3 measure of its tax under this act.

4 (c) "Corporation" shall mean any corporation, joint-stock
5 company or association and any business conducted by a trustee or
6 trustees wherein interest or ownership is evidenced by a certificate
7 of interest or ownership or similar written instrument, any other
8 entity classified as a corporation for federal income tax purposes,
9 and any state or federally chartered building and loan association or
10 savings and loan association.

11 (d) "Net worth" shall mean the aggregate of the values disclosed
12 by the books of the corporation for (1) issued and outstanding
13 capital stock, (2) paid-in or capital surplus, (3) earned surplus and
14 undivided profits, and (4) surplus reserves which can reasonably be
15 expected to accrue to holders or owners of equitable shares, not
16 including reasonable valuation reserves, such as reserves for
17 depreciation or obsolescence or depletion. Notwithstanding the
18 foregoing, net worth shall not include any deduction for the amount
19 of the excess depreciation described in paragraph (2) (F) of
20 subsection (k) of this section. The foregoing aggregate of values
21 shall be reduced by 50% of the amount disclosed by the books of
22 the corporation for investment in the capital stock of one or more
23 subsidiaries, which investment is defined as ownership (1) of at
24 least 80% of the total combined voting power of all classes of stock
25 of the subsidiary entitled to vote and (2) of at least 80% of the total
26 number of shares of all other classes of stock except nonvoting
27 stock which is limited and preferred as to dividends. In the case of
28 investment in an entity organized under the laws of a foreign
29 country, the foregoing requisite degree of ownership shall effect a
30 like reduction of such investment from the net worth of the
31 taxpayer, if the foreign entity is considered a corporation for any
32 purpose under the United States federal income tax laws, such as
33 (but not by way of sole examples) for the purpose of supplying
34 deemed paid foreign tax credits or for the purpose of status as a
35 controlled foreign corporation. In calculating the net worth of a
36 taxpayer entitled to reduction for investment in subsidiaries, the
37 amount of liabilities of the taxpayer shall be reduced by such
38 proportion of the liabilities as corresponds to the ratio which the
39 excluded portion of the subsidiary values bears to the total assets of
40 the taxpayer.

41 In the case of banking corporations which have international
42 banking facilities as defined in subsection (n), the foregoing
43 aggregate of values shall also be reduced by retained earnings of the
44 international banking facility. Retained earnings means the earnings
45 accumulated over the life of such facility and shall not include the
46 distributive share of dividends paid and federal income taxes paid
47 or payable during the tax year.

1 If in the opinion of the director, the corporation's books do not
2 disclose fair valuations the director may make a reasonable
3 determination of the net worth which, in his opinion, would reflect
4 the fair value of the assets, exclusive of subsidiary investments as
5 defined aforesaid, carried on the books of the corporation, in
6 accordance with sound accounting principles, and such
7 determination shall be used as net worth for the purpose of this act.

8 (e) (Deleted by amendment, P.L.1998, c.114.)

9 (f) "Investment company" shall mean any corporation whose
10 business during the period covered by its report consisted, to the
11 extent of at least 90 percent thereof of holding, investing and
12 reinvesting in stocks, bonds, notes, mortgages, debentures, patents,
13 patent rights and other securities for its own account, but this shall
14 not include any corporation which: (1) is a merchant or a dealer of
15 stocks, bonds and other securities, regularly engaged in buying the
16 same and selling the same to customers; or (2) had less than 90
17 percent of its average gross assets in New Jersey, at cost, invested
18 in stocks, bonds, debentures, mortgages, notes, patents, patent rights
19 or other securities or consisting of cash on deposit during the period
20 covered by its report; or (3) is a banking corporation, a savings
21 institution, or a financial business corporation as defined in the
22 Corporation Business Tax Act.

23 (g) "Regulated investment company" shall mean any corporation
24 which for a period covered by its report, is registered and regulated
25 under the Investment Company Act of 1940 (54 Stat. 789), as
26 amended.

27 (h) "Taxpayer" shall mean any corporation, any combined group
28 filing a mandatory or elective New Jersey combined return, and any
29 partnership required, or consenting, to report or to pay taxes,
30 interest or penalties under this act. "Taxpayer" shall not include a
31 partnership that is listed on a United States national stock exchange.

32 (i) "Fiscal year" shall mean an accounting period ending on any
33 day other than the last day of December on the basis of which the
34 taxpayer is required to report for federal income tax purposes.

35 (j) Except as herein provided, "privilege period" shall mean the
36 calendar or fiscal accounting period for which a tax is payable
37 under this act.

38 (k) "Entire net income" shall mean total net income from all
39 sources, whether within or without the United States, and shall
40 include the gain derived from the employment of capital or labor, or
41 from both combined, as well as profit gained through a sale or
42 conversion of capital assets.

43 For the purpose of this act, the amount of a taxpayer's entire net
44 income shall be deemed prima facie to be equal in amount to the
45 taxable income, before net operating loss deduction and special
46 deductions, which the taxpayer is required to report, or, if the
47 taxpayer is classified as a partnership for federal tax purposes,

1 would otherwise be required to report, to the United States Treasury
2 Department for the purpose of computing its federal income tax,
3 provided however, that in the determination of such entire net
4 income,

5 (1) Entire net income shall exclude for the periods set forth in
6 paragraph (2)(F)(i) of this subsection, any amount, except with
7 respect to qualified mass commuting vehicles as described in
8 section 168(f)(8)(D)(v) of the Internal Revenue Code as in effect
9 immediately prior to January 1, 1984, which is included in a
10 taxpayer's federal taxable income solely as a result of an election
11 made pursuant to the provisions of paragraph (8) of that section.

12 (2) Entire net income shall be determined without the exclusion,
13 deduction or credit of:

14 (A) The amount of any exemption or credit allowed in any law
15 of the United States imposing any tax on or measured by the income
16 of corporations.

17 (B) Any part of any income from dividends or interest on any
18 kind of stock, securities or indebtedness, except as provided in
19 paragraph (5) of subsection (k) of this section.

20 (C) Taxes paid or accrued to the United States, a possession or
21 territory of the United States, a state, a political subdivision thereof,
22 or the District of Columbia, or to any foreign country, state,
23 province, territory or subdivision thereof, on or measured by profits
24 or income, or business presence or business activity, or the tax
25 imposed by this act, or any tax paid or accrued with respect to
26 subsidiary dividends excluded from entire net income as provided
27 in paragraph (5) of subsection (k) of this section.

28 (D) (Deleted by amendment, P.L.1985, c.143.)

29 (E) (Deleted by amendment, P.L.1995, c.418.)

30 (F) (i) The amount by which depreciation reported to the United
31 States Treasury Department for property placed in service on and
32 after January 1, 1981, but prior to taxpayer fiscal or calendar
33 accounting years beginning on and after the effective date of
34 P.L.1993, c.172, for purposes of computing federal taxable income
35 in accordance with section 168 of the Internal Revenue Code in
36 effect after December 31, 1980, exceeds the amount of depreciation
37 determined in accordance with the Internal Revenue Code
38 provisions in effect prior to January 1, 1981, but only with respect
39 to a taxpayer's accounting period ending after December 31, 1981;
40 provided, however, that where a taxpayer's accounting period
41 begins in 1981 and ends in 1982, no modification shall be required
42 with respect to this paragraph (F) for the report filed for such period
43 with respect to property placed in service during that part of the
44 accounting period which occurs in 1981. The provisions of this
45 subparagraph shall not apply to assets placed in service prior to
46 January 1, 1998 of a gas, gas and electric, and electric public utility

1 that was subject to the provisions of P.L.1940, c.5 (C.54:30A-49 et
2 seq.) prior to 1998.

3 (ii) For the periods set forth in subparagraph (F)(i) of paragraph
4 (2) of this subsection, any amount, except with respect to qualified
5 mass commuting vehicles as described in section 168(f)(8)(D)(v) of
6 the Internal Revenue Code as in effect immediately prior to January
7 1, 1984, which the taxpayer claimed as a deduction in computing
8 federal income tax pursuant to a qualified lease agreement under
9 paragraph (8) of that section.

10 The director shall promulgate rules and regulations necessary to
11 carry out the provisions of this section, which rules shall provide,
12 among others, the manner in which the remaining life of property
13 shall be reported.

14 (G) (i) The amount of any civil, civil administrative, or criminal
15 penalty or fine, including a penalty or fine under an administrative
16 consent order, assessed and collected for a violation of a State or
17 federal environmental law, an administrative consent order, or an
18 environmental ordinance or resolution of a local governmental
19 entity, and any interest earned on the penalty or fine, and any
20 economic benefits having accrued to the violator as a result of a
21 violation, which benefits are assessed and recovered in a civil, civil
22 administrative, or criminal action, or pursuant to an administrative
23 consent order. The provisions of this paragraph shall not apply to a
24 penalty or fine assessed or collected for a violation of a State or
25 federal environmental law, or local environmental ordinance or
26 resolution, if the penalty or fine was for a violation that resulted
27 from fire, riot, sabotage, flood, storm event, natural cause, or other
28 act of God beyond the reasonable control of the violator, or caused
29 by an act or omission of a person who was outside the reasonable
30 control of the violator.

31 (ii) The amount of treble damages paid to the Department of
32 Environmental Protection pursuant to subsection a. of section 7 of
33 P.L.1976, c.141 (C.58:10-23.11f), for costs incurred by the
34 department in removing, or arranging for the removal of, an
35 unauthorized discharge upon failure of the discharger to comply
36 with a directive from the department to remove, or arrange for the
37 removal of, the discharge.

38 (H) The amount of any sales and use tax paid by a utility vendor
39 pursuant to section 71 of P.L.1997, c.162.

40 (I) With respect to privilege periods ending before July 31,
41 2023, interest paid, accrued or incurred for the privilege period to a
42 related member, as defined in section 5 of P.L.2002, c.40
43 (C.54:10A-4.4), except that a deduction shall be permitted to the
44 extent that the taxpayer establishes by clear and convincing
45 evidence, as determined by the director, that: (i) a principal purpose
46 of the transaction giving rise to the payment of the interest was not
47 to avoid taxes otherwise due under Title 54 of the Revised Statutes

1 or Title 54A of the New Jersey Statutes, (ii) the interest is paid
2 pursuant to arm's length contracts at an arm's length rate of interest,
3 and (iii)(aa) the related member was subject to a tax on its net
4 income or receipts in this State or another state or possession of the
5 United States or in a foreign nation, (bb) a measure of the tax
6 includes the interest received from the related member, and (cc) the
7 rate of tax applied to the interest received by the related member is
8 equal to or greater than a rate three percentage points less than the
9 rate of tax applied to taxable interest by this State pursuant to
10 section 5 of P.L.1945, c.162 (C.54:10A-5).

11 With respect to privilege periods ending before July 31, 2023, a
12 deduction shall also be permitted if the taxpayer establishes by clear
13 and convincing evidence, as determined by the director, that the
14 disallowance of a deduction is unreasonable, or the taxpayer and the
15 director agree in writing to the application or use of an alternative
16 method of apportionment under section 8 of P.L.1945, c.162
17 (C.54:10A-8); nothing in this subsection shall be construed to limit
18 or negate the director's authority to otherwise enter into agreements
19 and compromises otherwise allowed by law.

20 With respect to privilege periods ending before July 31, 2023, a
21 deduction shall also be permitted to the extent that the taxpayer
22 establishes by a preponderance of the evidence, as determined by
23 the director, that the interest is directly or indirectly paid, accrued
24 or incurred to (i) a related member in a foreign nation which has in
25 force a comprehensive income tax treaty with the United States and
26 the related member (aa) was subject to tax in the foreign nation on a
27 tax base that included the payment paid, accrued, or incurred; and
28 (bb) under which the related member's income received from the
29 transaction was taxed at an effective tax rate equal to or greater than
30 a rate of three percentage points less than the rate of tax applied to
31 taxable interest by the State of New Jersey pursuant to section 5 of
32 P.L.1945, c.162 (C.54:10A-5), provided however that the taxpayer
33 shall disclose on its return for the privilege period the name of the
34 related member, the amount of the interest, the relevant foreign
35 nation, and such other information as the director may prescribe or
36 (ii) to an independent lender and the taxpayer guarantees the debt
37 on which the interest is required. The adjustments required by this
38 subparagraph shall not apply to transactions between related
39 members included in a combined group reported on a New Jersey
40 combined return.

41 (J) (i) Amounts deducted for federal tax purposes pursuant to
42 section 199 of the federal Internal Revenue Code of 1986, 26
43 U.S.C. s.199, except that this exclusion shall not apply to amounts
44 deducted pursuant to that section that are exclusively based upon
45 domestic production gross receipts of the taxpayer which are
46 derived only from any lease, rental, license, sale, exchange, or other
47 disposition of qualifying production property which the taxpayer

1 demonstrates to the satisfaction of the director was manufactured or
2 produced by the taxpayer in whole or in significant part within the
3 United States but not qualified production property that was grown
4 or extracted by the taxpayer. "Manufactured or produced" as used in
5 this paragraph shall be limited to performance of an operation or
6 series of operations the object of which is to place items of tangible
7 personal property in a form, composition, or character different
8 from that in which they were acquired. The change in form,
9 composition, or character shall be a substantial change, and result in
10 a transformation of property into a different or substantially more
11 usable product.

12 (ii) For privilege periods beginning after December 31, 2017,
13 notwithstanding the provisions of P.L.1945, c.162 (C.54:10A-1 et
14 seq.) or any other law to the contrary, for the purposes of
15 determining the amount of income pursuant to P.L.1945, c.162
16 (C.54:10A-1 et seq.) that is net of expenses, no amounts shall be
17 taken as a deduction pursuant to section 199A of the Internal
18 Revenue Code (26 U.S.C. s.199A).

19 (K) (i) For privilege periods beginning after December 31, 2017
20 and ending before July 31, 2022, the interest deduction limitation in
21 subsection (j) of section 163 of the Internal Revenue Code
22 (26 U.S.C. s.163), shall apply on a pro-rata basis to interest paid to
23 both related and unrelated parties, regardless of whether the related
24 parties are subject to the add-back provision of either subparagraph
25 (I) of paragraph (2) of this subsection or in section 5 of P.L.2002,
26 c.40 (C.54:10A-4.4).

27 (ii) For privilege periods beginning after December 31, 2017
28 and ending on and after July 31, 2022, the interest deduction
29 limitation in subsection (j) of section 163 of the Internal Revenue
30 Code (26 U.S.C. s.163), shall apply to a combined group as though
31 the combined group filed a federal consolidated return; provided,
32 however, for the purposes of applying the limitation in subsection
33 (j) of section 163 of the Internal Revenue Code (26 U.S.C. s.163),
34 with regard to affiliates that were members of the federal
35 consolidated return but were not members of the combined group
36 included on the New Jersey combined return, the combined group
37 and the affiliates will also be treated as having filed one federal
38 consolidated return.

39 (3) The director may, whenever necessary to properly reflect the
40 entire net income of any taxpayer, determine the year or period in
41 which any item of income or deduction shall be included, without
42 being limited to the method of accounting employed by the
43 taxpayer.

44 (4) There shall be allowed as a deduction from entire net income
45 of a banking corporation, to the extent not deductible in
46 determining federal taxable income, the eligible net income of an
47 international banking facility determined as follows:

- 1 (A) The eligible net income of an international banking facility
2 shall be the amount remaining after subtracting from the eligible
3 gross income the applicable expenses;
- 4 (B) Eligible gross income shall be the gross income derived by
5 an international banking facility, which shall include, but not be
6 limited to, gross income derived from:
- 7 (i) Making, arranging for, placing or carrying loans to foreign
8 persons, provided, however, that in the case of a foreign person
9 which is an individual, or which is a foreign branch of a domestic
10 corporation (other than a bank), or which is a foreign corporation or
11 foreign partnership which is controlled by one or more domestic
12 corporations (other than banks), domestic partnerships or resident
13 individuals, all the proceeds of the loan are for use outside of the
14 United States;
- 15 (ii) Making or placing deposits with foreign persons which are
16 banks or foreign branches of banks (including foreign subsidiaries)
17 or foreign branches of the taxpayers or with other international
18 banking facilities;
- 19 (iii) Entering into foreign exchange trading or hedging
20 transactions related to any of the transactions described in this
21 paragraph; or
- 22 (iv) Such other activities as an international banking facility
23 may, from time to time, be authorized to engage in;
- 24 (C) Applicable expenses shall be any expense or other
25 deductions attributable, directly or indirectly, to the eligible gross
26 income described in subparagraph (B) of this paragraph.
- 27 (5) (A) (i) Entire net income shall exclude 100% of dividends
28 which were included in computing such taxable income for federal
29 income tax purposes, paid to the taxpayer by one or more
30 subsidiaries owned by the taxpayer to the extent of the 80% or more
31 ownership of investment described in subsection (d) of this section
32 for privilege periods beginning on or before December 31, 2016.
- 33 (ii) For privilege periods beginning after December 31, 2016
34 and before January 1, 2019, entire net income shall exclude 95% of
35 dividends which were included in computing such taxable income
36 for federal income tax purposes, paid or deemed paid, to the
37 taxpayer by one or more subsidiaries owned by the taxpayer to the
38 extent of the 80% or more ownership of investment described in
39 subsection (d) of this section. For the purposes of calculating the
40 tax liability owed for the paid or deemed paid dividends included in
41 entire net income by this subsubparagraph (ii), the taxpayer shall
42 use either their three-year average allocation factor for the
43 taxpayer's 2014 through 2016 tax years reported on the taxpayer's
44 tax returns or 3.5 percent, whichever is lower.
- 45 (iii) For privilege periods beginning on and after January 1, 2019
46 and ending before July 31, 2023, entire net income shall exclude
47 95% of dividends which were included in computing such taxable

1 income for federal income tax purposes, paid or deemed paid to the
2 taxpayer by one or more subsidiaries owned by the taxpayer to the
3 extent of the 80% or more ownership of investment described in
4 subsection (d) of this section.

5 (iv) For privilege periods ending on and after July 31, 2023,
6 entire net income shall exclude 100 percent of dividends and
7 deemed dividends that were included in computing such taxable
8 income for federal income tax purposes, paid or deemed paid to the
9 taxpayer by one or more subsidiaries owned by the taxpayer to the
10 extent of the 80 percent or more ownership of investment described
11 in subsection (d) of this section.

12 (B) Entire net income shall exclude 50% of dividends which
13 were included in computing such taxable income for federal income
14 tax purposes, paid or deemed paid to the taxpayer by one or more
15 subsidiaries owned by the taxpayer to the extent of 50% or more
16 ownership of investment, such ownership of investment calculated
17 in the same manner as the 80% or more of ownership of investment
18 is calculated as described in subsection (d) of this section.

19 (C) To the extent a subsidiary received dividends from other
20 subsidiaries and included those dividends in its entire net income
21 for the purposes of determining its tax liability pursuant to section 5
22 of P.L.1945, c.162 (C.54:10A-5) and paid tax on those dividends,
23 the taxpayer receiving those same dividends from the subsidiary
24 shall exclude those dividends from its entire net income based on
25 the subsidiary's allocation factor used by the subsidiary in
26 determining its tax liability pursuant to section 5 of P.L.1945, c.162
27 (C.54:10A-5). This subparagraph (C) shall not apply to privilege
28 periods ending on and after July 31, 2019.

29 (D) For privilege periods ending on and after July 31, 2019 but
30 before July 31, 2020, to the extent a subsidiary received dividends
31 from other subsidiaries and included those dividends in its entire net
32 income for the purposes of determining its tax liability pursuant to
33 section 5 of P.L.1945, c.162 (C.54:10A-5) and paid tax on those
34 dividends, the taxpayer receiving those same dividends from the
35 subsidiary shall exclude those dividends from its entire net income.

36 (E) For privilege periods ending on and after July 31, 2020, for
37 purposes of this paragraph (5), the members of a combined group
38 filing a New Jersey combined return shall be treated as one taxpayer
39 with regard to dividends and deemed dividends that were received
40 as part of the unitary business of the combined group.

41 (F) For privilege periods ending on and after July 31, 2023:

42 (i) The exclusion provided by this paragraph (5) shall be
43 deducted from entire net income after the State modifications that
44 increase federal entire net income but before the other State
45 modifications that reduce entire net income and before the
46 allocation of entire net income to this State.

1 (ii) In computing the total amount of the dividends and deemed
2 dividends excluded by this paragraph (5) for privilege periods
3 ending on and after July 31, 2023, the amount of dividends and
4 deemed dividends excluded shall be reduced by the amount of the
5 expenses and deductions that are attributable to those dividends and
6 deemed dividends. For purposes of this paragraph (5), expenses
7 and deductions related to dividends shall equal five percent of all
8 dividends and deemed dividends received by a taxpayer during an
9 income year.

10 (G) For privilege periods ending on and after July 31, 2023, for
11 the purposes of this paragraph (5) and for subsection d. of section
12 18 of P.L.2018, c.48 (C.54:10A-4.6), the income amounts required
13 to be included in federal taxable income pursuant to 26 U.S.C.
14 s.951A, shall be considered a dividend.

15 (6) (A) Net operating loss deduction. For privilege periods
16 ending before July 31, 2019, there shall be allowed as a deduction
17 for the privilege period the net operating loss carryover to that
18 period.

19 (B) Net operating loss carryover. A net operating loss for any
20 privilege period ending after June 30, 1984 shall be a net operating
21 loss carryover to each of the seven privilege periods following the
22 period of the loss and a net operating loss for any privilege period
23 ending after June 30, 2009 shall be a net operating loss carryover to
24 each of the twenty privilege periods following the period of the
25 loss. The entire amount of the net operating loss for any privilege
26 period (the "loss period") shall be carried to the earliest of the
27 privilege periods to which the loss may be carried. The portion of
28 the loss which shall be carried to each of the other privilege periods
29 shall be the excess, if any, of the amount of the loss over the sum of
30 the entire net income, computed without the exclusions permitted in
31 paragraphs (4) and (5) of this subsection or the net operating loss
32 deduction provided by subparagraph (A) of this paragraph, for each
33 of the prior privilege periods to which the loss may be carried.

34 (C) Net operating loss. For purposes of this paragraph the term
35 "net operating loss" means the excess of the deductions over the
36 gross income used in computing entire net income without the net
37 operating loss deduction provided for in subparagraph (A) of this
38 paragraph and the exclusions in paragraphs (4) and (5) of this
39 subsection.

40 (D) Change in ownership. Where there is a change in 50% or
41 more of the ownership of a corporation because of redemption or
42 sale of stock and the corporation changes the trade or business
43 giving rise to the loss, no net operating loss sustained before the
44 changes may be carried over to be deducted from income earned
45 after such changes. In addition where the facts support the premise
46 that the corporation was acquired under any circumstances for the

1 primary purpose of the use of its net operating loss carryover, the
2 director may disallow the carryover.

3 (E) Notwithstanding the provisions of this paragraph (6) of
4 subsection (k) of this section to the contrary, for privilege periods
5 beginning during calendar year 2002 and calendar year 2003, no
6 deduction for any net operating loss carryover shall be allowed and
7 for privilege periods beginning during calendar year 2004 and
8 calendar year 2005, there shall be allowed as a deduction for the
9 privilege period so much of the net operating loss carryover as
10 reduces entire net income otherwise calculated by 50%. If and only
11 to the extent that any net operating loss carryover deduction is
12 disallowed by reason of this subparagraph (E), the date on which
13 the amount of the disallowed net operating loss carryover deduction
14 would otherwise expire shall be extended by a period equal to the
15 period for which application of the net operating loss was
16 disallowed by this subparagraph.

17 Provided, that this subparagraph (E) shall not restrict the
18 surrender or acquisition of corporation business tax benefit
19 certificates pursuant to section 1 of P.L.1997, c.334
20 (C.34:1B-7.42a) and shall not restrict the application of corporation
21 business tax benefit certificates pursuant to section 2 of P.L.1997,
22 c.334 (C.54:10A-4.2).

23 (F) Reduction for discharge of indebtedness. A net operating
24 loss for any privilege period ending after June 30, 2014, and any net
25 operating loss carryover to such privilege period, shall be reduced
26 by the amount excluded from federal taxable income under
27 subparagraph (A), (B), or (C) of paragraph (1) of subsection (a) of
28 section 108 of the federal Internal Revenue Code (26 U.S.C. s.108),
29 for the privilege period of the discharge of indebtedness.

30 (7) The entire net income of gas, electric and gas and electric
31 public utilities that were subject to, or would have been subject to
32 tax if doing business in this State, the provisions of P.L.1940, c.5
33 (C.54:30A-49 et seq.) prior to 1998, shall be adjusted by
34 substituting the New Jersey depreciation allowance for federal tax
35 depreciation with respect to assets placed in service prior to January
36 1, 1998. For gas, electric, and gas and electric public utilities that
37 were subject to, or would have been subject to tax if doing business
38 in this State, the provisions of P.L.1940, c.5 (C.54:30A-49 et seq.)
39 prior to 1998, the New Jersey depreciation allowance shall be
40 computed as follows: All depreciable assets placed in service prior
41 to January 1, 1998 shall be considered a single asset account. The
42 New Jersey tax basis of this depreciable asset account shall be an
43 amount equal to the carryover adjusted basis for federal income tax
44 purposes on December 31, 1997 of all depreciable assets in service
45 on December 31, 1997, increased by the excess, of the "net carrying
46 value," defined to be adjusted book basis of all assets and liabilities,
47 excluding deferred income taxes, recorded on the public utility's

1 books of account on December 31, 1997, over the carryover
2 adjusted basis for federal income tax purposes on December 31,
3 1997 of all assets and liabilities owned by the gas, electric, or gas
4 and electric public utility as of December 31, 1997. "Books of
5 account" for gas, gas and electric, and electric public utilities means
6 the uniform system of accounts as promulgated by the Federal
7 Energy Regulatory Commission and adopted by the Board of Public
8 Utilities. The following adjustments to entire net income shall be
9 made pursuant to this section:

10 (A) Depreciation for property placed in service prior to January
11 1, 1998 shall be adjusted as follows:

12 (i) Depreciation for federal income tax purposes shall be
13 disallowed in full.

14 (ii) A deduction shall be allowed for the New Jersey
15 depreciation allowance. The New Jersey depreciation allowance
16 shall be computed for the single asset account described above
17 based on the New Jersey tax basis as adjusted above as if all assets
18 in the single asset account were first placed in service on January 1,
19 1998. Depreciation shall be computed using the straight line method
20 over a thirty-year life. A full year's depreciation shall be allowed in
21 the initial tax year. No half-year convention shall apply. The
22 depreciable basis of the single account shall be reduced by the
23 adjusted federal tax basis of assets sold, retired, or otherwise
24 disposed of during any year on which gain or loss is recognized for
25 federal income tax purposes as described in subparagraph (B) of
26 this paragraph.

27 (B) Gains and losses on sales, retirements and other dispositions
28 of assets placed in service prior to January 1, 1998 shall be
29 recognized and reported on the same basis as for federal income tax
30 purposes.

31 (C) The Director of the Division of Taxation shall promulgate
32 regulations describing the methodology for allocating the single
33 asset account in the event that a portion of the utility's operations
34 are separated, spun-off, transferred to a separate company or
35 otherwise desegregated.

36 (8) In the case of taxpayers that are gas, electric, gas and
37 electric, or telecommunications public utilities as defined pursuant
38 to subsection (q) of this section, the director shall have authority to
39 promulgate rules and issue guidance correcting distortions and
40 adjusting timing differences resulting from the adoption of
41 P.L.1997, c.162 (C.54:10A-5.25 et al.).

42 (9) Notwithstanding paragraph (1) of this subsection, entire net
43 income shall not include the income derived by a corporation
44 organized in a foreign country from the international operation of a
45 ship or ships, or from the international operation of aircraft, if such
46 income is exempt from federal taxation pursuant to section 883 of
47 the federal Internal Revenue Code of 1986, 26 U.S.C. s.883.

1 (10)Entire net income shall exclude all income of an alien
2 corporation the activities of which are limited in this State to
3 investing or trading in stocks and securities for its own account,
4 investing or trading in commodities for its own account, or any
5 combination of those activities, within the meaning of section 864
6 of the federal Internal Revenue Code of 1986, 26 U.S.C. s.864, as in
7 effect on December 31, 1998. Notwithstanding the previous
8 sentence, if an alien corporation undertakes one or more infrequent,
9 extraordinary or non-recurring activities, including but not limited
10 to the sale of tangible property, only the income from such
11 infrequent, extraordinary or non-recurring activity shall be subject
12 to the tax imposed pursuant to P.L.1945, c.162 (C.54:10A-1 et
13 seq.), and that amount of income subject to tax shall be determined
14 without regard to the allocation to that specific transaction of any
15 general business expense of the taxpayer and shall be specifically
16 assigned to this State for taxation by this State without regard to
17 section 6 of P.L.1945, c.162 (C.54:10A-6). For the purposes of this
18 paragraph, "alien corporation" means a corporation organized under
19 the laws of a jurisdiction other than the United States or its political
20 subdivisions.

21 (11)No deduction shall be allowed for research and experimental
22 expenditures, to the extent that those research and experimental
23 expenditures are qualified research expenses or basic research
24 payments for which an amount of credit is claimed pursuant to
25 section 1 of P.L.1993, c.175 (C.54:10A-5.24) unless those research
26 and experimental expenditures are also used to compute a federal
27 credit claimed pursuant to section 41 of the federal Internal
28 Revenue Code of 1986, 26 U.S.C. s.41; provided, however, for
29 privilege periods beginning on and after January 1, 2022, a
30 deduction for research and experimental expenditures shall be
31 allowed during the same privilege period for which a credit is
32 claimed pursuant to section 1 of P.L.1993, c.175 (C.54:10A-5.24),
33 notwithstanding the timing schedule required by the federal Internal
34 Revenue Code of 1986, 26 U.S.C. s.174, for the deduction of
35 specified research and experimental expenditures.

36 (12)(A) Notwithstanding the provisions of subsection (k) of
37 section 168 of the federal Internal Revenue Code of 1986, 26
38 U.S.C. s.168, subsection (b) of section 1400L of the federal Internal
39 Revenue Code of 1986, 26 U.S.C. s.1400L, or any other federal
40 law, for property acquired after September 10, 2001, the
41 depreciation deduction otherwise allowed pursuant to section 167 of
42 the federal Internal Revenue Code of 1986, 26 U.S.C. s.167, shall
43 be determined pursuant to the provisions of the federal Internal
44 Revenue Code of 1986 (26 U.S.C. s.1 et seq.) in effect on
45 December 31, 2001.

46 (B) The director shall prescribe the rules and regulations
47 necessary to carry out the provisions of this paragraph, including,

1 among others, those for determining the adjusted basis of the
2 acquired property for the purposes of the Corporation Business Tax
3 Act (1945), P.L.1945, c.162.

4 (13)(A) Notwithstanding the provisions of section 179 of the
5 federal Internal Revenue Code of 1986, 26 U.S.C. s.179, for
6 property placed in service on or after January 1, 2004, the costs that
7 a taxpayer may otherwise elect to treat as an expense which is not
8 chargeable to a capital account shall be determined pursuant to the
9 provisions of the federal Internal Revenue Code of 1986 (26 U.S.C.
10 s.1 et seq.) in effect on December 31, 2002.

11 (B) The director shall prescribe the rules and regulations
12 necessary to carry out the provisions of this paragraph, including,
13 among others, those for determining the adjusted basis of the
14 acquired property for the purposes of the Corporation Business Tax
15 Act (1945), P.L.1945, c.162.

16 (14)Notwithstanding the provisions of subsection (i) of section
17 108 of the federal Internal Revenue Code of 1986 (26 U.S.C. s.108),
18 for privilege periods beginning after December 31, 2008 and before
19 January 1, 2011, entire net income shall include the amount of
20 discharge of indebtedness income excluded for federal income tax
21 purposes pursuant to subsection (i) of section 108 of the federal
22 Internal Revenue Code of 1986 (26 U.S.C. s.108), and for privilege
23 periods beginning on or after January 1, 2014 and before January 1,
24 2019, entire net income shall exclude the amount of discharge of
25 indebtedness income included for federal income tax purposes,
26 pursuant to subsection (i) of section 108 of the federal Internal
27 Revenue Code of 1986 (26 U.S.C. s.108).

28 (15)Entire net income shall exclude the gain or income derived
29 from the sale or assignment of a tax credit transfer certificate
30 pursuant to section 7 of P.L.2011, c.149 (C.34:1B-248) **[and]**,
31 section 10 of P.L.2014, c.63 (C.34:1B-251), or the "New Jersey
32 Economic Recovery Act of 2020," P.L.2020, c.156 (C.34:1B-269 et
33 al.), as amended and supplemented.

34 (16)(A) There shall be allowed as a deduction an amount
35 computed in accordance with this paragraph.

36 (B) For purposes of this paragraph, "net deferred tax liability"
37 means deferred tax liabilities that exceed the deferred tax assets of
38 the combined group, as computed in accordance with generally
39 accepted accounting principles, and "net deferred tax asset" means
40 that deferred tax assets exceed the deferred tax liabilities of the
41 combined group, as computed in accordance with generally
42 accepted accounting principles.

43 (C) Only publicly traded companies, including affiliated
44 corporations participating in the filing of a publicly traded
45 company's financial statements prepared in accordance with
46 generally accepted accounting principles, as of the effective date of
47 this paragraph, shall be eligible for this deduction.

1 (D) If the provisions of sections 18 through 23 of P.L.2018, c.48
2 (C.54:10A-4.6 to C.54:10A-4.11) result in an aggregate increase to
3 the members' net deferred tax liability or an aggregate decrease to
4 the members' net deferred tax asset, or an aggregate change from a
5 net deferred tax asset to a net deferred tax liability, the combined
6 group shall be entitled to a deduction, as determined in this
7 paragraph.

8 (E) (i) Beginning with the combined group's first privilege
9 period on or after January 1 of the fifth year after the effective date
10 of P.L.2018, c.48 (C.54:10A-5.41 et al.), a combined group shall be
11 entitled to a deduction from combined group entire net income
12 equal to one-tenth of the amount necessary to offset the increase in
13 the net deferred tax liability or decrease in the net deferred tax
14 asset, or aggregate change from a net deferred tax asset to a net
15 deferred tax liability, according to the schedule provided by
16 subsubparagraphs (ii) and (iii) of this subparagraph (E). Such
17 increase in the net deferred tax liability or decrease in the net
18 deferred tax asset or the aggregate change from a net deferred tax
19 asset to a net deferred tax liability shall be computed based on the
20 change that would result from the imposition of the unitary
21 reporting requirements under sections 1 and 18 through 23 of
22 P.L.2018, c.48 (C.54:10A-5.41 and C.54:10A-4.6 to
23 C.54:10A-4.11) but for the deduction provided under this paragraph
24 as of the effective date of this paragraph.

25 (ii) For group privilege periods beginning on and after January
26 1, 2023, but before January 1, 2030, the combined group may
27 deduct one percent of the amount necessary to offset the increase in
28 the net deferred tax liability or decrease in the net deferred tax
29 asset, or aggregate change from a net deferred tax asset to a net
30 deferred tax liability, during a group privilege period. Such
31 increase in the net deferred tax liability or decrease in the net
32 deferred tax asset or the aggregate change from a net deferred tax
33 asset to a net deferred tax liability shall be computed based on the
34 change that would result from the imposition of the unitary
35 reporting requirements under sections 1 and 18 through 23 of
36 P.L.2018, c.48 (C.54:10A-5.41 and C.54:10A-4.6 to C.54:10A-
37 4.11) but for the deduction provided under this paragraph as of the
38 effective date of this paragraph.

39 (iii) For group privilege periods beginning on and after January
40 1, 2030, the combined group may deduct up to five percent of any
41 remaining unused amount of the deduction during the group
42 privilege period, until the group privilege period in which the total
43 deduction amount has been fully utilized. Such increase in the net
44 deferred tax liability or decrease in the net deferred tax asset or the
45 aggregate change from a net deferred tax asset to a net deferred tax
46 liability shall be computed based on the change that would result
47 from the imposition of the unitary reporting requirements under

1 sections 1 and 18 through 23 of P.L.2018, c.48 (C.54:10A-5.41 and
2 C.54:10A-4.6 to C.54:10A-4.11) but for the deduction provided
3 under this paragraph as of the effective date of this paragraph.

4 (F) The deferred tax impact determined in subparagraph (E) of
5 this paragraph must be converted to the annual Deferred Tax
6 Deduction amount, as follows:

7 (i) the deferred tax impact determined in subparagraph (E) of
8 this paragraph shall be divided by the rate determined under section
9 5 of P.L.1945, c.162 (C.54:10A-5) at the effective date of P.L.2018,
10 c.48 (C.54:10A-5.41 et al.);

11 (ii) the resulting amount shall be further divided by the New
12 Jersey unitary business allocation factor that was used by the
13 combined group in the calculation of the deferred tax assets and
14 deferred tax liabilities as described in subparagraph (E) of this
15 paragraph;

16 (iii) the resulting amount represents the total net Deferred Tax
17 Deduction available over the period as described in subparagraph
18 (E) of this paragraph.

19 (G) The deduction calculated under this paragraph shall not be
20 adjusted as a result of any events happening subsequent to such
21 calculation, including, but not limited to, any disposition or
22 abandonment of assets. Such deduction shall be calculated without
23 regard to the federal tax effect and shall not alter the tax basis of
24 any asset. If the deduction under this section is greater than
25 combined group entire net income, any excess deduction shall be
26 carried forward and applied as a deduction to combined group entire
27 net income in future privilege periods until fully utilized.

28 (H) Any combined group intending to claim a deduction under
29 this paragraph shall file a statement with the director on or before
30 July 1 of the year subsequent to the first privilege period for which
31 a combined return is required. Such statement shall specify the total
32 amount of the deduction which the combined group claims on such
33 form and in such manner as prescribed by the director. No
34 deduction shall be allowed under this paragraph for any privilege
35 period except to the extent claimed on such timely filed statement
36 in accordance with this paragraph.

37 (17)(A) In the case of a taxpayer that is a cannabis licensee,
38 there shall be allowed as a deduction an amount equal to any
39 expenditure that is eligible to be claimed as a federal income tax
40 deduction but is disallowed because cannabis is a controlled
41 substance under federal law, and income shall be determined
42 without regard to section 280E of the Internal Revenue Code (26
43 U.S.C. s.280E) for cannabis licensees.

44 (B) In the case of a taxpayer that is a cannabis licensee, there
45 shall be allowed as a deduction an amount equal to any expenditure
46 that would qualify as a specified research or experimental
47 expenditure pursuant to section 174 of the Internal Revenue Code

1 but is disallowed as a deduction for federal tax purposes because
2 cannabis is a controlled substance under federal law. Any
3 expenditure that is claimed as a deduction pursuant to this
4 subparagraph may also be claimed as a qualified research expense
5 for purposes of the credit allowed pursuant to section 1 of P.L.1993,
6 c.175 (C.54:10A-5.24).

7 (C) For purposes of this paragraph, "licensee" means the same as
8 that term is defined in section 3 of P.L.2021, c.16 (C.24:6I-33).

9 (18)For privilege periods ending on and after July 31, 2022:

10 (A) Notwithstanding subparagraph (A) of paragraph (2) of this
11 subsection or any other law or treaty to the contrary, for a
12 corporation that is incorporated or formed in a foreign nation with a
13 comprehensive tax treaty with the United States, and that is not a
14 member of a world-wide group combined return filed pursuant to
15 subsection b. of section 23 of P.L.2018, c.48 (C.54:10A-4.11),
16 entire net income shall not include an item of income or loss
17 excluded or exempted from federal taxable income under the terms
18 of the treaty, and no other deduction, exclusion, or elimination shall
19 be permitted for an item of income or loss excluded by this
20 paragraph.

21 (B) For a non-U.S. corporation that files a federal tax return and
22 is not a member of a combined group filing a New Jersey combined
23 return on a world-wide basis pursuant to subsection b. of section 23
24 of P.L.2018, c.48 (C.54:10A-4.11), the non-U.S. corporation shall
25 only include its income or loss included in federal taxable income,
26 which shall be limited to only the non-U.S. corporation's effectively
27 connected income or loss, as modified by the provisions of the
28 Corporation Business Tax Act (1945), P.L.1945, c.162 (C.54:10A-1
29 et seq.), and the items of expense and the allocation factor receipts
30 attributable to such items of income or loss.

31 (l) "Real estate investment trust" shall mean any corporation,
32 trust or association qualifying and electing to be taxed as a real
33 estate investment trust under federal law.

34 (m) "Financial business corporation" shall mean any corporate
35 enterprise which is (1) in substantial competition with the business
36 of national banks and which (2) employs moneyed capital with the
37 object of making profit by its use as money, through discounting
38 and negotiating promissory notes, drafts, bills of exchange and
39 other evidences of debt; buying and selling exchange; making of or
40 dealing in secured or unsecured loans and discounts; dealing in
41 securities and shares of corporate stock by purchasing and selling
42 such securities and stock without recourse, solely upon the order
43 and for the account of customers; or investing and reinvesting in
44 marketable obligations evidencing indebtedness of any person,
45 copartnership, association or corporation in the form of bonds,
46 notes or debentures commonly known as investment securities; or
47 dealing in or underwriting obligations of the United States, any

1 state or any political subdivision thereof, or of a corporate
2 instrumentality of any of them. This shall include, without
3 limitation of the foregoing, business commonly known as industrial
4 banks, dealers in commercial paper and acceptances, sales finance,
5 personal finance, small loan and mortgage financing businesses, as
6 well as any other enterprise employing moneyed capital coming
7 into competition with the business of national banks; provided that
8 the holding of bonds, notes, or other evidences of indebtedness by
9 individual persons not employed or engaged in the banking or
10 investment business and representing merely personal investments
11 not made in competition with the business of national banks, shall
12 not be deemed financial business. Nor shall "financial business"
13 include national banks, production credit associations organized
14 under the Farm Credit Act of 1933 or the Farm Credit Act of 1971,
15 Pub.L.92-181 (12 U.S.C. s.2091 et seq.), stock and mutual
16 insurance companies duly authorized to transact business in this
17 State, security brokers or dealers or investment companies or
18 bankers not employing moneyed capital coming into competition
19 with the business of national banks, real estate investment trusts, or
20 any of the following entities organized under the laws of this State:
21 credit unions, savings banks, savings and loan and building and
22 loan associations, pawnbrokers, and State banks and trust
23 companies.

24 (n) "International banking facility" shall mean a set of asset and
25 liability accounts segregated on the books and records of a
26 depository institution, United States branch or agency of a foreign
27 bank, or an Edge or Agreement Corporation that includes only
28 international banking facility time deposits and international
29 banking facility extensions of credit as such terms are defined in
30 section 204.8(a)(2) and section 204.8(a)(3) of Regulation D of the
31 board of governors of the Federal Reserve System, 12 CFR Part
32 204, effective December 3, 1981. In the event that the United States
33 enacts a law, or the board of governors of the Federal Reserve
34 System adopts a regulation which amends the present definition of
35 international banking facility or of such facilities' time deposits or
36 extensions of credit, the Commissioner of Banking and Insurance
37 shall forthwith adopt regulations defining such terms in the same
38 manner as such terms are set forth in the laws of the United States
39 or the regulations of the board of governors of the Federal Reserve
40 System. The regulations of the Commissioner of Banking and
41 Insurance shall thereafter provide the applicable definitions.

42 (o) "S corporation" means a corporation that has elected to be an
43 "S corporation" pursuant to section 1361 of the federal Internal
44 Revenue Code of 1986, 26 U.S.C. s.1361, for the taxable year.

45 (p) "New Jersey S corporation" means a taxpayer that has made
46 a valid election to be an S corporation for federal tax purposes, and

1 that has not made a valid election pursuant to subsection d. of
2 section 20 of P.L.2022, c.133 (C.54:10A-5.22).

3 (q) "Public Utility" means "public utility" as defined in
4 R.S.48:2-13.

5 (r) "Qualified investment partnership" means a partnership
6 under this act that has more than 10 members or partners with no
7 member or partner owning more than a 50% interest in the entity
8 and that derives at least 90% of its gross income from dividends,
9 interest, payments with respect to securities loans, and gains from
10 the sale or other disposition of stocks or securities or foreign
11 currencies or commodities or other similar income (including but
12 not limited to gains from swaps, options, futures or forward
13 contracts) derived with respect to its business of investing or
14 trading in those stocks, securities, currencies or commodities, but
15 "investment partnership" shall not include a "dealer in securities"
16 within the meaning of section 1236 of the federal Internal Revenue
17 Code of 1986, 26 U.S.C. s.1236.

18 (s) "Savings institution" means a state or federally chartered
19 building and loan association, savings and loan association, or
20 savings bank.

21 (t) "Partnership" means an entity classified as a partnership for
22 federal income tax purposes.

23 (u) "Prior net operating loss conversion carryover" means a net
24 operating loss incurred in a privilege period ending prior to July 31,
25 2019 and converted from a pre-allocation net operating loss to a
26 post-allocation net operating loss as follows:

27 (1) As used in this subsection:

28 "Base year" means the last privilege period ending prior to July
29 31, 2019.

30 "Base year BAF" means the taxpayer's business allocation factor
31 as provided in sections 6 through 10 of P.L.1945, c.162 (C.54:10A-
32 6 through C.54:10A-10) for purposes of calculating entire net
33 income for the base year, as such section was in effect for the last
34 privilege period ending prior to July 31, 2019.

35 "UNOL" means the unabsorbed portion of net operating loss as
36 calculated under paragraph (6) of subsection (k) of this section as
37 such paragraph was in effect for the last privilege period ending
38 prior to July 31, 2019, that was not deductible in previous privilege
39 periods and was eligible for carryover on the last day of the base
40 year subject to the limitations for deduction under such subsection,
41 including any net operating loss sustained by the taxpayer during
42 the base year.

43 (2) The prior net operating loss conversion carryover shall be
44 calculated as follows:

45 (A) The taxpayer shall first calculate the tax value of its UNOL
46 for the base year and for each preceding privilege period for which
47 there is a UNOL. The value of the UNOL for each privilege period

1 is equal to the product of (I) the amount of the taxpayer's UNOL for
2 a privilege period, and (II) the taxpayer's base year BAF. This result
3 shall equal the taxpayer's prior net operating loss conversion
4 carryover.

5 (B) The taxpayer shall continue to carry over its prior net
6 operating loss conversion carryover to offset its allocated entire net
7 income as provided in sections 6 through 10 of P.L.1945, c.162
8 (C.54:10A-6 through C.54:10A-10) for privilege periods ending on
9 and after July 31, 2019. Such carryover periods shall not exceed the
10 twenty privilege periods following the privilege period of the initial
11 loss. The entire amount of the prior net operating loss conversion
12 carryover for any privilege period shall be carried to the earliest of
13 the privilege periods to which the loss may be carried. The portion
14 of the prior net operating loss conversion carryover which shall be
15 carried to each of the other privilege periods shall be the excess, if
16 any, of the amount of the prior net operating loss conversion
17 carryover over the sum of the entire net income, computed without
18 the exclusions permitted in paragraphs (4) and (5) of subsection (k)
19 of this section allocated to this State. For privilege periods ending
20 on and after July 31, 2023, for the purpose of computing taxable net
21 income for a current privilege period, the amount of the prior net
22 operating loss conversion carryover shall be subtracted from entire
23 net income allocated to this State, after the application of
24 paragraphs (4) and (5) of subsection (k) of this section against
25 current privilege period income when the entire net income
26 allocated to this State for the privilege period is greater than zero.

27 (C) The prior net operating loss conversion carryover computed
28 under this subsection shall be applied against the entire net income
29 allocated to this State before the net operating loss carryover
30 computed under subsection (v) of this section.

31 (v) "Net operating loss deduction" means the amount allowed as
32 a deduction for the net operating loss carryover to the privilege
33 period, calculated as follows:

34 (1) Net operating loss carryover. A net operating loss for any
35 privilege period ending on or after July 31, 2019, shall be a net
36 operating loss carryover to each of the twenty privilege periods
37 following the period of the loss. The entire amount of the net
38 operating loss for any privilege period shall be carried to the earliest
39 of the privilege periods to which the loss may be carried. For
40 privilege periods ending before July 31, 2023, the portion of the
41 loss which shall be carried to each of the other privilege periods
42 shall be the excess, if any, of the amount of the loss over the sum of
43 the entire net income, computed without the exclusions permitted in
44 paragraphs (4) and (5) of subsection (k) of this section allocated to
45 this State. For privilege periods ending on and after July 31, 2023,
46 the portion of the loss that shall be carried to each of the other
47 privilege periods shall be the excess, if any, of the amount of the

1 loss over the sum of the entire net income, after the application of
2 paragraphs (4) and (5) of subsection (k) of this section allocated to
3 this State; provided, however, for the purpose of computing taxable
4 net income for the privilege period, the net operating loss carryover
5 shall only be subtracted from entire net income allocated to this
6 State when the entire net income allocated to this State is greater
7 than zero.

8 (2) Net operating loss. For purposes of this paragraph the term
9 "net operating loss" means the excess of the deductions over the
10 gross income used in computing entire net income, without regard
11 to any net operating loss carryover, and for privilege periods ending
12 before July 31, 2023, computed without the exclusions in
13 paragraphs (4) and (5) of subsection (k) of this section, and for
14 privilege periods ending on and after July 31, 2023, computed after
15 the application of paragraphs (4) and (5) of subsection (k) of this
16 section, allocated to this State pursuant to sections 6 through 10 of
17 P.L.1945, c.162 (C.54:10A-6 through C.54:10A-10).

18 (3) Reduction for discharge of indebtedness. A net operating
19 loss for any privilege period ending on or after July 31, 2019, and
20 any net operating loss carryover to such privilege period, shall be
21 reduced by the amount excluded from federal taxable income under
22 subparagraph (A), (B), or (C) of paragraph (1) of subsection (a) of
23 section 108 of the federal Internal Revenue Code, 26 U.S.C. s.108,
24 for the privilege period of the discharge of indebtedness.

25 (4) A net operating loss carryover shall not include any net
26 operating loss incurred during any privilege period ending prior to
27 July 31, 2019.

28 (5) Change in ownership. Where there is a change in 50% or
29 more of the ownership of a corporation because of redemption or
30 sale of stock and the corporation changes the trade or business
31 giving rise to the loss, no net operating loss sustained before the
32 changes may be carried over to be deducted from income earned
33 after such changes. In addition, where the facts support the premise
34 that the corporation was acquired under any circumstances for the
35 primary purpose of the use of its net operating loss carryover, the
36 director may disallow the carryover; provided, however, this
37 paragraph shall not apply between members of a combined group
38 reported on a New Jersey combined return.

39 (w) "Taxable net income" means entire net income allocated to
40 this State as calculated pursuant to sections 6 through 8 of
41 P.L.1945, c.162 (C.54:10A-6 through 54:10A-8) as modified by
42 subtracting any prior net operating loss conversion carryforward
43 calculated pursuant to subsection (u) of this section, and any net
44 operating loss calculated pursuant to subsection (v) of this section;
45 provided, however, for privilege periods ending on and after July
46 31, 2023, when subtracting any net operating losses calculated
47 pursuant to subsection (v) of this section or the combined group net

1 operating losses calculated pursuant to subsection h. of section 18
2 of P.L.2018, c.48 (C.54:10A-4.6), the limitation set forth in
3 paragraph (2) of subsection (a) of Internal Revenue Code Section
4 172 (26 U.S.C. s.172(a)(2)) shall apply, except that August 1, 2023
5 is substituted for the reference to January 1, 2018 in subparagraph
6 (A) of paragraph (2) of subsection a. of Internal Revenue Code
7 Section 172 (26 U.S.C. s.172), and July 31, 2023 is substituted for
8 the reference to December 31, 2017 in subparagraph (B) of
9 paragraph (2) of subsection (a) of Internal Revenue Code Section
10 172 (26 U.S.C. s.172). For privilege periods ending on and after
11 July 31, 2023, for a combined group, before subtracting the prior
12 net operating loss conversion carryforwards and subtracting the net
13 operating losses of the combined group when computing the total
14 taxable net income, the combined group shall first add together the
15 allocated entire net income from the unitary business of the
16 combined group and the portion of allocated entire net income of
17 members with activities independent of the group, and then subtract
18 the prior net operating loss conversion carryforwards and then the
19 net operating losses.

20 (x) "Affiliated group" means, for purposes of section 23 of
21 P.L.2018, c.48 (C.54:10A-4.11), an affiliated group as defined in
22 section 1504 of the federal Internal Revenue Code, 26 U.S.C.
23 s.1504, except such affiliated group shall include all U.S. domestic
24 corporations that are commonly owned, directly or indirectly, by
25 any member of such affiliated group, without regard to whether the
26 affiliated group includes (1) corporations included in more than one
27 federal consolidated return, (2) corporations engaged in one or more
28 unitary businesses, or (3) corporations that are not engaged in a
29 unitary business with any other member of the affiliated group.

30 For purposes of this subsection:

31 "U.S. domestic corporations" means: (1) business entities
32 wherever incorporated or formed that are U.S. domestic
33 corporations, are deemed to be, or are treated as U.S. domestic
34 corporations under the provisions of the federal Internal Revenue
35 Code; or (2) any entities incorporated or formed under the laws of a
36 foreign nation that are required to file federal tax returns if such
37 entities have effectively connected income within the meaning of
38 the federal Internal Revenue Code; and

39 "Commonly owned" means that more than 50 percent of the
40 voting control of each member of an affiliated group is directly or
41 indirectly owned by a common owner or owners, either corporate or
42 non-corporate, whether or not the owner or owners are members of
43 the affiliated group. Whether voting control is indirectly owned
44 shall be determined in accordance with section 318 of the federal
45 Internal Revenue Code (26 U.S.C. s.318).

1 (y) "Combinable captive insurance company" means an entity
2 that is treated as an association taxable as a corporation under the
3 federal Internal Revenue Code:

4 (1) more than 50% of the voting stock of which is owned or
5 controlled, directly or indirectly, by a single entity that is treated as
6 an association taxable as a corporation under the federal Internal
7 Revenue Code, and not exempt from federal income tax;

8 (2) that is licensed as a captive insurance company under the
9 laws of this State or another jurisdiction;

10 (3) whose business includes providing, directly and indirectly,
11 insurance or reinsurance covering the risks of its parent, members
12 of its affiliated group, or both; and

13 (4) 50% or less of whose gross receipts for the privilege period
14 consist of premiums from arrangements that constitute insurance for
15 federal income tax purposes.

16 A combinable captive insurance company shall not be exempt
17 under section 3 of P.L.1945, c.162 (C.54:10A-3). A captive
18 insurance company that does not meet the definition of combinable
19 captive insurance company shall be excluded as provided in
20 subsection k. of section 18 of P.L.2018, c.48 (C.54:10A-4.6) and
21 shall be exempt under section 3 of P.L.1945, c.162 (C.54:10A-3).

22 For purposes of this definition:

23 "Affiliated group" shall have the same meaning as that term is
24 given by section 1504 of the federal Internal Revenue Code, 26
25 U.S.C. s.1504, except that the term "common parent corporation" as
26 used in section 1504 of the federal Internal Revenue Code, 26
27 U.S.C. s.1504, shall mean any person, as defined in section 7701 of
28 the federal Internal Revenue Code, 26 U.S.C. s.7701, and references
29 to "at least 80%" in section 1504 of the federal Internal Revenue
30 Code, 26 U.S.C. s.1504, shall be read as "50% or more." Section
31 1504 of the federal Internal Revenue Code, 26 U.S.C. s.1504, shall
32 be read without regard to the exclusions provided for in subsection
33 (b) of that section.

34 "Gross receipts" includes the amounts included in gross receipts
35 for purposes of paragraph (15) of subsection (c) of section 501 of
36 the federal Internal Revenue Code, 26 U.S.C. s.501, except that
37 those amounts also include all premiums.

38 "Premiums" includes consideration for annuity contracts and
39 excludes any part of the consideration for insurance, reinsurance, or
40 annuity contracts that do not provide bona fide insurance,
41 reinsurance, or annuity benefits.

42 (z) "Combined group" means the group of all companies that
43 have common ownership and are engaged in a unitary business,
44 where at least one company is subject to tax under this chapter, and
45 shall include all business entities, except as provided for under any
46 section of the Corporation Business Tax Act (1945), P.L.1945,
47 c.162 (C.54:10A-1 et seq.).

1 A combined group shall be treated, for privilege periods ending
2 on and after July 31, 2020, as one taxpayer for purposes of
3 paragraph (1) of subsection (c) of section 5 of P.L.1945, c.162
4 (C.54:10A-5) and section 1 of P.L.2018, c.48 (C.54:10A-5.41) for
5 the income derived from the unitary business; provided however,
6 with regard to the surtax imposed pursuant to section 1 of P.L.2018,
7 c.48 (C.54:10A-5.41) and for that purpose only, the portion of
8 income that is attributable to a member which is a public utility
9 exempt from the surtax shall not be included when computing the
10 surtax due.

11 (aa) "Common ownership" means that more than 50% of the
12 voting control of each member of a combined group is directly or
13 indirectly owned by a common owner or owners, either corporate or
14 non-corporate, whether or not the owner or owners are members of
15 the combined group. Whether voting control is indirectly owned
16 shall be determined in accordance with section 318 of the federal
17 Internal Revenue Code, 26 U.S.C. s.318.

18 (bb) "Group privilege period" means, if two or more members in
19 the combined group file in the same federal consolidated tax return,
20 the same income year as that used on the federal consolidated tax
21 return and, in all other cases, the privilege period of the managerial
22 member.

23 (cc) "Managerial member" means if the combined group has a
24 common parent corporation and that common parent corporation is
25 a taxable member, the managerial member shall be the common
26 parent corporation. In other cases, the combined group shall select a
27 taxable member as its managerial member or, in the discretion of
28 the director or upon failure of the combined group to select its
29 managerial member, the director shall designate a taxable member
30 of the combined group as managerial member.

31 (dd) "Member" means a business entity that is a part of a
32 combined group.

33 A corporation exempt pursuant to section 3 of P.L.1945, c.162
34 (C.54:10A-3) from the tax imposed by P.L.1945, c.162 (C.54:10A-1
35 et seq.) shall not be a member of a combined group.

36 (ee) "Nontaxable member" means a member that is: (i) not
37 subject to tax pursuant to the Corporation Business Tax Act (1945),
38 P.L.1945, c.162 (C.54:10A-1 et seq.); or (ii) (deleted by
39 amendment, P.L.2020, c.118 (C.54:10A-5.46 et al.).

40 (ff) "Taxable member" means a member that is subject to tax
41 pursuant to the Corporation Business Tax Act (1945), P.L.1945,
42 c.162 (C.54:10A-1 et seq.).

43 A New Jersey S corporation shall only be included as a taxable
44 member of a combined group filing a New Jersey combined return
45 if the New Jersey S Corporation elects to be included as a member
46 and taxed at the same rate as the other members of the combined
47 group. A New Jersey S corporation that does not elect to be

1 included shall be excluded as a member of the combined return and
2 shall file a separate return.

3 (gg)"Unitary business" means, for privilege periods ending
4 before July 31, 2023, a single economic enterprise that is made up
5 either of separate parts of a single business entity or of a group of
6 business entities under common ownership that are sufficiently
7 interdependent, integrated, and interrelated through their activities
8 so as to provide a synergy and mutual benefit that produces a
9 sharing or exchange of value among them and a significant flow of
10 value among the separate parts. For privilege periods ending on
11 and after July 31, 2023, "unitary business" means a single economic
12 enterprise that is made up either of separate parts of a single
13 business entity or of a group of business entities under common
14 ownership that are sufficiently interdependent, integrated, or
15 interrelated through their activities so as to provide a synergy and
16 mutual benefit that produces a sharing or exchange of value among
17 them and a significant flow of value among the separate parts.
18 "Unitary business" shall be construed to the broadest extent
19 permitted under the Constitution of the United States. A business
20 conducted by a partnership which is in a unitary business with the
21 combined group shall be treated as the business of the partners that
22 are members of the combined group, whether the partnership
23 interest is held directly or indirectly through a series of
24 partnerships, to the extent of a partner's distributive share of
25 partnership income. The amount of partnership income to be
26 included in the partner's entire net income shall be determined in
27 accordance with subsection a. of section 3 of P.L.2001, c.136
28 (C.54:10A-15.6) or subsection a. of section 4 of P.L.2001, c.136
29 (C.54:10A-15.7), as applicable. A business conducted directly or
30 indirectly by one corporation is unitary with that portion of a
31 business conducted by another corporation through its direct or
32 indirect interest in a partnership.

33 (hh)"Captive investment company" shall mean, for privilege
34 periods ending on and after July 31, 2023, an investment company
35 that is not regularly traded on an established securities market and
36 of which more than 50 percent of the voting stock is owned or
37 controlled, directly or indirectly, by a single corporation, other than
38 an investment company, that is not exempt from federal income tax.
39 For purposes of this subsection, a captive investment company shall
40 not include any captive investment company of which at least 50
41 percent of the shares, by vote or value, is owned or controlled,
42 directly or indirectly, by a state or federally chartered bank, savings
43 bank, or savings and loan association with assets that do not exceed
44 \$15 billion.

45 For privilege periods ending on and after July 31, 2023, any
46 voting stock in an investment company that is held in a segregated
47 asset account of a life insurance corporation, as described in section

1 817 of the Internal Revenue Code, shall not be taken into account
2 for purposes of determining whether an investment company is a
3 captive regulated investment company.

4 For privilege periods ending on and after July 31, 2023, a captive
5 investment company shall be taxed in the same manner as a C
6 corporation, and subsection d. of section 5 of P.L.1945, c.162
7 (C.54:10A-5) shall not apply. A captive investment company shall
8 not be permitted to claim any deductions or expenses that were
9 permitted for federal purposes, solely as a result of the entity being
10 an investment company, when computing federal taxable net
11 income. A captive investment company shall be a member of a
12 combined group and shall be included as a member on the
13 combined return.

14 (ii) "Captive real estate investment trust" shall mean, for
15 privilege periods ending on and after July 31, 2023, a real estate
16 investment trust that is not regularly traded on an established
17 securities market and of which more than 50 percent of the voting
18 stock is owned or controlled, directly or indirectly, by a single
19 entity that is treated as an association taxable as a corporation under
20 the Internal Revenue Code, is not exempt from federal income tax,
21 and is not a real estate investment trust. For purposes of this
22 subsection, a captive real estate investment trust shall not include
23 any captive real estate investment trust of which at least 50 percent
24 of the shares, by vote or value, is owned or controlled, directly or
25 indirectly, by a state or federally chartered bank, savings bank, or
26 savings and loan association with assets that do not exceed \$15
27 billion.

28 For privilege periods ending on and after July 23, 2023, any
29 voting stock in a real estate investment trust that is held in a
30 segregated asset account of a life insurance corporation, as
31 described in section 817 of the Internal Revenue Code (26 U.S.C.
32 s.817), shall not be taken into account for purposes of determining
33 whether a real estate investment trust is a captive real estate
34 investment trust. For purposes of this subsection, an association
35 taxable as a corporation shall not include any listed Australian
36 property trust or any qualified foreign entity.

37 For privilege periods ending on and after July 31, 2023, a captive
38 real estate investment trust shall be taxed in the same manner as a C
39 corporation, and subsection d. of section 5 of P.L.1945, c.162
40 (C.54:10A-5) shall not apply. A captive real estate investment trust
41 shall not be permitted to claim any deductions or expenses that were
42 permitted for federal purposes, solely as a result of the entity being
43 a real estate investment trust, when computing federal taxable net
44 income. A captive real estate investment trust shall be a member of
45 a combined group and shall be included as a member on the
46 combined return.

47 As used in this subsection:

1 "Australian property trust" means an Australian unit trust that is
2 registered as a managed investment scheme under the Australian
3 Corporations Act, and in which the principal class of units is listed
4 on a recognized stock exchange in Australia and is regularly traded
5 on an established securities market; or an entity organized as a trust,
6 provided that a listed Australian property trust owns or controls,
7 directly or indirectly, 75 percent or more of the voting power or
8 value of the beneficial interests of shares of the trust.

9 "Qualified foreign entity" means a corporation, trust, association,
10 or partnership that is organized outside the laws of the United States
11 and that satisfies the following criteria:

12 (1) At least 75 percent of the entity's total asset value at the
13 close of its taxable year is represented by real estate assets, as
14 defined at subparagraph (B) of paragraph (5) of subsection (c) of
15 section 856 of the Internal Revenue Code (26 U.S.C. s.856),
16 including shares or certificates of beneficial interest in any real
17 estate investment trust, cash and cash equivalents, and United States
18 Government securities;

19 (2) The entity is not subject to tax on amounts distributed to its
20 beneficial owners, or is exempt from entity-level taxation;

21 (3) The entity distributes, on an annual basis, at least 85 percent
22 of its taxable income, as computed in the jurisdiction in which it is
23 organized, to the holders of its shares or certificates of beneficial
24 interest;

25 (4) No more than 10 percent of the voting power or value in the
26 entity is held directly, indirectly, or constructively by a single entity
27 or individual, or the shares or certificates of beneficial interests of
28 the entity are regularly traded on an established securities market;
29 and

30 (5) The entity is organized in a country that has a tax treaty with
31 the United States.

32 (jj) "Captive regulated investment company" shall mean, for
33 privilege periods ending on and after July 31, 2023, a regulated
34 investment company that is not regularly traded on an established
35 securities market, and of which more than 50 percent of the voting
36 stock is owned or controlled, directly or indirectly, by a single
37 corporation, other than a regulated investment company, that is not
38 exempt from federal income tax. For purposes of this subsection, a
39 captive regulated investment company shall not include any captive
40 regulated investment company of which at least 50 percent of the
41 shares, by vote or value, is owned or controlled, directly or
42 indirectly, by a state or federally chartered bank, savings bank, or
43 savings and loan association with assets that do not exceed \$15
44 billion.

45 For privilege periods ending on and after July 31, 2023, any
46 voting stock in a regulated investment company that is held in a
47 segregated asset account of a life insurance corporation, as

1 described in section 817 of the Internal Revenue Code (26 U.S.C.
2 s.817), shall not be taken into account for purposes of determining
3 whether a regulated investment company is a captive regulated
4 investment company.

5 For privilege periods ending on and after July 31, 2023, a captive
6 regulated investment company shall be taxed in the same manner as
7 a C corporation and subsection d. of section 5 of P.L.1945, c.162
8 (C.54:10A-5) shall not apply. A captive real estate investment
9 company shall not be permitted to claim any deductions or expenses
10 that were permitted for federal purposes, solely as a result of the
11 entity being a regulated investment company, when computing
12 federal taxable net income. A captive regulated investment
13 company shall be a member of a combined group and shall be
14 included as a member on the combined return.

15 (kk)"World-wide basis" and "world-wide group" shall mean, for
16 privilege periods ending on and after July 31, 2022, for the
17 purposes of sections 18 through 23 of P.L.2018, c.48 (C.54:10A-4.6
18 through C.54:10A-4.11) and for the purposes of combined reporting
19 in general under the Corporation Business Tax Act (1945),
20 P.L.1945, c.162 (C.54:10A-1 et seq.), that the combined group shall
21 include all of the members of the combined group, wherever located
22 or formed. For privilege periods ending on and after July 31, 2022,
23 the combined group shall include all of the income and attributes of
24 those members regardless of how or whether those members file
25 federal returns or report or include their income in federal taxable
26 income for federal purposes, and without regard to any exemption
27 or exclusion from federal taxable income under the terms of a tax
28 treaty; provided, however, any deductions that are allowed under
29 the federal Internal Revenue Code that are also allowable under the
30 Corporation Business Tax Act (1945), P.L.1945, c.162 (C.54:10A-1
31 et seq.), that would apply to a U.S. corporation, but that a non-U.S.
32 corporation is prohibited from claiming for federal corporation
33 income tax purposes because the corporation's income was not
34 included in federal taxable income for any reason or because the
35 corporation is a non-U.S. corporation, shall be allowed for the non-
36 U.S. corporation members of the combined group for New Jersey
37 corporation business tax purposes as though those non-U.S.
38 corporation members were U.S. corporations.

39 (cf: P.L.2023, c.96, s.1)

40
41 15. N.J.S.54A:5-1 is amended to read as follows:

42 54A:5-1. New Jersey Gross Income Defined. New Jersey gross
43 income shall consist of the following categories of income:

44 a. Salaries, wages, tips, fees, commissions, bonuses, and other
45 remuneration received for services rendered whether in cash or in
46 property, and amounts paid or distributed, or deemed paid or
47 distributed, out of a medical savings account that are not excluded

1 from gross income pursuant to section 5 of P.L.1997, c.414
2 (C.54A:6-27).

3 b. Net profits from business. The net income from the
4 operation of a business, profession or other activity after provision
5 for all costs and expenses incurred in the conduct thereof,
6 determined either on a cash or accrual basis in accordance with the
7 method of accounting allowed for federal income tax purposes but
8 without deduction of the amount of:

9 (1) taxes based on income;

10 (2) a civil, civil administrative, or criminal penalty or fine,
11 including a penalty or fine under an administrative consent order,
12 assessed and collected for a violation of a State or federal
13 environmental law, an administrative consent order, or an
14 environmental ordinance or resolution of a local governmental
15 entity, and any interest earned on the penalty or fine, and any
16 economic benefits having accrued to the violator as a result of a
17 violation, which benefits are assessed and recovered in a civil, civil
18 administrative, or criminal action, or pursuant to an administrative
19 consent order. The provisions of this paragraph shall not apply to a
20 penalty or fine assessed or collected for a violation of a State or
21 federal environmental law, or local environmental ordinance or
22 resolution, if the penalty or fine was for a violation that resulted
23 from fire, riot, sabotage, flood, storm event, natural cause, or other
24 act of God beyond the reasonable control of the violator, or caused
25 by an act or omission of a person who was outside the reasonable
26 control of the violator; and

27 (3) treble damages paid to the Department of Environmental
28 Protection pursuant to subsection a. of section 7 of P.L.1976, c.141
29 (C.58:10-23.11f) for costs incurred by the department in removing,
30 or arranging for the removal of, an unauthorized discharge upon the
31 failure of the discharger to comply with a directive from the
32 department to remove, or arrange for the removal of, a discharge.

33 c. Net gains or income from disposition of property. Net gains
34 or net income, less net losses, derived from the sale, exchange or
35 other disposition of property, including real or personal, whether
36 tangible or intangible as determined in accordance with the method
37 of accounting allowed for federal income tax purposes. For the
38 purpose of determining gain or loss, the basis of property shall be
39 the adjusted basis used for federal income tax purposes, except as
40 expressly provided for under this act, but without a deduction for
41 penalties, fines, or economic benefits excepted pursuant to
42 paragraph (2), or for treble damages excepted pursuant to paragraph
43 (3) of subsection b. of this section.

44 A taxpayer's net gain or loss on the sale, exchange or other
45 disposition of a share of an S corporation shall be calculated by
46 increasing the adjusted basis of the share by an amount equal to the
47 shareholder's net losses and deductions in respect of the share

1 allowed and deducted from income for federal income tax purposes,
2 not including any personal net operating loss deductions, to the
3 extent that such net losses were not offset by the taxpayer's pro rata
4 share of S corporation income otherwise subject to taxation
5 pursuant to subsection p. of this section in respect of another S
6 corporation, subject to rules of priority and assignment determined
7 by the director.

8 For the tax year 1976, any taxpayer with a tax liability under this
9 subsection, or under the "Tax on Capital Gains and Other Unearned
10 Income Act," P.L.1975, c.172 (C.54:8B-1 et seq.), shall not be
11 subject to payment of an amount greater than the amount he would
12 have paid if either return had covered all capital transactions during
13 the full tax year 1976; provided, however, that the rate which shall
14 apply to any capital gain shall be that in effect on the date of the
15 transaction. To the extent that any loss is used to offset any gain
16 under P.L.1975, c.172, it shall not be used to offset any gain under
17 the "New Jersey Gross Income Tax Act," N.J.S.54A:1-1 et seq.

18 The term "net gains or income" shall not include gains or income
19 derived from obligations which are referred to in clause (1) or (2) of
20 N.J.S.54A:6-14 of this act or from securities which evidence
21 ownership in a qualified investment fund as defined in section 2 of
22 P.L.1987, c.310 (C.54A:6-14.1). The term "net gains or income"
23 shall not include gains or income derived from the sale or
24 assignment of a tax credit transfer certificate pursuant to section 7
25 of P.L.2011, c.149 (C.34:1B-248) **[and]**, section 10 of P.L.2014,
26 c.63 (C.34:1B-251), or the "New Jersey Economic Recovery Act of
27 2020," P.L.2020, c.156 (C.34:1B-269 et al.), as amended and
28 supplemented, from any sale or assignment of a tax credit issued
29 pursuant to an award of tax credits approved by the New Jersey
30 Economic Development Authority **[prior to July 1, 2018]**,
31 regardless of when such sale or assignment occurs. The term "net
32 gains or net income" shall not include gains or income from
33 transactions to the extent to which nonrecognition is allowed for
34 federal income tax purposes. The term "sale, exchange or other
35 disposition" shall not include the exchange of stock or securities in
36 a corporation a party to a reorganization in pursuance of a plan of
37 reorganization, solely for stock or securities in such corporation or
38 in another corporation a party to the reorganization and the transfer
39 of property to a corporation by one or more persons solely in
40 exchange for stock or securities in such corporation if immediately
41 after the exchange such person or persons are in control of the
42 corporation. For purposes of this clause, stock or securities issued
43 for services shall not be considered as issued in return for property.

44 For purposes of this clause, the term "reorganization" means**[--]**:

45 (i) A statutory merger or consolidation;

46 (ii) The acquisition by one corporation, in exchange solely for
47 all or part of its voting stock (or in exchange solely for all or a part

1 of the voting stock of a corporation which is in control of the
2 acquiring corporation) of stock of another corporation if,
3 immediately after the acquisition, the acquiring corporation has
4 control of such other corporation (whether or not such acquiring
5 corporation had control immediately before the acquisition);

6 (iii) The acquisition by one corporation, in exchange solely for
7 all or part of its voting stock (or in exchange solely for all or a part
8 of the voting stock of a corporation which is in control of the
9 acquiring corporation), of substantially all of the properties of
10 another corporation, but in determining whether the exchange is
11 solely for stock the assumption by the acquiring corporation of a
12 liability of the other, or the fact that property acquired is subject to
13 a liability, shall be disregarded;

14 (iv) A transfer by a corporation of all or a part of its assets to
15 another corporation if immediately after the transfer the transferor,
16 or one or more of its shareholders (including persons who were
17 shareholders immediately before the transfer), or any combination
18 thereof, is in control of the corporation to which the assets are
19 transferred;

20 (v) A recapitalization;

21 (vi) A mere change in identity, form, or place of organization
22 however effected; or

23 (vii) The acquisition by one corporation, in exchange for stock of
24 a corporation (referred to in this subclause as "controlling
25 corporation") which is in control of the acquiring corporation, of
26 substantially all of the properties of another corporation which in
27 the transaction is merged into the acquiring corporation shall not
28 disqualify a transaction under subclause (i) if such transaction
29 would have qualified under subclause (i) if the merger had been into
30 the controlling corporation, and no stock of the acquiring
31 corporation is used in the transaction;

32 (viii) A transaction otherwise qualifying under subclause (i) shall
33 not be disqualified by reason of the fact that stock of a corporation
34 (referred to in this subclause as the "controlling corporation") which
35 before the merger was in control of the merged corporation is used
36 in the transaction, if after the transaction, the corporation surviving
37 the merger holds substantially all of its properties and of the
38 properties of the merged corporation (other than stock of the
39 controlling corporation distributed in the transaction); and in the
40 transaction, former shareholders of the surviving corporation
41 exchanged, for an amount of voting stock of the controlling
42 corporation, an amount of stock in the surviving corporation which
43 constitutes control of such corporation.

44 For purposes of this clause, the term "control" means the
45 ownership of stock possessing at least 80% of the total combined
46 voting power of all classes of stock entitled to vote and at least 80%

1 of the total number of shares of all other classes of stock of the
2 corporation.

3 For purposes of this clause, the term "a party to a reorganization"
4 includes a corporation resulting from a reorganization, and both
5 corporations, in the case of a reorganization resulting from the
6 acquisition by one corporation of stock or properties of another. In
7 the case of a reorganization qualifying under subclause (i) by reason
8 of subclause (vii) the term "a party to a reorganization" includes the
9 controlling corporation referred to in such subclause (vii).

10 Notwithstanding any provisions hereof, upon every such
11 exchange or conversion, the taxpayer's basis for the stock or
12 securities received shall be the same as the taxpayer's actual or
13 attributed basis for the stock, securities or property surrendered in
14 exchange therefor.

15 d. Net gains or net income derived from or in the form of rents,
16 royalties, patents, and copyrights.

17 e. Interest, except interest referred to in clause (1) or (2) of
18 N.J.S.54A:6-14, or distributions paid by a qualified investment fund
19 as defined in section 2 of P.L.1987, c.310 (C.54A:6-14.1), to the
20 extent provided in that section.

21 f. Dividends. "Dividends" means any distribution in cash or
22 property made by a corporation, association or business trust that is
23 not an S corporation, (1) out of accumulated earnings and profits, or
24 (2) out of earnings and profits of the year in which such dividend is
25 paid and any distribution in cash or property made by an S
26 corporation, as specifically determined pursuant to section 16 of
27 P.L.1993, c.173 (C.54A:5-14).

28 The term "dividends" shall not include distributions paid by a
29 qualified investment fund as defined in section 2 of P.L.1987, c.310
30 (C.54A:6-14.1), to the extent provided in that section.

31 g. Gambling winnings.

32 h. Net gains or income derived through estates or trusts.

33 i. Income in respect of a decedent.

34 j. Amounts distributed or withdrawn from an employee trust
35 attributable to contributions to the trust which were excluded from
36 gross income under the provisions of chapter 6 of Title 54A of the
37 New Jersey Statutes, amounts rolled over from an IRA, as defined
38 pursuant to subsection (a) of section 408 of the federal Internal
39 Revenue Code of 1986, 26 U.S.C. s.408, that is not a Roth IRA, as
40 defined pursuant to subsection b. of section 2 of P.L.1998,c.57
41 (C.54A:6-28) to an IRA that is a Roth IRA, and pensions and
42 annuities except to the extent of exclusions in N.J.S.54A:6-10
43 hereunder, notwithstanding the provisions of N.J.S.18A:66-51,
44 P.L.1973, c.140, s.41 (C.43:6A-41), P.L.1954, c.84, s.53
45 (C.43:15A-53), P.L.1944, c.255, s.17 (C.43:16A-17), P.L.1965,
46 c.89, s.45 (C.53:5A-45), R.S.43:10-14, P.L.1943, c.160, s.22
47 (C.43:10-18.22), P.L.1948, c.310, s.22 (C.43:10-18.71), P.L.1954,

1 c.218, s.32 (C.43:13-22.34), P.L.1964, c.275, s.11 (C.43:13-22.60),
2 R.S.43:10-57, P.L.1938, c.330, s.13 (C.43:10-105), R.S.43:13-44,
3 and P.L.1943, c.189, s.5 (C.43:13-37.5).

4 k. Distributive share of partnership income, excluding the gain
5 or income derived from the sale or assignment of a tax credit
6 transfer certificate pursuant to section 7 of P.L.2011, c.149
7 (C.34:1B-248) **[and]**, section 10 of P.L.2014, c.63 (C.34:1B-251),
8 or the "New Jersey Economic Recovery Act of 2020," P.L.2020,
9 c.156 (C.34:1B-269 et al.), as amended and supplemented, from any
10 sale or assignment of a tax credit issued pursuant to an award of tax
11 credits approved by the New Jersey Economic Development
12 Authority **[prior to July 1, 2018]**, regardless of when such sale or
13 assignment occurs.

14 l. Amounts received as prizes and awards, except as provided
15 in N.J.S.54A:6-8 and N.J.S.54A:6-11 hereunder.

16 m. Rental value of a residence furnished by an employer or a
17 rental allowance paid by an employer to provide a home.

18 n. Alimony and separate maintenance payments to the extent
19 that such payments are required to be made under a decree of
20 divorce or separate maintenance but not including payments for
21 support of minor children.

22 o. Income, gain or profit derived from acts or omissions
23 defined as crimes or offenses under the laws of this State or any
24 other jurisdiction.

25 p. Net pro rata share of S corporation income, excluding the
26 gain or income derived from the sale or assignment of a tax credit
27 transfer certificate pursuant to section 7 of P.L.2011, c.149
28 (C.34:1B-248) **[and]**, section 10 P.L.2014, c.63 (C.34:1B-251), or
29 the "New Jersey Economic Recovery Act of 2020," P.L.2020, c.156
30 (C.34:1B-269 et al.), as amended and supplemented, from any sale
31 or assignment of a tax credit issued pursuant to an award of tax
32 credits approved by the New Jersey Economic Development
33 Authority **[prior to July 1, 2018]**, regardless of when such sale or
34 assignment occurs.

35 (cf: P.L.2018, c.131, s.8)

36
37 ¹16. Section 1 of P.L.1979, c.303 (C.34:1B-5.1) is amended to
38 read as follows:

39 1. a. The New Jersey Economic Development Authority shall
40 adopt rules and regulations requiring that not less than the prevailing
41 wage rate be paid to workers employed in the performance of any
42 construction contract, including contracts for millwork fabrication,
43 undertaken in connection with authority financial assistance or any of
44 its projects, those projects which it undertakes pursuant to P.L.2002,
45 c.43 (C.52:27BBB-1 et al.), or undertaken to fulfill any condition of
46 receiving authority financial assistance, including the performance of
47 any contract to construct, renovate or otherwise prepare a facility for

1 operations which are necessary for the receipt of authority financial
2 assistance, unless the work performed under the contract is performed
3 on a facility owned by a landlord of the entity receiving the assistance
4 and less than 35 percent of the facility is leased by the entity at the
5 time of the contract and under any agreement to subsequently lease the
6 facility. The prevailing wage rate shall be the rate determined by the
7 Commissioner of Labor and Workforce Development pursuant to the
8 provisions of P.L.1963, c.150 (C.34:11-56.25 et seq.). For the
9 purposes of this section, "authority financial assistance" means any
10 loan, loan guarantee, grant, incentive, tax exemption or other financial
11 assistance that is approved, funded, authorized, administered or
12 provided by the authority to any entity and is provided before, during
13 or after completion of a project, including but not limited to, all
14 authority financial assistance received by the entity pursuant to the
15 "Business Employment Incentive Program Act," P.L.1996, c.26
16 (C.34:1B-124 et al.) that enables the entity to engage in a construction
17 contract, but this section shall not be construed as requiring the
18 payment of the prevailing wage for construction commencing more
19 than two years after an entity has executed with the authority a
20 commitment letter regarding authority financial assistance and the first
21 payment or other provision of the assistance is received.

22 b. The New Jersey Economic Development Authority shall adopt
23 rules and regulations requiring that not less than the prevailing wage
24 rate be paid to workers employed in the performance of any contract,
25 for construction, demolition, remediation, removal of hazardous
26 substances, alteration, custom fabrication, repair work, or maintenance
27 work, including painting and decorating, or excavation, grading, pile
28 driving, concrete form, or other types of foundation work in
29 connection with the "New Jersey Community-Anchored Development
30 Act," sections 43 through 53 of P.L.2020, c.156 (C.34:1B-311 through
31 34:1B-321), the "New Jersey Aspire Program Act," sections 54
32 through 67 of P.L.2020, c.156 (C.34:1B-322 through C.34:1B-335),
33 and the "New Jersey Emerge Program Act," sections 68 through 81 of
34 P.L.2020, c.156 (C.34:1B-336 et al.). The requirements of this
35 subsection shall apply to any site preparation work performed 24
36 months prior to and during the incentive eligibility period of any
37 project receiving tax credits under the "New Jersey Community-
38 Anchored Development Act," sections 43 through 53 of P.L.2020,
39 c.156 (C.34:1B-311 through C.34:1B-321), the "New Jersey Aspire
40 Program Act," sections 54 through 67 of P.L.2020, c.156 (C.34:1B-
41 322 through C.34:1B-335), and the "New Jersey Emerge Program
42 Act," sections 68 through 81 of P.L.2020, c.156 (C.34:1B-336 et al.),
43 and to projects receiving financial assistance under the
44 "Redevelopment Project Bridge Financing Program," established
45 pursuant to section 11 of P.L. , c. (C.) (pending before the
46 Legislature as this bill), in which there is a continuity of ownership in
47 the site of the redevelopment project, including work undertaken to

1 fulfill any condition of receiving tax credits under the programs. Work
2 that is subject to the requirements of this subsection shall include the
3 performance of any contract for construction, demolition, remediation,
4 removal of hazardous substances, alteration, custom fabrication, repair
5 work, or maintenance work, including painting and decorating, or
6 excavation, grading, pile driving, concrete form, or other types of
7 foundation work undertaken on a facility for operations which are
8 necessary for the receipt of tax credits under the "New Jersey
9 Community-Anchored Development Act," sections 43 through 53 of
10 P.L.2020, c.156 (C.34:1B-311 through C.34:1B-321), the "New Jersey
11 Aspire Program Act," sections 54 through 67 of P.L.2020, c.156
12 (C.34:1B-322 through C.34:1B-335), and the "New Jersey Emerge
13 Program Act," sections 68 through 81 of P.L.2020, c.156 (C.34:1B-
14 336 et al.), or the receipt of financial assistance under the
15 "Redevelopment Project Bridge Financing Program," established
16 pursuant to section 11 of P.L. , c. (C.) (pending before the
17 Legislature as this bill), unless the work performed under the contract
18 is performed on a facility owned by a landlord of the entity receiving
19 the tax credit and less than 35 percent of the facility is leased by the
20 entity at the time of the contract and under any agreement to
21 subsequently lease the facility. The prevailing wage rate shall be the
22 rate determined by the Commissioner of Labor and Workforce
23 Development pursuant to the provisions of P.L.1963, c.150 (C.34:11-
24 56.25 et seq.), and all contractors and subcontractors subject to the
25 prevailing wage requirement set forth in this section shall be registered
26 with the Department of Labor and Workforce Development pursuant
27 to the provisions of section 5 of P.L.1999, c.238 (C.34:11-56.52). An
28 applicant for tax credits under the "New Jersey Community-Anchored
29 Development Act," sections 43 through 53 of P.L.2020, c.156
30 (C.34:1B-311 through C.34:1B-321), the "New Jersey Aspire Program
31 Act," sections 54 through 67 of P.L.2020, c.156 (C.34:1B-322 through
32 C.34:1B-335), and the "New Jersey Emerge Program Act," sections 68
33 through 81 of P.L.2020, c.156 (C.34:1B-336 et al.), shall certify under
34 penalty of perjury as part of its application that all construction
35 contracts undertaken on any project in connection with an award under
36 the programs comply with the prevailing wage requirements of this
37 subsection. If at any time the authority determines that the developer
38 made a material misrepresentation regarding compliance with the
39 provisions of this subsection on the developer's application, the
40 developer shall forfeit 35 percent of the tax credits allowed under the
41 programs, and pay to the affected workers back wages in an amount
42 that compensates the workers at the prevailing wage rate for the work
43 performed.¹

44 (cf: P.L.2020, c.156, s.112)

45
46 ¹**[16.] 17.**¹This act shall take effect immediately.

[Second Reprint]
ASSEMBLY, No. 2076

STATE OF NEW JERSEY
221st LEGISLATURE

PRE-FILED FOR INTRODUCTION IN THE 2024 SESSION

Sponsored by:

Assemblywoman ELIANA PINTOR MARIN

District 29 (Essex and Hudson)

Assemblywoman ELLEN J. PARK

District 37 (Bergen)

Assemblyman BENJIE E. WIMBERLY

District 35 (Bergen and Passaic)

Co-Sponsored by:

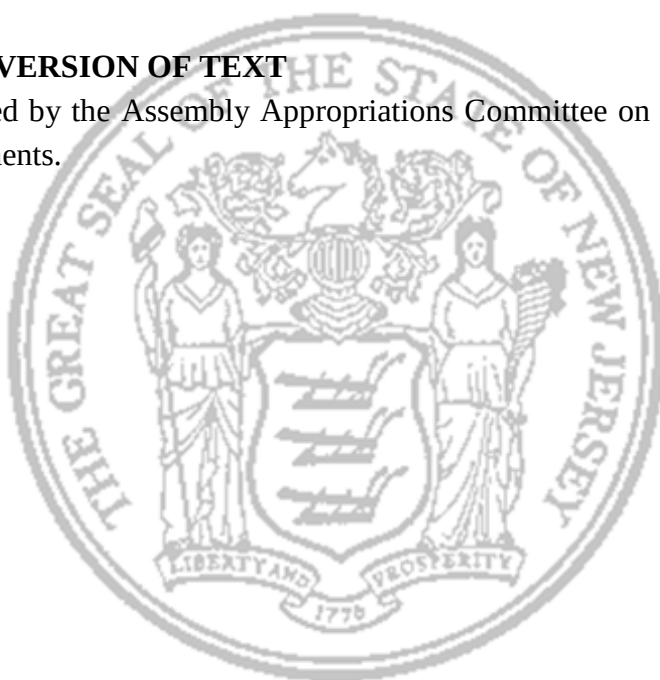
Assemblywoman Reynolds-Jackson

SYNOPSIS

Revises various requirements of New Jersey Aspire Program and establishes Redevelopment Project Bridge Financing Program.

CURRENT VERSION OF TEXT

As reported by the Assembly Appropriations Committee on June 24, 2024, with amendments.



(Sponsorship Updated As Of: 6/25/2024)

1 **AN ACT** concerning the New Jersey Aspire Program, amending
2 various parts of the statutory law, and supplementing P.L.2020,
3 c.156.

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

7
8 1. Section 55 of P.L.2020, c.156 (C.34:1B-323) is amended to
9 read as follows:

10 55. As used in sections 54 through 67 of P.L.2020, c.156
11 (C.34:1B-322 through 34:1B-335):

12 "Agency" means the New Jersey Housing and Mortgage Finance
13 Agency established pursuant to P.L.1983, c.530 (C.55:14K-1 et
14 seq.).

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

17 "Aviation district" means all areas within the boundaries of the
18 Atlantic City International Airport, established pursuant to section
19 24 of P.L.1991, c.252 (C.27:25A-24), and the Federal Aviation
20 Administration William J. Hughes Technical Center and the area
21 within a one-mile radius of the outermost boundary of the Atlantic
22 City International Airport and the Federal Aviation Administration
23 William J. Hughes Technical Center ², and the Trenton-Mercer
24 Airport, established pursuant to R.S.40:8-2 and the area within a
25 one-mile radius of the outermost boundary of the terminal located at
26 1100 Terminal Circle Drive, Ewing Township².

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

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

40 "Cash flow" means the profit or loss that an investment property
41 earns from rent, deposits, and other fees after financial obligations,
42 such as debt, maintenance, government payments, and other
43 expenses, have been paid.

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 ACE committee amendments adopted May 13, 2024.

²Assembly AAP committee amendments adopted June 24, 2024.

1 "Collaborative workspace" means coworking, accelerator,
2 incubator, or other shared working environments that promote
3 collaboration, interaction, socialization, and coordination among
4 tenants through the clustering of multiple businesses or individuals.
5 For this purpose, the collaborative workspace shall be the greater
6 of: 2,500 of dedicated square feet or 10 percent of the total property
7 on which the redevelopment project is situated. The collaborative
8 workspace shall include a community manager, be focused on
9 collaboration among the community members, and include
10 regularly scheduled education events for the community members.
11 The collaborative workspace shall also include a physical open
12 space that supports the engagement of its community members.

13 "Commercial project" means a redevelopment project, which is
14 predominantly commercial and, if located in a government-
15 restricted municipality, contains 25,000 or more square feet, or if
16 located in any other municipality, contains 50,000 or more square
17 feet of office and retail space, industrial space ²[including ¹, but not
18 limited to, any industrial¹ space ¹that is¹ predominantly used for
19 warehouse distribution or fulfillment centers ¹and has at least \$10
20 million in environmental remediation costs¹]², or film studios,
21 professional stages, television studios, recording studios, screening
22 rooms, or other infrastructure for film production, and may include
23 a parking component. The term "commercial project" includes a
24 redevelopment project comprised solely of a health care or health
25 services center, which contains not less than 10,000 square feet
26 devoted to health care or health services, and which may include a
27 parking component.

28 "Developer" means a person who enters or proposes to enter into
29 an incentive award agreement pursuant to the provisions of section
30 60 of P.L.2020, c.156 (C.34:1B-328), including, but not limited, to
31 a lender that completes a redevelopment project, operates a
32 redevelopment project, or completes and operates a redevelopment
33 project.

34 "Director" means the Director of the Division of Taxation in the
35 Department of the Treasury.

36 "Distressed municipality" means a municipality that is qualified
37 to receive assistance under P.L.1978, c.14 (C.52:27D-178 et seq.), a
38 municipality under the supervision of the Local Finance Board
39 pursuant to the provisions of the "Local Government Supervision
40 Act (1947)," P.L.1947, c.151 (C.52:27BB-1 et seq.), a municipality
41 identified by the Director of the Division of Local Government
42 Services in the Department of Community Affairs to be facing
43 serious fiscal distress, a SDA municipality, or a municipality in
44 which a major rail station is located.

45 "Economic development incentive" means a financial incentive,
46 awarded by the authority, or agreed to between the authority and a
47 business or person, for the purpose of stimulating economic

1 development or redevelopment in New Jersey, including, but not
2 limited to, a bond, grant, loan, loan guarantee, matching fund, tax
3 credit, or other tax expenditure.

4 "Eligibility period" means the period not to exceed 15 years for a
5 commercial or mixed-use project or the period not to exceed 10
6 years for a residential project specified in an incentive award
7 agreement during which a developer may claim a tax credit under
8 the program, as such period shall be determined by the authority
9 pursuant to subsection b. of section 60 of P.L.2020, c.156 (C.34:1B-
10 328).

11 "Enhanced area" means (1) a municipality that contains an urban
12 transit hub, as defined in section 2 of P.L.2007, c.346 (C.34:1B-
13 208); (2) the five municipalities with the highest poverty rates
14 according to the 2017 Municipal Revitalization Index; and (3) the
15 three municipalities with the highest percentage of SNAP recipients
16 according to the 2017 Municipal Revitalization Index.

17 "Environmental remediation costs" means any costs incurred by
18 a developer in the completion of any actions necessary to
19 investigate, clean up, or respond to a known, suspected, or
20 threatened discharge of contaminants, including, as necessary, the
21 preliminary assessment, site investigation, remedial investigation,
22 and remedial action, pursuant to sections 23 through 43 and section
23 45 of P.L.1993, c.139 (C.58:10B-1 et seq.).

24 "Food delivery source" means access to nutritious foods, such as
25 fresh fruits and vegetables, through grocery operators, including,
26 but not limited to a full-service supermarket or grocery store, and
27 other healthy food retailers of at least 16,000 square feet, including,
28 but not limited to, a prepared food establishment selling primarily
29 nutritious ready-to-serve meals.

30 "Food desert community" means a physically contiguous area in
31 the State in which residents have limited access to nutritious foods,
32 such as fresh fruits and vegetables, and that has been designated as
33 a food desert community pursuant to subsection b. of section 38 of
34 P.L.2020, c.156 (C.34:1B-306).

35 "Government-restricted municipality" means a municipality in
36 this State with a municipal revitalization index distress score of at
37 least 75, that met the criteria for designation as an urban aid
38 municipality in the 2019 State fiscal year, and that, on the effective
39 date of P.L.2020, c.156 (C.34:1B-269 et al.), is subject to financial
40 restrictions imposed pursuant to the "Municipal Stabilization and
41 Recovery Act," P.L.2016, c.4 (C.52:27BBBB-1 et seq.), or is
42 restricted in its ability to levy property taxes on property in that
43 municipality as a result of the State of New Jersey owning or
44 controlling property representing at least 25 percent of the total land
45 area of the municipality or as a result of the federal government of
46 the United States owning or controlling at least 50 acres of the total

1 land area of the municipality, which is dedicated as a national
2 natural landmark.

3 "Health care or health services center" means an establishment
4 that consists of not less than 10,000 square feet devoted to health
5 care or health services, where patients are admitted for or seek
6 examination and treatment by one or more physicians, dentists,
7 psychologists, or other medical practitioners, and which is located
8 in a municipality with a Municipal Revitalization Index distress
9 score of at least 50, a distressed municipality, or a qualified
10 incentive tract.

11 "Hospitality establishment" means a hotel, motel, or any
12 business, however organized, that sells food, beverages, or both for
13 consumption by patrons on the premises.

14 "Incentive area" means an aviation district; a port district; an
15 area designated pursuant to the "State Planning Act," P.L.1985,
16 c.398 (C.52:18A-196 et seq.), as Planning Area 1 (Metropolitan),
17 Planning Area 2 (Suburban), **【or】** a Designated Center, **【provided**
18 an area designated as Planning Area 2 (Suburban) or a Designated
19 Center shall be located within a one-half mile radius of the mid-
20 point, with bicycle and pedestrian connectivity, of a New Jersey
21 Transit Corporation, Port Authority Transit Corporation, or Port
22 Authority Trans-Hudson Corporation rail, bus, or ferry station,
23 including all light rail stations, or a high-frequency bus stop as
24 certified by the New Jersey Transit Corporation**】** or an Endorsed
25 Plan; an area designated as a brownfield site pursuant to the
26 "Brownfield and Contaminated Site Remediation Act," sections 23
27 through 43 and section 45 of P.L.1993, c.139 (C.58:10B-1 et seq.);
28 and an area of not less than 100 acres for which a licensed site
29 remediation professional has certified environmental remediation
30 costs, as defined in this section and in accordance with the "Site
31 Remediation Reform Act," sections 1 through 29 of P.L.2009, c.60
32 (C.58:10C-1 et seq.), in an amount not less than \$10,000,000,
33 provided that any portion of such area is located in an area that
34 otherwise qualifies as an incentive area.

35 "Incentive award" means an award of tax credits to reimburse a
36 developer for all or a portion of the project financing gap of a
37 redevelopment project pursuant to the provisions of sections 54
38 through 67 of P.L.2020, c.156 (C.34:1B-322 through 34:1B-335).

39 "Incentive award agreement" means the contract executed
40 between a developer and the authority pursuant to section 60 of
41 P.L.2020, c.156 (C.34:1B-328), which sets forth the terms and
42 conditions under which the developer may receive the incentive
43 awards authorized pursuant to the provisions of sections 54 through
44 67 of P.L.2020, c.156 (C.34:1B-322 through 34:1B-335).

45 "Incubator facility" means a commercial property, which
46 contains 5,000 or more square feet of office, laboratory, or
47 industrial space, which is located near, and presents opportunities

1 for collaboration with, a research institution, teaching hospital,
2 college, or university, and within which at least 75 percent of the
3 gross leasable area is restricted for use by one or more technology
4 startup companies.

5 "Individuals with special needs" means individuals with mental
6 illness, individuals with physical or developmental disabilities, and
7 individuals in other emerging special needs groups identified by the
8 authority, based on guidelines established for the administration of
9 the Special Needs Housing Trust Fund established pursuant to
10 section 1 of P.L.2005, c.163 (C.34:1B-21.25a) or developed in
11 consultation with other State agencies.

12 "Labor harmony agreement" means an agreement between a
13 business that serves as the owner or operator of a retail
14 establishment, hospitality establishment, or distribution center and
15 one or more labor organizations, which requires, for the duration of
16 the agreement: that any participating labor organization and its
17 members agree to refrain from picketing, work stoppages, boycotts,
18 or other economic interference against the business; and that the
19 business agrees to maintain a neutral posture with respect to efforts
20 of any participating labor organization to represent employees at an
21 establishment or other unit in the retail establishment, hospitality
22 establishment, or distribution center, agrees to permit the labor
23 organization to have access to the employees, and agrees to
24 guarantee to the labor organization the right to obtain recognition as
25 the exclusive collective bargaining representatives of the employees
26 in an establishment or unit at the retail establishment, hospitality
27 establishment, or distribution center by demonstrating to the New
28 Jersey State Board of Mediation, Division of Private Employment
29 Dispute Settlement, or a mutually agreed-upon, neutral, third party
30 that a majority of workers in the unit have shown their preference
31 for the labor organization to be their representative by signing
32 authorization cards indicating that preference. The labor
33 organization or organizations shall be from a list of labor
34 organizations which have requested to be on the list and which the
35 Commissioner of Labor and Workforce Development has
36 determined represent substantial numbers of retail establishment,
37 hospitality establishment, or distribution center employees in the
38 State.

39 "Low-income housing" means housing affordable according to
40 federal Department of Housing and Urban Development or other
41 recognized standards for home ownership and rental costs and
42 occupied or reserved for occupancy by households with a gross
43 household income equal to 50 percent or less of the median gross
44 household income for households of the same size within the
45 housing region in which the housing is located.

46 "Major cultural institution" means a public or nonprofit
47 institution, not including an institution of higher education, within

1 this State that engages in the cultural, intellectual, scientific,
2 environmental, educational, or artistic enrichment of the people of
3 this State, and which institution is designated by the board as a
4 major cultural institution.

5 "Major rail station" means a railroad station that is located within
6 a qualified incentive area and that provides to the public access to a
7 minimum of six rail passenger service lines operated by the New
8 Jersey Transit Corporation.

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

16 "Mixed-use project" means a redevelopment project that includes
17 both a residential component and a nonresidential component.

18 "Moderate-income housing" means housing affordable according
19 to federal Department of Housing and Urban Development or other
20 recognized standards for home ownership and rental costs and
21 occupied or reserved for occupancy by households with a gross
22 household income equal to more than 50 percent, but less than 80
23 percent, of the median gross household income for households of
24 the same size within the housing region in which the housing is
25 located.

26 "Municipal Revitalization Index" means the index by the
27 Department of Community Affairs ranking New Jersey's
28 municipalities according to eight separate indicators that measure
29 diverse aspects of social, economic, physical, and fiscal conditions
30 in each locality.

31 "Port district" means the portions of a qualified incentive area
32 that are located within:

33 a. the "Port of New York District" of the Port Authority of
34 New York and New Jersey, as defined in Article II of the Compact
35 Between the States of New York and New Jersey of 1921; or

36 b. a 15-mile radius of the outermost boundary of each marine
37 terminal facility established, acquired, constructed, rehabilitated, or
38 improved by the South Jersey Port District established pursuant to
39 "The South Jersey Port Corporation Act," P.L.1968, c.60
40 (C.12:11A-1 et seq.).

41 "Program" means the New Jersey Aspire Program established by
42 section 56 of P.L.2020, c.156 (C.34:1B-324).

43 "Project cost" or " ²**total** eligible ² project cost" means the costs
44 incurred in connection with a redevelopment project by a developer
45 until the issuance of a permanent certificate of occupancy, or until
46 such other time specified by the authority, for a specific investment
47 or improvement, including the costs relating to lands, except the

1 cost of acquiring such lands, buildings, improvements, real or
2 personal property, or any interest therein, including leases
3 discounted to present value, including lands under water, riparian
4 rights, space rights, and air rights acquired, owned, developed or
5 redeveloped, constructed, reconstructed, rehabilitated, or improved,
6 any environmental remediation costs, plus costs not directly related
7 to construction, including capitalized interest paid to third parties,
8 of an amount not to exceed 20 percent of the total costs and the cost
9 of infrastructure improvements, including ancillary infrastructure
10 projects. When 100 percent of the residential units constructed in a
11 residential project are reserved for occupancy by low- and
12 moderate-income households, the term "project cost" shall also
13 include the developer fees paid before acquiring permanent
14 financing, as well as the deferred developer fees approved pursuant
15 to the rules established by the agency. In addition to the foregoing,
16 the term "project cost" shall include the following costs when
17 incurred by a developer for a redevelopment project located in a
18 government restricted municipality: any development,
19 redevelopment, and relocation costs, including, but not limited to,
20 land ²[and] costs, which land costs shall be capped at no more than
21 20 percent of the total project cost;² building acquisition costs;
22 ²carrying costs and interest expenses on construction loans and
23 other financing up to project completion;² any soft costs, including
24 engineering, legal, accounting, and other professional services
25 required for the completion of the project; any environmental
26 remediation costs; and any infrastructure improvement for the
27 project area, including, but not limited to, costs of on- and off-site
28 utility, road, pier, wharf, bulkhead, or sidewalk construction or
29 repair. The fees associated with the application or administration of
30 a grant under sections 54 through 67 of P.L.2020, c.156 (C.34:1B-
31 322 through 34:1B-335) shall not constitute a project cost,
32 regardless of the location of the redevelopment project.

33 "Project financing gap" means the part of the total project cost,
34 including reasonable and appropriate return on investment, that
35 remains to be financed after all other sources of capital have been
36 accounted for, including, but not limited to developer contributed
37 capital, which shall not be less than 20 percent of the ²[total]²
38 project cost, and investor or financial entity capital or loans for
39 which the developer, after making all good faith efforts to raise
40 additional capital, certifies that additional capital cannot be raised
41 from other sources on a non-recourse basis; provided, however, that
42 for a redevelopment project located in a government-restricted
43 municipality, the developer contributed capital shall not be less than
44 10 percent of the ²[total]² project cost. Developer contributed
45 capital may consist of cash, deferred development fees, costs for
46 project feasibility incurred within the 12 months prior to
47 application, property value less any mortgages when the developer

1 owns the project site, and any other investment by the developer in
2 the project deemed acceptable by the authority, as provided by
3 regulations promulgated by the authority. Property value shall be
4 valued at the lesser of: (i) the purchase price, provided the property
5 was purchased pursuant to an arm's length transaction within 12
6 months of application; or (ii) the value as determined by a current
7 appraisal.

8 "Project labor agreement" means a form of pre-hire collective
9 bargaining agreement covering terms and conditions of a specific
10 project that satisfies the requirements set forth in section 5 of
11 P.L.2002, c.44 (C.52:38-5).

12 "Qualified incentive tract" means (i) a population census tract
13 having a poverty rate of 20 percent or more; or (ii) a census tract in
14 which the median family income for the census tract does not
15 exceed 80 percent of the greater of the Statewide median family
16 income or the median family income of the metropolitan statistical
17 area in which the census tract is situated.

18 "Quality childcare facility" is a child care center licensed by the
19 Department of Children and Families or a registered family child
20 care home with the Department of Human Services, operating
21 continuously, which has not been subject to an enforcement action,
22 and which has and maintains a licensed capacity for children age 13
23 years or younger who attend for less than 24 hours a day.

24 "Reasonable and appropriate return on investment" means the
25 discount rate at which the present value of the future cash flows of
26 an investment equals the cost of the investment. In determining the
27 "reasonable and appropriate return on investment," an investment
28 shall not include any federal, State, or local tax credits. For a
29 residential project that utilizes federal low-income housing tax
30 credits awarded by the agency, the "reasonable and appropriate
31 return on investment" shall be based on the approval of deferred
32 developer fees pursuant to the rules established by the agency. In
33 the event that a residential project, which utilizes federal low-
34 income housing tax credits awarded by the agency, generates
35 returns on equity other than federal or local grants or proceeds from
36 the sale of federal or local tax credits, the "reasonable and
37 appropriate return on investment" shall be based on both the
38 discount rate at which the present value of the future cash flows of
39 an investment equal the cost of the investment for the entire project,
40 and when evaluating only the units financed with federal low-
41 income housing tax credits awarded by the agency, the approval of
42 deferred developer fees pursuant to the rules established by the
43 agency.

44 "Redevelopment project" means a specific construction project
45 or improvement or phase of a project or improvement undertaken
46 by a developer, owner or tenant, or both, and any ancillary
47 infrastructure project. A redevelopment project may involve

1 construction or improvement upon lands, buildings, improvements,
2 or real and personal property, or any interest therein, including
3 lands under water, riparian rights, space rights, and air rights,
4 acquired, owned, developed or redeveloped, constructed,
5 reconstructed, rehabilitated, or improved.

6 "Residential project" means a redevelopment project that is
7 predominantly residential, intended for multi-family residency, and
8 may include a parking component.

9 "SDA district" means an SDA district as defined in section 3 of
10 P.L.2000, c.72 (C.18A:7G-3).

11 "SDA municipality" means a municipality in which an SDA
12 district is situated.

13 ²"Special mission non-profit project" means a project located in
14 a government-restricted municipality or in an enhanced area that:
15 serves a special mission, as determined by the authority, to
16 accomplish the public purpose of a non-profit that is a developer of
17 or is affiliated with the project; and includes no more than 100 units
18 of 100 percent affordable housing units and no more than 10,000
19 square feet of commercial space.²

20 "Stranded asset" means any building previously used for
21 commercial, retail, office space, manufacturing, or industrial
22 purposes, which building is no longer used for such purposes, and
23 which has been abandoned, experienced significant vacancies for at
24 least two consecutive years, or has fallen into such disrepair as to be
25 untenantable. ²"Stranded asset" includes vacant land that has been
26 left fallow for at least two consecutive years because of
27 environmental contamination.

28 "Targeted industry" means any industry identified from time to
29 time by the authority, which industry shall initially include
30 advanced transportation and logistics, advanced manufacturing,
31 aviation, autonomous vehicle and zero-emission vehicle research or
32 development, clean energy, life sciences, hemp processing,
33 information and high technology, finance and insurance,
34 professional services, film and digital media, non-retail food and
35 beverage businesses including food innovation, and other
36 innovative industries that disrupt current technologies or business
37 models.²

38 "Technology startup company" means a for-profit business that
39 has been in operation fewer than seven years at the time that it
40 initially occupies or expands in a qualified business facility and is
41 developing or possesses a proprietary technology or business
42 method of a high technology or life science-related product,
43 process, or service, which proprietary technology or business
44 method the business intends to move to commercialization. The
45 business shall be deemed to have begun operation on the date that
46 the business first hired at least one employee in a full-time position.

1 "Total **【project】** ²**【development】** project² cost" ²**【or "total**
 2 **redevelopment cost"】**² means the costs incurred in connection with
 3 the redevelopment project by the developer until the issuance of a
 4 permanent certificate of occupancy, or upon such other event
 5 evidencing project completion as set forth in the incentive grant
 6 agreement, for a specific investment or improvement.

7 "Tourism destination project" means a non-gaming business
 8 facility that will be among the most visited privately owned or
 9 operated tourism or recreation sites in the State, and which has been
 10 determined by the authority to be in an area appropriate for
 11 development and in need of economic development incentive
 12 assistance, including a non-gaming business within an established
 13 Tourism District with a significant impact on the economic viability
 14 of that district.

15 "Transit hub" means an urban transit hub, as defined in section 2
 16 of P.L.2007, c.346 (C.34:1B-208), that is located within an eligible
 17 municipality, as defined in section 2 of P.L.2007, c.346 (C.34:1B-
 18 208) and is located within a qualified incentive area.

19 "Transit hub municipality" means a Transit Village or a
 20 municipality: a. which qualifies for State aid pursuant to P.L.1978,
 21 c.14 (C.52:27D-178 et seq.), or which has continued to be a
 22 qualified municipality thereunder pursuant to P.L.2007, c.111; and
 23 b. in which 30 percent or more of the value of real property was
 24 exempt from local property taxation during tax year 2006. The
 25 percentage of exempt property shall be calculated by dividing the
 26 total exempt value by the sum of the net valuation which is taxable
 27 and that which is tax exempt.

28 "Transit Village" means a municipality that has been designated
 29 as a transit village by the Commissioner of Transportation and the
 30 Transit Village Task Force ²**【established pursuant to P.L.1985,**
 31 **c.398 (C.27:1A-5)】**².

32 (cf: P.L.2023, c.98, s.1)

33

34 2. Section 56 of P.L.2020, c.156 (C.34:1B-324) is amended to
 35 read as follows:

36 56. a. (1) The New Jersey Aspire Program is hereby established
 37 as a program under the jurisdiction of the New Jersey Economic
 38 Development Authority. The authority shall administer the
 39 program to encourage redevelopment projects through the provision
 40 of incentive awards to reimburse developers for certain project
 41 financing gap costs. The board may approve the award of an
 42 incentive award to a developer upon application to the authority
 43 pursuant to sections 58 and 59 of P.L.2020, c.156 (C.34:1B-326 and
 44 C.34:1B-327). The value of all tax credits approved by the
 45 authority pursuant to sections 54 through 67 of P.L.2020, c.156
 46 (C.34:1B-322 through 34:1B-335) shall be subject to the limitations
 47 set forth in section 98 of P.L.2020, c.156 (C.34:1B-362).

(2) The authority, in consultation with the agency, shall adopt rules and regulations, pursuant to subsection b. of section 67 of P.L.2020, c.156 (C.34:1B-335), concerning the establishment and administration of the affordability controls that shall apply to the residential units constructed for occupancy by low- and moderate-income households under the program, including, but not limited to, residential units within residential projects that utilize federal low-income housing tax credits awarded by the agency. Notwithstanding any provision of law or regulation to the contrary, the affordability controls shall, at a minimum, be consistent with the affordability controls established in the rules and regulations adopted pursuant to the "Fair Housing Act," P.L.1985, c.222 (C.52:27D-301 et al.), as in effect immediately prior to the effective date of P.L.2023, c.98 (C.34:1B-335.1 et al.), including, but not limited to, any requirements concerning the **【bedroom distributions,】** affordability averages, affirmative marketing, and long-term deed restrictions of residential units constructed for occupancy by low- and moderate-income households, except not including the bedroom distribution requirements for three-bedroom housing units.

b. The chief executive officer of the authority shall designate one staff member per government-restricted municipality in order to keep the municipality informed on activities within the municipality and to coordinate economic development initiatives.
(cf: P.L.2023, c.98, s.2)

3. Section 57 of P.L.2020, c.156 (C.34:1B-325) is amended to read as follows:

57. a. Prior to March 1, 2029, a developer shall be eligible to receive an incentive award for a redevelopment project only if the developer demonstrates to the authority at the time of application that:

(1) without the incentive award, the redevelopment project is not economically feasible;

(2) a project financing gap exists, or the authority determines that the redevelopment project will generate a below market rate of return;

(3) the redevelopment project, except a film studio, professional stage, television studio, recording studio, screening room, or other infrastructure used for film production, is located in the incentive area;

(4) ¹(a)¹ except for demolition and site remediation activities, the developer has not commenced any construction at the site of the redevelopment project prior to submitting an application, unless the authority determines that the redevelopment project would not be completed otherwise or, in the event the redevelopment project is to

1 be undertaken in phases, the requested incentive award is limited to
2 only phases for which construction has not yet commenced;

3 ¹(b) if the developer has commenced demolition and site
4 remediation activities at the site of the redevelopment project prior
5 to submitting an application ²that includes those demolition and site
6 remediation costs as part of the eligible project cost² , all
7 construction workers employed to undertake demolition and site
8 remediation activities at the site were paid not less than the
9 prevailing wage rate for the worker's craft or trade, as determined
10 by the Commissioner of Labor and Workforce Development
11 pursuant to P.L.1963, c.150 (C.34:11-56.25 et seq.) and P.L.2005,
12 c.379 (C.34:11-56.58 et seq.);¹

13 (5) the redevelopment project shall comply with minimum
14 environmental and sustainability standards;

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

18 (7) (a) during the eligibility period, each worker employed to
19 perform construction work at the redevelopment project shall be
20 paid not less than the prevailing wage rate for the worker's craft or
21 trade, as determined by the Commissioner of Labor and Workforce
22 Development pursuant to P.L.1963, c.150 (C.34:11-56.25 et seq.)
23 and P.L.2005, c.379 (C.34:11-56.58 et seq.);

24 (b) during the eligibility period, each worker employed to
25 perform building services work at the redevelopment project,
26 whether pursuant to contract by the developer or a commercial
27 tenant, commercial subtenant, or other commercial occupant, shall
28 be paid not less than the prevailing wage rate for the worker's craft
29 or trade, as determined by the Commissioner of Labor and
30 Workforce Development pursuant to P.L.1963, c.150 (C.34:11-
31 56.25 et seq.) and P.L.2005, c.379 (C.34:11-56.58 et seq.), except
32 that this requirement shall not apply to workers employed to
33 perform building services work by **[a]** any residential tenant or any
34 commercial tenant, commercial subtenant, or other commercial
35 occupant that has a leasehold interest or other occupancy right in a
36 redevelopment project, which leasehold interest or other occupancy
37 right encompasses less than 5,000 square feet of space within the
38 project. The developer shall include in all commercial leases or
39 other commercial occupancy agreements, and shall require that all
40 subleases or other commercial occupancy agreements applicable to
41 the redevelopment project include, a provision setting forth the
42 requirements of this subparagraph, which provision shall be in a
43 form acceptable to the authority. Notwithstanding any provisions
44 of law to the contrary, if a commercial tenant, commercial
45 subtenant, or other commercial occupant violates this provision due
46 to the underpayment of the required prevailing wage rate, then the
47 issuance of tax credits to the developer and any co-applicant shall

1 be delayed until such time as documentation demonstrating
2 compliance has been provided to the Commissioner of Labor and
3 Workforce Development, subsequently reviewed and approved by
4 the Commissioner of Labor and Workforce Development, and
5 verified by the authority, which reviews and verification shall be
6 completed. If a violation is not cured, or is not capable of being
7 cured, within one year of receipt of notice of the violation, then the
8 developer and any co-applicant shall forfeit 50 percent of the tax
9 credits otherwise authorized for the tax period in which the notice
10 of violation was issued. If the violation is not cured on or before
11 the conclusion of that tax period, the developer and any co-
12 applicant shall forfeit up to 100 percent of the tax credits otherwise
13 authorized, as determined by the authority, in each subsequent tax
14 period until the first tax period for which documentation
15 demonstrating compliance has been provided to the Commissioner
16 of Labor and Workforce Development, subsequently reviewed and
17 approved by the Commissioner of Labor and Workforce
18 Development, and verified by the authority, which reviews and
19 verifications shall be completed. In this event, the developer and
20 any co-applicant shall be allowed the full tax credit amount
21 beginning in the tax period in which documentation of compliance
22 was reviewed and approved by the Commissioner of Labor and
23 Workforce Development and verified by the authority, including
24 each subsequent tax period in which the tax credits are otherwise
25 authorized;

26 (c) in the event a redevelopment project, or any portion thereof,
27 is undertaken by a tenant pursuant to a contract and the tenant has a
28 leasehold of more than 55 percent of space in the building owned or
29 controlled by the developer, the requirement that each worker
30 employed to perform building service work at the building be paid
31 not less than the prevailing wage shall apply to the entire building,
32 except as otherwise provided in subparagraph (b) of this paragraph
33 for all residential tenants and all commercial tenants, commercial
34 subtenants, or other commercial occupants with a leasehold interest
35 or other occupancy right encompassing less than 5,000 square feet;

36 (8) (a) the redevelopment project shall be completed, and the
37 developer shall be issued a certificate of occupancy for the
38 redevelopment project facilities by the applicable enforcing agency,
39 within four years of executing the incentive award agreement, or in
40 the case of a redevelopment project with a ²total² project cost in
41 excess of \$50,000,000, the incentive phase agreement
42 corresponding to the redevelopment project; or

43 (b) in the discretion of the authority, a redevelopment project
44 with a ²total² project cost in excess of \$50,000,000, and that is
45 authorized to be completed in phases, may be allowed no more than
46 six years from the date on which the incentive award agreement is

1 executed to be issued a certificate of occupancy by the applicable
2 enforcement agency;

3 (9) the developer has complied with all requirements for filing
4 tax and information returns and for paying or remitting required
5 State taxes and fees by submitting, as a part of the application, a tax
6 clearance certificate, as described in section 1 of P.L.2007, c.101
7 (C.54:50-39); and

8 (10) the developer is not more than 24 months in arrears at the
9 time of application.

10 b. In addition to the requirements set forth in subsection a. of
11 this section, for a commercial project to qualify for an incentive
12 award the developer shall demonstrate that the developer shall
13 contribute capital of at least 20 percent of the ²**[total]**² project cost,
14 except that if a redevelopment project is located in a government-
15 restricted municipality, the developer shall contribute capital of at
16 least 10 percent of the ²**[total]**² project cost.

17 c. In addition to the requirements set forth in subsection a. of
18 this section, for a residential project or a commercial project
19 comprised solely of a health care or health service center to qualify
20 for an incentive award, the residential project or health care or
21 health service center shall:

22 (1) have a total project cost of at least \$17,500,000, if the project
23 is located in a municipality with a population greater than 200,000
24 according to the latest federal decennial census;

25 (2) have a total project cost of at least \$10,000,000 if the project
26 is located in a municipality with a population less than 200,000
27 according to the latest federal decennial census; or

28 (3) have a total project cost of at least \$5,000,000 if the project is
29 in a qualified incentive tract or government-restricted municipality.

30 d. In addition to the requirements set forth in subsections a. and
31 c. of this section, for a residential project consisting of newly-
32 constructed residential units to qualify for an incentive award, the
33 developer shall reserve at least 20 percent of the residential units
34 constructed for occupancy by low- and moderate-income
35 households with affordability controls as adopted by the authority,
36 in consultation with the agency, in accordance with paragraph (2) of
37 subsection a. of section 56 of P.L.2020, c.156 (C.34:1B-324),
38 except that a residential project receiving a federal historic
39 rehabilitation tax credit pursuant to section 47 of the federal
40 Internal Revenue Code of 1986, 26 U.S.C. s.47, or a tax credit
41 pursuant to the "Historic Property Reinvestment Act," sections 2
42 through 8 of P.L.2020, c.156 (C.34:1B-270 through 34:1B-276),
43 shall be exempt from the affordability controls related to bedroom
44 distribution.

45 e. Prior to the board considering an application submitted by a
46 developer, the authority shall confirm with the Department of Labor
47 and Workforce Development, the Department of Environmental

1 Protection, and the Department of the Treasury whether the
2 developer is in substantial good standing with the respective
3 department, or has entered into an agreement with the respective
4 department that includes a practical corrective action plan for the
5 developer. The developer shall certify that any contractors or
6 subcontractors that will perform work at the redevelopment project:
7 (1) are registered as required by "The Public Works Contractor
8 Registration Act," P.L.1999, c.238 (C.34:11-56.48 et seq.); (2) have
9 not been debarred by the Department of Labor and Workforce
10 Development from engaging in or bidding on Public Works
11 Contracts in the State; and (3) possess a tax clearance certificate
12 issued by the Division of Taxation in the Department of the
13 Treasury. The authority may also contract with an independent
14 third party to perform a background check on the developer.

15 f. Beginning ²on after² the third year following the date of
16 issuance of a final certificate of occupancy for a commercial
17 project, and through the conclusion of the eligibility period, if the
18 average occupancy rate of the commercial project is less than 60
19 percent during any applicable tax period, the developer and co-
20 applicant shall forfeit all credits otherwise allowed for the tax
21 period and for each subsequent tax period until the authority
22 verifies documentation, submitted by the developer or co-applicant,
23 demonstrating that the average occupancy rate has reached or
24 surpassed 60 percent for the tax period. The full amount of credit
25 shall be allowed to a developer and any co-applicant for the tax
26 period in which the average occupancy rate reaches or surpasses 60
27 percent. Occupancy for the tax period shall be determined by the
28 average of the monthly occupancy for the applicable tax period.
29 The occupancy requirement in this subsection shall not apply to
30 residential projects.

31 (cf: P.L.2023, c.98, s.3)

32
33 4. Section 60 of P.L.2020, c.156 (C.34:1B-328) is amended to
34 read as follows:

35 60. a. (1) Following approval and selection of an application
36 pursuant to sections 58 and 59 of P.L.2020, c.156 (C.34:1B-326 and
37 C.34:1B-327), the authority shall enter into an incentive award
38 agreement with the developer. The chief executive officer of the
39 authority shall negotiate the terms and conditions of the incentive
40 award agreement on behalf of the State.

41 (2) For a phased project, the incentive phase agreement shall set
42 forth, for each phase of the project and for the total project, the
43 capital investment requirements and the time periods in which each
44 phase of the project shall be commenced and completed. The
45 awarding of tax credits shall be conditioned on the developer's
46 compliance with the requirements of the agreement. A
47 redevelopment project may be completed in phases in accordance

1 with rules adopted by the authority if the redevelopment project has
2 a total project cost in excess of \$50,000,000.

3 b. An incentive award agreement shall specify the amount of
4 the incentive award the authority shall award to the developer and
5 the duration of the eligibility period. The duration of the eligibility
6 period ~~shall not exceed 15 years for a commercial or mixed-use~~
7 ~~project and~~ shall not exceed 10 years for a commercial project,
8 mixed-use project, or residential project, except that ~~to~~ the
9 authority shall ²~~consider reducing~~ reduce ² the eligibility period if
10 a shorter period would reduce the total value of tax credits needed
11 to reimburse a developer for all or part of the project financing gap
12 of a redevelopment project, ~~the authority may, in its discretion,~~
13 ~~approve a duration for the eligibility period that is shorter than the~~
14 ~~applicable maximum periods~~ enhance access to tax credit
15 monetization on cost effective terms, or otherwise enhance the
16 effectiveness of the program. The incentive award agreement shall
17 provide an estimated date of completion and include a requirement
18 for periodic progress reports, including the submittal of executed
19 financing commitments and documents that evidence site control;
20 provided however, that the developer may sell one or more
21 buildings during the eligibility period, provided that such sale is: an
22 arms-length transaction to an unrelated party, or for an amount at
23 least equal to fair market value based on an appraisal conducted
24 within one year; and subject to the purchaser's assumption of all
25 obligations relating to the buildings pursuant to sections 54 through
26 67 of P.L.2020, c.156 (C.34:1B-322 through C.34:1B-335). If the
27 authority does not receive periodic progress reports, or if the
28 progress reports demonstrate unsatisfactory progress, then the
29 authority may rescind the incentive award. If the authority rescinds
30 an incentive award in the same calendar year in which the authority
31 approved the incentive award, then the authority may assign the
32 incentive award to another applicant. The incentive award
33 agreement may also provide for a verification of the financing gap
34 at the time the developer provides executed financing commitments
35 to the authority and a verification of the developer's projected cash
36 flow at the time of certification that the project is completed.

37 c. To ensure the protection of taxpayer money, if the authority
38 determines at project certification that the actual capital financing
39 approach utilized by the project has resulted in a financing gap that
40 is smaller than the financing gap determined at board approval, the
41 authority shall reduce the amount of the tax credit or accept
42 payment from the developer on a pro rata basis. If there is no
43 project financing gap due to the actual capital financing approach
44 utilized by the project, then the developer shall forfeit the incentive
45 award. At the end of the seventh year of the eligibility period, the
46 authority shall evaluate the developer's rate of return on investment
47 and compare that rate of return on investment to the reasonable and

1 appropriate rate of return at the time of board approval. If the
2 actual rate of return on investment exceeds the reasonable and
3 appropriate rate of return on investment at the time of board
4 approval by more than 15 percent, the authority shall require the
5 developer to pay up to 20 percent of the amount in excess of the
6 reasonable and appropriate rate of return on investment. The
7 authority shall require an escrow account to be held by the authority
8 until the end of the eligibility period. Following the final year of
9 the eligibility period, the authority shall determine if the developer's
10 rate of return exceeded the reasonable and appropriate rate of return
11 determined at board approval. If the final rate of return does not
12 exceed the reasonable and appropriate rate of return determined at
13 board approval, the authority shall release to the developer the
14 escrowed funds. If the project final rate of return exceeds the
15 reasonable and appropriate rate of return determined at board
16 approval, the authority shall require the developer to pay up to 20
17 percent of the amount of the excess, which shall include the funds
18 held in escrow, and such funds shall be deposited in the State
19 General Fund.

20 d. The incentive award agreement shall include a requirement
21 that the authority confirm with the Department of Environmental
22 Protection, the Department of Labor and Workforce Development,
23 and the Department of the Treasury that the developer is in
24 substantial good standing with the respective department, or the
25 developer has entered into an agreement with the respective
26 department that includes a practical corrective action for the
27 developer, and the developer shall confirm that each contractor or
28 subcontractor performing work at the redevelopment project: (1) is
29 registered as required by "The Public Works Contractor
30 Registration Act," P.L.1999, c.238 (C.34:11-56.48 et seq.); (2) has
31 not been debarred ¹, suspended, or disqualified¹ by the Department
32 of Labor and Workforce Development from engaging in or bidding
33 on Public Works Contracts in the State ¹, or been debarred,
34 suspended, or disqualified by a federal agency from engaging in
35 federally-funded construction projects or bidding on federal
36 contracting opportunities¹; and (3) possesses a tax clearance
37 certificate issued by the Division of Taxation in the Department of
38 the Treasury. The incentive award agreement shall also include a
39 provision that the developer shall forfeit the incentive award in any
40 year in which the developer is neither in substantial good standing
41 with each department nor has entered into a practical corrective
42 action. The incentive award agreement shall also require a
43 developer to engage in on-site consultations with the Division of
44 Workplace Safety and Health in the Department of Health.

45 e. (1) Except as provided in paragraph (2) of this subsection,
46 the authority shall not enter into an incentive award agreement for a
47 redevelopment project that includes at least one retail establishment

1 which will have more than 10 employees, at least one distribution
2 center which will have more than 20 employees, or at least one
3 hospitality establishment which will have more than 10 employees,
4 unless the incentive award agreement includes a precondition that
5 any business that serves as the owner or operator of the retail
6 establishment, distribution center, or hospitality establishment
7 enters into a labor harmony agreement with a labor organization or
8 cooperating labor organizations which represent retail
9 establishment, hospitality establishment, or distribution center
10 employees in the State.

11 (2) A labor harmony agreement shall be required only if the
12 State has a proprietary interest in the redevelopment project and
13 shall remain in effect for as long as the State acts as a market
14 participant in the redevelopment project. The authority may enter
15 into an incentive award agreement with a developer without the
16 labor harmony agreement required under paragraph (1) of this
17 subsection if the authority determines that the redevelopment
18 project would not be able to go forward if a labor harmony
19 agreement is required. The authority shall support the
20 determination by a written finding, which provides the specific
21 basis for the determination.

22 (3) (Deleted by amendment, P.L.2023, c.98)

23 f. (1) Except for a residential project that is located in a
24 government-restricted municipality, and in which 100 percent of the
25 residential units constructed in the residential project are reserved
26 for occupancy by low- and moderate-income households, for a
27 redevelopment project whose ²**[total]**² project cost equals or
28 exceeds \$10 million, in addition to the incentive award agreement, a
29 developer shall enter into a community benefits agreement with the
30 authority and the county or municipality in which the
31 redevelopment project is located. The agreement may include, but
32 shall not be limited to, requirements for training, employment, and
33 youth development and free services to underserved communities in
34 and around the community in which the redevelopment project is
35 located. Prior to entering a community benefits agreement, the
36 governing body of the county or municipality in which the
37 redevelopment project is located shall hold at least one public
38 hearing at which the governing body shall hear testimony from
39 residents, community groups, and other stakeholders on the needs
40 of the community that the agreement should address.

41 (2) The community benefits agreement shall provide for the
42 creation of a community advisory committee to oversee the
43 implementation of the agreement, monitor successes, ensure
44 compliance with the terms of the agreement, and produce an annual
45 public report. The community advisory committee created pursuant
46 to this paragraph shall be comprised of representatives of diverse

1 community groups and residents of the county or municipality in
2 which the redevelopment project is located.

3 (3) At the time the developer submits the annual report required
4 pursuant to section 62 of P.L.2020, c.156 (C.34:1B-330) to the
5 authority, the developer shall certify, under the penalty of perjury,
6 that it is in compliance with the terms of the community benefits
7 agreement. If the developer fails to provide the certification
8 required pursuant to this paragraph or the authority determines that
9 the developer is not in compliance with the terms of the community
10 benefits agreement based on the reports submitted by the
11 community advisory committee pursuant to paragraph (2) of this
12 subsection, then the authority may rescind an award or recapture all
13 or part of any tax credits awarded.

14 (4) Notwithstanding any requirement of this subsection to the
15 contrary, ²because all redevelopment agreements require a
16 certificate of completion issued by the municipality to confirm the
17 developer's compliance with the redevelopment agreement,² a
18 developer shall be considered to have met the requirements of a
19 community benefits agreement **【pursuant to this subsection】**, and
20 the requirements of paragraphs (2) and (3) of this subsection shall
21 not apply, if the developer submits to the authority:

22 (a) a copy of either the developer's approval letter from the
23 authority or a redevelopment agreement applicable to the qualified
24 business facility, provided that the approval letter is certified by the
25 municipality or the redevelopment agreement is **【certified】** adopted
26 by resolution at a public meeting by the municipality in which the
27 redevelopment project is located, and includes provisions that meet
28 **【or exceed】** the **【standards】** community benefit required **【for】**
29 under a community benefits agreement ²**【in】** pursuant to² this
30 subsection **【**, as determined by the chief executive officer pursuant
31 to rules adopted by the authority**】**; or

32 (b) a resolution adopted by the governing body of the
33 municipality in which the redevelopment project is located, which
34 resolution shall be adopted after at least one public hearing at which
35 the governing body provides an opportunity for residents,
36 community groups, and other stakeholders to testify, and which
37 resolution shall state that the governing body has determined that
38 the redevelopment project will provide economic and social benefits
39 to the community that fulfill the purposes of this subsection, which
40 benefits render a separate community benefit agreement
41 unnecessary, and explain the reasons supporting the governing
42 body's determination.

43 g. A developer shall submit, prior to the first disbursement of
44 tax credits under the incentive award agreement, but no later than
45 six months following project completion, satisfactory evidence of
46 actual project costs, as certified by a certified public accountant,

1 evidence of a temporary certificate of occupancy, or other event
2 evidencing project completion that begins the eligibility period
3 indicated in the incentive award agreement. The developer, or an
4 authorized agent of the developer, shall certify that the information
5 provided pursuant to this subsection is true under the penalty of
6 perjury. Claims, records, or statements submitted by a developer to
7 the authority in order to receive tax credits shall not be considered
8 claims, records, or statements made in connection with State tax
9 laws.

10 h. The incentive award agreement shall include a provision
11 allowing the authority to extend, in individual cases, the deadline
12 for any annual reporting or certification requirement.

13 i. The incentive award agreement shall include one or more
14 provisions, as determined by the authority, concerning the terms
15 and conditions for default and the remedies for the developer of a
16 redevelopment project in the event of default. The incentive award
17 agreement shall not allow the authority to declare a cross-default
18 when the developer of a redevelopment project, including any
19 business affiliate of the developer or any other entity with common
20 principals as the developer, is in default with any other assistance
21 program administered by the authority.

22 (cf: P.L.2023, c.98, s.6)

23

24 5. Section 61 of P.L.2020, c.156 (C.34:1B-329) is amended to
25 read as follows:

26 61. a. Up to the limits established in subsection b. of this section
27 and in accordance with an incentive award agreement, beginning
28 upon the receipt of occupancy permits for any portion of the
29 redevelopment project, or upon any other event evidencing project
30 completion as set forth in the incentive award agreement, a
31 developer shall be allowed a total tax credit **that shall not exceed**
32 as follows, subject to the enhancements set forth in subsection c. of
33 this section:

34 (1) 80 percent of the ²**total** eligible² project cost for a
35 redevelopment project that is located in a government-restricted
36 municipality ²or is a special mission non-profit project²;

37 (2) 60 percent of the ²**total** eligible² project cost for a
38 residential project that receives a four-percent allocation from the
39 federal Low Income Housing Tax Credit Program administered by
40 the agency ^{1,1} or a redevelopment project that is located in a
41 qualified incentive tract, enhanced area, or a municipality with a
42 Municipal Revitalization Index score of at least 50; or

43 (3) 50 percent of the ²**total** eligible² project cost for any other
44 redevelopment project.

45 b. The value of all tax credits approved by the authority under
46 the program for a redevelopment project phase shall not exceed:

(1) \$120,000,000 per redevelopment project or phase for a redevelopment project that is located in a government-restricted municipality ²or is a special mission non-profit project²;

(2) \$90,000,000 per redevelopment project or phase for a redevelopment project that is allowed a tax credit under paragraph (2) of subsection a. of this section; and

(3) \$60,000,000 for any other redevelopment project or phase.

c. Notwithstanding the limitations set forth in subsection a. of this section, but subject to the limitations of subsections b. and d. of this section and the demonstration of a financing gap, a developer shall be eligible for each of the following enhancements to the total tax credit award:

(1) for a redevelopment project that includes the redevelopment of a stranded asset, an enhancement of up to 10 percent of the project cost of the redevelopment project;

(2) for a residential project that meets the three-bedroom distribution requirement under the Uniform Housing Affordability Controls, an enhancement of up to five percent of the project cost of the residential project; and

(3) for a redevelopment project that meets local first source hiring requirements for residents in the municipality or county '【where】 in which' the project is located 'and in surrounding municipalities, as appropriate' , an enhancement of up to three percent of the project cost of the redevelopment project.

d. Except for a redevelopment project that is located in a government restricted municipality:

(1) the total tax credits awarded for the redevelopment project, together with all tax credits awarded under any other program administered by the authority, shall not exceed 80 percent of the project cost of the redevelopment project; and

(2) for a redevelopment project that receives tax credits under the Federal Low-Income Housing Tax Credit Program, the total tax credits awarded for the redevelopment project, together with all tax credits awarded under any other program administered by the authority and under the Federal Low-Income Housing Tax Credit Program, shall not exceed 90 percent of the project cost.

(cf: P.L.2023, c.98, s.7)

6. Section 62 of P.L.2020, c.156 (C.34:1B-330) is amended to read as follows:

62. a. A developer approved for an incentive award pursuant to sections 58 and 59 of P.L.2020, c.156 (C.34:1B-326 and C.34:1B-327) and that enters an incentive award agreement pursuant to section 60 of P.L.2020, c.156 (C.34:1B-328) shall submit annually, commencing in the year in which the incentive award is issued and for the remainder of the eligibility period, a report indicating whether the developer is aware of any condition,

1 event, or act that would cause the developer not to be in compliance
2 with the incentive award agreement or the provisions of sections 54
3 through 67 of P.L.2020, c.156 (C.34:1B-322 through C.34:1B-335)
4 and any additional reporting requirements contained in the incentive
5 award agreement or tax credit certificate. The developer, or an
6 authorized agent of the developer, shall certify that the information
7 provided pursuant to this subsection is true under the penalty of
8 perjury.

9 b. (1) Upon receipt and review of each report submitted during
10 the eligibility period, the authority shall provide to the developer
11 and the director a certificate of compliance indicating the amount of
12 tax credits that the developer may apply against the developer's tax
13 liability. ²The authority shall preliminarily determine whether the
14 annual report submitted by the developer is complete as early as
15 practicable after accepting each annual report. Within 90 days after
16 the authority preliminarily determines that an annual report is
17 complete, the authority shall either: (a) approve the annual report
18 and notify the director that the authority has approved the report
19 and that the director is to issue the tax credit certificate; or (b)
20 request more information from the developer to finalize the
21 approval. If the authority fails to act within 90 days from its
22 preliminary determination that the annual report is complete, the
23 annual report shall be deemed approved by the authority, and the
24 developer shall be entitled to receive its tax credit certificate.²

25 (2) Upon receipt by the director of the certificate of compliance,
26 the director shall allow the developer a credit against the tax
27 imposed pursuant to section 5 of P.L.1945, c.162 (C.54:10A-5). A
28 developer shall apply the credit awarded against the developer's
29 liability under section 5 of P.L.1945, c.162 (C.54:10A-5), sections 2
30 and 3 of P.L.1945, c.132 (C.54:18A-2 and C.54:18A-3), section 1
31 of P.L.1950, c.231 (C.17:32-15), or N.J.S.17B:23-5 ²for the
32 privilege period [during] identified in the tax credit certificate
33 which the director [allows] issues to the developer [a tax credit]
34 pursuant to this subsection, or within the three successive tax
35 periods immediately following the tax period in which the tax credit
36 certificate is received by the developer] in the tax period for which
37 it was issued, in the tax period in which it was issued, or in any
38 successive tax period, as authorized pursuant to this subsection,
39 without the need to amend the tax return for the tax period for
40 which the credit was issued, subject to the carry-forward provision
41 in this section. Notwithstanding the foregoing, no more than the
42 amount of tax credits equal to the total credit amount divided by the
43 duration of the tax credit term, in years, may be taken in any tax
44 period². A developer may carry forward an unused credit resulting
45 from the limitations of paragraph (3) of this subsection, if
46 necessary, for use in the seven privilege periods next following the

1 privilege period for which the credits are **【awarded】** applied.
2 Credits granted to a partnership shall be passed through to the
3 partners, members, or owners, respectively, pro-rata, or pursuant to
4 an executed agreement among the partners, members, or owners
5 documenting an alternate distribution method provided to the
6 director accompanied by any additional information as the director
7 may prescribe.

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

17 (cf: P.L.2022, c.46, s.1)
18

19 7. Section 63 of P.L.2020, c.156 (C.34:1B-331) is amended to
20 read as follows:

21 63. a. ²(1)² A developer may apply to the director and the chief
22 executive officer of the authority for a tax credit transfer certificate,
23 covering one or more years, in lieu of the developer being allowed
24 any amount of the credit against the tax liability of the developer.
25 ²The authority shall preliminarily determine whether the application
26 submitted by the developer is complete as early as practicable after
27 accepting the application. Within 90 days after the authority
28 preliminarily determines that an application is complete, the
29 authority shall either: (a) approve the application and notify the
30 director that the authority has approved the application and that the
31 director is to issue the tax credit transfer certificate; or (b) request
32 more information from the developer to finalize the approval. If the
33 authority fails to act within 90 days from its preliminary
34 determination that the application is complete, the application shall
35 be deemed approved by the authority, and the developer shall be
36 entitled to receive its tax credit transfer certificate.

37 (2)² The tax credit transfer certificate, upon receipt thereof by
38 the developer from the director and the chief executive officer of
39 the authority, may be sold or assigned, in full or in part in an
40 amount not less than \$25,000, in the privilege period during which
41 the developer receives the tax credit transfer certificate from the
42 director, to another person, who may apply the credit against a tax
43 liability pursuant to section 5 of P.L.1945, c.162 (C.54:10A-5),
44 sections 2 and 3 of P.L.1945, c.132 (C.54:18A-2 and C.54:18A-3),
45 section 1 of P.L.1950, c.231 (C.17:32-15), or N.J.S.17B:23-5. The
46 certificate provided to the developer shall include a statement
47 waiving the developer's right to claim the amount of the credit that

1 the developer has elected to sell or assign against the developer's
2 tax liability.

3 b. The developer shall not sell or assign, including a collateral
4 assignment, a tax credit transfer certificate allowed under this
5 section for consideration received by the developer of less than 85
6 percent of the transferred credit amount before considering any
7 further discounting to present value which shall be permitted,
8 except a developer of a residential project consisting of newly-
9 constructed residential units may assign a tax credit transfer
10 certificate for consideration of less than 85 percent subject to the
11 submission of a plan to the authority and the agency to use the
12 proceeds derived from the assignment of tax credits to complete the
13 residential project, except a developer of a residential project
14 consisting of newly-constructed residential units that has received
15 federal low income housing tax credits under 26 U.S.C.
16 s.42(b)(1)(B)(i) may assign a tax credit transfer certificate for
17 consideration of no less than 65 percent subject to the submission of
18 a plan to the authority and the New Jersey Housing and Mortgage
19 Finance Agency to use the proceeds derived from the assignment of
20 tax credits to complete the residential project. The tax credit
21 transfer certificate issued to a developer by the director shall be
22 subject to any limitations and conditions imposed on the application
23 of State tax credits pursuant to sections 54 through 67 of P.L.2020,
24 c.156 (C.34:1B-322 through 34:1B-335) and any other terms and
25 conditions that the director may prescribe; provided, however, that
26 the holder of a tax credit certificate may transfer all or part of the
27 tax credit amount, ²within the three successive tax periods
28 immediately following the tax period in which the tax credit
29 certificate is received by the developer at any time after the date of
30 receipt of the tax credit certificate², on or after the date of issuance
31 of the tax credit transfer certificate, for use by the transferee in the
32 tax period for which it was issued ²or within the three successive
33 tax periods immediately following the tax period in which the tax
34 credit transfer certificate is received by the transferee, and the
35 transferee may carry forward all or part of the tax credit amount in
36 any of the next five successive tax periods after the tax period for
37 which it was used , in the tax period in which it was issued, or in
38 any successive tax period, as authorized in this subsection, without
39 the need to amend the tax return for the tax period for which the
40 credit was issued, subject to the carry-forward provision in this
41 section. A transferee may carry forward an unused credit for use in
42 any of the next five successive tax periods, and the unused credit
43 shall expire thereafter². Notwithstanding any provision of this
44 section to the contrary, the amount of tax credits that may be
45 claimed by the transferee in any tax period shall not exceed the total
46 tax credit amount divided by the duration of the eligibility period in
47 years.

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

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

- 7 (1) the name of the transferor;
8 (2) the name of the transferee;
9 (3) the value of the tax credit transfer certificate; and
10 (4) the consideration received by the transferor.

11 ²【e When a tax credit certificate is issued to a developer after
12 the tax period in which all or part of the tax credits may be used by
13 the developer or a holder of the credit transfer certificate, the
14 developer or transferee shall be allowed to use the tax credit for the
15 same tax period specified in the tax credit certificate, or within the
16 three successive tax periods immediately following the tax period in
17 which the certificate is received by the developer or transferee. In
18 this circumstance, the developer or transferee shall not be required
19 to amend its tax return for the tax period in which it applies the tax
20 credit or for a tax period preceding the tax period in which the tax
21 credit is applied.】²

22 (cf: P.L.2023, c.98, s.8)

23

24 8. Section 65 of P.L.2020, c.156 (C.34:1B-333) is amended to
25 read as follows:

26 65. a. As used in this section, "transformative project" means a
27 redevelopment project: that has a project financing gap; that has a
28 total project cost of at least \$150,000,000; that ²【, subject to the
29 provisions of subsection h. of this section,】² includes 200,000 or
30 more square feet of new or substantially renovated industrial,
31 commercial, or residential space for a project located in a
32 government-restricted municipality, that includes 250,000 or more
33 square feet of film studios, professional stages, television studios,
34 recording studios, screening rooms, or other infrastructure for film
35 production, that includes 300,000 or more square feet of new or
36 substantially renovated industrial, commercial, or residential space
37 for a project located in an enhanced area, or that includes 500,000
38 or more square feet of new or substantially renovated industrial,
39 commercial, or residential space for any other project; and, for a
40 commercial project, that is of special economic importance as
41 measured by the level of new jobs, new capital investment,
42 opportunities to leverage leadership in a high-priority targeted
43 industry, or other state priorities as determined by the authority
44 pursuant to rules and regulations promulgated to implement this
45 section. Notwithstanding the provisions of subsection b. of section
46 14 of P.L.2023, c.98 (C.34:1B-335.1) to the contrary, for
47 applications submitted on and after the effective date of P.L.2023,

1 c.98 (C.34:1B-335.1 et al.), if the redevelopment project is located
2 entirely on land designated by the Department of Environmental
3 Protection as a brownfield development area pursuant to section 7
4 of P.L.2005, c.223 (C.58:10B-25.1), and the ²total² project cost of
5 the redevelopment project includes at least \$15,000,000 in
6 environmental remediation costs, the redevelopment project shall
7 constitute a project of special economic importance. A
8 transformative project may be completed in phases, which phases
9 may be determined by the authority based on factors such as written
10 architectural plans and specifications completed before or during
11 the physical work, certificates of occupancy, or financial and
12 operational plans. The criteria developed by the authority shall
13 include, but shall not be limited to:

14 (1) the extent to which the proposed transformative project
15 would create modern facilities that enhance the State's
16 competitiveness in attracting targeted industries;

17 (2) (a) for a residential project, the construction of 700 or more
18 new residential units; ¹or¹

19 (b) for a residential project containing **less** fewer than 700
20 new residential units, the construction of 200 or more new
21 residential units if the project is located in a government-restricted
22 municipality, 300 or more ²new² residential units if the project is
23 located in an enhanced area, or 400 or more ²new² residential units
24 for all other mixed-use projects; ¹or¹

25 (c) for a residential project ²**containing** , not located in a
26 government-restricted municipality or an enhanced area, that
27 contains² **less** fewer than 700 new residential units, the
28 construction of **50,000** 20,000 square feet or more of commercial
29 space, which commercial space may include retail space; and

30 (d) for a residential project, 20 percent of the new residential
31 units shall be constructed for occupancy by low- and moderate-
32 income households with affordability controls as adopted by the
33 authority, in consultation with the agency, in accordance with
34 paragraph (2) of subsection a. of section 56 of P.L.2020, c.156
35 (C.34:1B-324), except that a residential project receiving a federal
36 historic rehabilitation tax credit pursuant to section 47 of the federal
37 Internal Revenue Code of 1986, 26 U.S.C. s.47, or a tax credit
38 pursuant to the "Historic Property Reinvestment Act," sections 2
39 through 8 of P.L.2020, c.156 (C.34:1B-270 through 34:1B-276),
40 shall be exempt from the affordability controls related to bedroom
41 distribution; and

42 (3) the extent to which the proposed project would leverage the
43 competitive economic development advantages of the State's mass
44 transit assets, higher education assets, and other economic
45 development assets in attracting or retaining both employers and
46 skilled workers generally or in targeted industries.

1 A "transformative project" shall not include a redevelopment
2 project at which more than 50 percent of the premises is occupied
3 by one or more businesses engaged in final point of sale retail.

4 b. (1) The authority may award incentive awards to
5 transformative projects in accordance with the provisions of
6 sections 55 through 67 of P.L.2020, c.156 (C.34:1B-323 through
7 34:1B-335).

8 (2) (a) For transformative projects completed in phases, the
9 developer shall enter into a transformative phase agreement with the
10 authority.

11 (b) As used in this subsection, "transformative phase agreement"
12 shall mean a sub-agreement of the incentive award agreement that
13 governs the timing, capital investment, and other applicable details
14 of the respective phase of a phased project.

15 (3) Notwithstanding the provisions of section 57 of P.L.2020,
16 c.156 (C.34:1B-325), or any other section of P.L.2020, c.156
17 (C.34:1B-269 et al.) to the contrary, a transformative project shall
18 be completed, and the developer shall be issued a certificate of
19 occupancy for the transformative project facilities by the applicable
20 enforcing agency, within five years of executing the incentive
21 award agreement, except that the authority may, in its discretion,
22 extend this deadline by up to one additional year. For
23 transformative projects completed in phases, the transformative
24 project shall be completed, and the developer shall be issued
25 certificates of occupancy for all phases of the transformative project
26 facilities by the applicable enforcing agency, within 10 years of
27 executing either the incentive award agreement or the first
28 transformative phase agreement corresponding to the transformative
29 project.

30 (4) Notwithstanding the provisions of sections 55 and 60 of
31 P.L.2020, c.156 (C.34:1B-323 and C.34:1B-328), or any other
32 section of P.L.2020, c.156 (C.34:1B-269 et al.) to the contrary, each
33 phase of a transformative project completed in phases shall have a
34 separate eligibility period. After completing each phase, the
35 developer shall submit a certification that the phase is completed.
36 If the authority approves the certification, the tax credit allowed to
37 the developer shall be increased by the tax credit amount
38 corresponding to that phase. Notwithstanding the different
39 eligibility periods for each phase, all conditions and requirements
40 applicable during an eligibility period pursuant to sections 55
41 through 67 of P.L.2020, c.156 (C.34:1B-323 through 34:1B-335)
42 shall apply to ²~~the entire~~ each phase of a² transformative project
43 until the end of the eligibility period ²~~for the last~~ of each
44 completed² phase.

45 (5) Notwithstanding the provisions of section 60 of P.L.2020,
46 c.156 (C.34:1B-328), or any other section of P.L.2020, c.156
47 (C.34:1B-269 et al.) to the contrary, for a transformative project

1 completed in phases, a review of the project financing gap shall be
2 performed at the certification of completion of each phase, and the
3 authority shall re-evaluate the developer's rate of return in the
4 seventh year and at the end of the eligibility period for the last
5 phase, provided that the authority may also re-evaluate the
6 developer's rate of return during the fifth year of any earlier phase.

7 (6) A transformative project receiving an incentive award
8 pursuant to this section, other than a project that includes 250,000
9 or more square feet of film studios, professional stages, television
10 studios, recording studios, screening rooms or other infrastructure
11 for film production, shall be located in an incentive area, a
12 distressed municipality, a government-restricted municipality, or an
13 enhanced area. A transformative project receiving an incentive
14 award pursuant to this section that includes 250,000 or more square
15 feet of film studios, professional stages, television studios,
16 recording studios, screening rooms or other infrastructure for film
17 production may be located anywhere in the State. The authority
18 shall not consider an application for a transformative project unless
19 the applicant submits with its application a letter evidencing support
20 for the transformative project from the governing body of the
21 municipality in which the transformative project is located.

22 c. The authority shall review the transformative project cost,
23 evaluate and validate the project financing gap estimated by the
24 developer, and conduct a State fiscal impact analysis to ensure that
25 the overall public assistance provided to the transformative project
26 will result in a net positive benefit to the State. In determining
27 whether a transformative project will result in a net positive benefit
28 to the State, the authority shall not consider the value of any taxes
29 exempted, abated, rebated, or retained under the "Five-Year
30 Exemption and Abatement Law," P.L.1991, c.441 (C.40A:21-1 et
31 seq.), the "Long Term Tax Exemption Law," P.L.1991, c.431
32 (C.40A:20-1 et al.), the "New Jersey Urban Enterprise Zones Act,"
33 P.L.1983, c.303 (C.52:27H-60 et seq.), or any other law that has the
34 effect of lowering or eliminating the developer's State or local tax
35 liability. The determination made pursuant to this subsection shall
36 be based on the potential tax liability of the developer without
37 regard for potential tax losses if the developer were to locate in
38 another state. The authority shall assess the cost of these reviews to
39 the applicant. A developer shall pay to the authority the full
40 amount of the direct costs of an analysis concerning the developer's
41 application for an incentive award that a third party retained by the
42 authority performs, if the authority deems such retention to be
43 necessary. The authority shall evaluate the net economic benefits
44 on a present value basis under which the requested tax credit
45 allocation amount is discounted to present value at the same
46 discount rate as the projected benefits from the implementation of
47 the proposed transformative project for which an award of tax

1 credits is being sought. Projects that are predominantly residential
2 shall be excluded from the calculation of the net benefit test
3 required pursuant to this subsection.

4 d. In determining net benefits for any business or person
5 considering locating in a transformative project and applying to
6 receive from the authority any other economic development
7 incentive subsequent to the award of transformative project tax
8 credits pursuant to section 65 of P.L.2020, c.156 (C.34:1B-333), the
9 authority shall not credit the business or person with any benefit
10 that was previously credited to the transformative project pursuant
11 to section 65 of P.L.2020, c.156 (C.34:1B-333).

12 e. The authority shall administer the credits awarded pursuant
13 to this section in accordance with the provisions of sections 62 and
14 63 of P.L.2020, c.156 (C.34:1B-330 and C.34:1B-331).

15 f. Prior to allocating an incentive award to a developer, the
16 authority shall confirm with the Department of Labor and
17 Workforce Development, the Department of Environmental
18 Protection, and the Department of the Treasury that the developer is
19 in substantial good standing with the respective department, or the
20 developer has entered into an agreement with the respective
21 department that includes a practical corrective action plan, and the
22 developer shall certify that each contractor or subcontractor
23 performing work at the transformative project: (1) is registered as
24 required by "The Public Works Contractor Registration Act,"
25 P.L.1999, c.238 (C.34:11-56.48 et seq.); (2) has not been debarred
26 by the Department of Labor and Workforce Development from
27 engaging in or bidding on Public Works Contracts in the State; and
28 (3) possesses a tax clearance certificate issued by the Division of
29 Taxation in the Department of the Treasury. The authority may also
30 contract with an independent third party to perform a background
31 check on the developer.

32 g. Notwithstanding the limitation on incentive awards set forth
33 in subsection b. of section 61 and section 98 of P.L.2020, c.156
34 (C.34:1B-329 and C.34:1B-362) to the contrary, the authority may
35 allow a developer of a transformative project a tax credit in an
36 amount not to exceed the lesser of:

37 (1) (a) 80 percent of the ²**total** eligible² project cost for a
38 transformative project that is located in a government-restricted
39 municipality;

40 (b) 60 percent of the ²**total** eligible² project cost for a
41 residential transformative project that receives a four-percent
42 allocation from the federal Low Income Housing Tax Credit
43 Program administered by the agency or a transformative project that
44 is located in a qualified incentive tract, enhanced area, or a
45 municipality with a Municipal Revitalization Index score of at least
46 50; or

1 (c) 50 percent of the ²~~total~~ eligible² project cost for any other
2 transformative project;

3 (2) the total value of the project financing gap; or

4 (3) \$400,000,000, except that for a transformative project that is
5 developed in phases, the \$400,000,000 limitation on incentive
6 awards set forth in this paragraph shall apply to the total aggregate
7 award for all phases of the transformative project.

8 h. ¹Notwithstanding the limitations set forth in subsection g. of
9 this

10 section, a developer of a transformative project shall be eligible for
11 each of the following enhancements to the total tax credit award ²,
12 individually or in combination, subject to the demonstration of a
13 financing gap and need for support² :

14 (1) for a transformative project that includes the redevelopment
15 of a stranded asset, an enhancement of up to 10 percent of the
16 project cost of the transformative project;

17 (2) for a residential transformative project that meets the three-
18 bedroom distribution requirement under the Uniform Housing
19 Affordability Controls, an enhancement of up to five percent of the
20 project cost of the residential transformative project; and

21 (3) for a transformative project that meets local first source
22 hiring requirements for residents in the municipality or county in
23 which the project is located and in surrounding municipalities, as
24 appropriate, an enhancement of up to three percent of the project
25 cost of the transformative project.

26 ²~~i. ¹~~ (1) The parking component of a transformative project
27 shall be included in the calculation of the total square footage of the
28 project, provided that the parking component shall be constructed in
29 conformity with local zoning, planning, or similar requirements
30 ¹~~and~~ , or¹ up to the amount required by the Residential Site
31 Improvement Standards ¹, regardless of whether the Residential Site
32 Improvement Standards apply to the parking component¹ . Any
33 portion of the parking component that exceeds the local parking
34 requirements or the Residential Site Improvement Standards shall
35 not be included in the calculation of the total square footage of the
36 project.

37 (2) Notwithstanding any provision of paragraph (1) of this
38 subsection to the contrary, the entire parking component of a
39 project located in a government restricted municipality shall be
40 included in the calculation of the total square footage of the
41 project.]²

42 (cf: P.L.2023, c.98, s.9)

43
44 9. Section 14 of P.L.2023, c.98 (C.34:1B-335.1) is amended to
45 read as follows:

1 14. a. (1) Except as otherwise provided in subsection b. of this
 2 section, all program applications **【completed after】** submitted to ²or
 3 approved by² the authority ²【on or】² after ²【the date six months
 4 prior to the effective date of **【P.L.2023, c.98 (C.34:1B-335.1 et**
 5 **al.)】** P.L. , c. (C.) (pending before the Legislature as this
 6 bill)】 January 1, 2023² shall be subject to the "New Jersey Aspire
 7 Program Act," sections 54 through 67 of P.L.2020, c.156 (C.34:1B-
 8 322 through 34:1B-335), as amended as supplemented by P.L.2023,
 9 c.98 (C.34:1B-335.1 et al.), and as further amended and
 10 supplemented by P.L. , c. (C.) (pending before the
 11 Legislature as this bill), including the rules and regulations adopted
 12 pursuant to subsection b. of section 67 of P.L.2020, c.156 (C.34:1B-
 13 335), except that applications submitted to the authority prior to the
 14 effective date of P.L. , c. (C.) (pending before the
 15 Legislature as this bill) shall be subject to the rules and regulations
 16 concerning application fees that were in effect immediately before
 17 the effective date of P.L. , c. (C.) (pending before the
 18 Legislature as this bill).

19 (2) **【**Except as otherwise provided in subsection b. of this
 20 section, all program applications completed on or before the
 21 effective date of P.L.2023, c.98 (C.34:1B-335.1 et al.) shall be
 22 subject to the provisions of the "New Jersey Aspire Program Act,"
 23 sections 54 through 67 of P.L.2020, c.156 (C.34:1B-322 through
 24 34:1B-335), as such provisions remained in effect immediately
 25 before the effective date of P.L.2023, c.98 (C.34:1B-335.1 et al.),
 26 including the rules and regulations adopted pursuant to subsection
 27 a. of section 67 of P.L.2020, c.156 (C.34:1B-335).**】** (Deleted by
 28 amendment, P.L. , c. (pending before the Legislature as this bill)

29 b. Notwithstanding any provision of P.L.2020, c.156
 30 (C.34:1B-269 et al.) to the contrary, if a completed application for a
 31 residential project is submitted to the authority on or before the
 32 121st calendar day next following effective date of P.L.2023, c.98
 33 (C.34:1B-335.1 et al.), the applicant for the residential project has
 34 received all applicable approvals pursuant to the "Municipal Land
 35 Use Law," P.L.1975, c.291 (C.40:55D-1 et seq.) on or before the
 36 121st calendar day next following the effective date of P.L.2023,
 37 c.98 (C.34:1B-335.1 et al.), and the applicant submits written notice
 38 to the authority, before the authority's approval or denial of the
 39 application, electing for the application to be governed under the
 40 provisions of this subsection, then the residential units constructed
 41 for occupancy by low- and moderate-income households within the
 42 residential project shall not be subject to the affordability controls
 43 adopted by the authority, in consultation with the agency, pursuant
 44 to paragraph (2) of subsection a. of section 56 of P.L.2020, c.156
 45 (C.34:1B-324) and subsection b. of section 67 of P.L.2020, c.156
 46 (C.34:1B-335). In this event, the application for the residential

1 project shall be reviewed, approved, and administered in accordance
2 with the provisions of the "New Jersey Aspire Program Act,"
3 sections 54 through 67 of P.L.2020, c.156 (C.34:1B-322 through
4 34:1B-335), as such provisions remained in effect immediately
5 before the effective date of P.L.2023, c.98 (C.34:1B-335.1 et al.),
6 including the rules and regulations adopted pursuant to subsection
7 a. of section 67 of P.L.2020, c.156 (C.34:1B-335), except that the
8 application shall be subject to:

9 (1) the determination of a reasonable and appropriate return on
10 investment, as defined in section 55 of P.L.2020, c.156 (C.34:1B-
11 323), as amended by P.L.2023, c.98 (C.34:1B-335.1 et al.); ²**[and]**²

12 (2) the limitation on tax credit awards set forth in subsection b.
13 of section 61 of P.L.2020, c.156 (C.34:1B-329) and subsection g. of
14 section 65 of P.L.2020, c.156 (C.34:1B-333), respectively, as
15 amended by P.L.2023, c.98 (C.34:1B-335.1 et al.) ²; and

16 (3) no proration of the tax credit for any year within the
17 eligibility period².

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

19
20 10. (New section) The authority shall promulgate a schedule of
21 application and other fees imposed under the program, which fees
22 shall be limited to the coverage of actual direct costs of
23 administering the program, the coverage of reasonable indirect costs
24 of administering the program, and the maintenance of reasonable
25 reserves for administering the program. Any application fee or
26 other fee charged by the authority shall be proportional to the tax
27 credit amount awarded for a redevelopment project under the
28 program.

29
30 11. (New section) a. The authority shall establish, as part of the
31 program, a "Redevelopment Project Bridge Financing Program" to
32 facilitate the ability of a developer to secure financing for a
33 redevelopment project until such time as tax credits are issued
34 pursuant to the "New Jersey Aspire Program Act," sections 54 through
35 67 of P.L.2020, c.156 (C.34:1B-322 through C.34:1B-335), as
36 amended as supplemented. Through the program, the authority shall
37 provide full or partial loans or loan guarantees, at the authority's
38 discretion, to the developers of redevelopment projects for the purpose
39 of ensuring the completion of the redevelopment projects. As
40 determined by the authority, the Redevelopment Project Bridge
41 Financing Program may consist of:

42 (1) the issuance of redevelopment project bridge financing loans,
43 subject to the provisions of subsection b. of this section; and

44 (2) the provision of redevelopment project loan guarantees, subject
45 to the provisions of subsection c. of this section.

46 b. (1) The authority may issue a redevelopment project bridge
47 financing loan to the developer of an approved redevelopment project,

1 upon application by the developer, provided that the authority
2 determines that:

3 (a) a project financing gap continues to exist after the award of tax
4 credits to the developer of the redevelopment project; and

5 (b) the redevelopment project bridge financing loan will enable the
6 completion of the redevelopment project.

7 (2) A developer who seeks a redevelopment project bridge
8 financing loan shall submit an application to the authority, which
9 application shall include:

10 (a) a proposed loan principle and interest amount;

11 (b) a proposed repayment schedule;

12 (c) an accounting of the remaining project financing gap; and

13 (d) any other information as the authority shall require.

14 (3) The authority may issue the redevelopment project bridge
15 financing loan in such amount as it deems appropriate, subject to such
16 terms, including, but not limited to, interest rates, collateral, and
17 repayment or release schedules, as the authority shall deem reasonable
18 and appropriate ¹, except that each worker employed to perform
19 construction work on the redevelopment project shall be paid not less
20 than the prevailing wage rate for the worker's craft or trade, as
21 determined by the Commissioner of Labor and Workforce
22 Development pursuant to P.L.1963, c.150 (C.34:11-56.25 et seq.) and
23 P.L.2005, c.379 (C.34:11-56.58 et seq.)¹.

24 c. (1) The authority may provide a loan guarantee to the
25 developer of an approved redevelopment project, upon application by
26 the developer, provided that the authority determines that:

27 (a) a project financing gap continues to exist after the initial award
28 of tax credits to the developer of the redevelopment project; and

29 (b) the loan guarantee will enable the developer to access the
30 financing needed to complete the redevelopment project.

31 (2) A developer who seeks a loan guarantee shall submit an
32 application to the authority, which application shall include:

33 (a) a proposed loan guarantee amount and terms;

34 (b) an accounting of the remaining project financing gap; and

35 (c) any other information as the authority shall require.

36 (3) The authority may issue the loan guarantees in such amounts as
37 it deems appropriate, subject to such terms as the authority deems
38 reasonable and appropriate ¹, except that each worker employed to
39 perform construction work on the redevelopment project shall be paid
40 not less than the prevailing wage rate for the worker's craft or trade, as
41 determined by the Commissioner of Labor and Workforce
42 Development pursuant to P.L.1963, c.150 (C.34:11-56.25 et seq.) and
43 P.L.2005, c.379 (C.34:11-56.58 et seq.)¹.

44 d. (1) The authority shall establish a Redevelopment Project
45 Bridge Financing Revolving Fund from which the authority shall
46 provide all loans issued pursuant to subsection b. of this section and
47 provide all loan guarantees issued pursuant to subsection c. of this

1 section. All monies received from payments of the principle and
 2 interest for loans issued pursuant to this section shall be deposited into
 3 the Redevelopment Project Bridge Financing Revolving Fund, which
 4 fund shall remain until the authority determines that there no longer
 5 remains a need for bridge financing or until December 31, 2028,
 6 whichever occurs first. After the fund is no longer needed, or upon its
 7 expiration, all monies in the fund shall be deposited into the General
 8 Fund.

9 (2) Within 90 days after the effective date of P.L. , c. (C.)
 10 (pending before the Legislature as this bill), the authority shall submit
 11 a recommendation to the Governor and to the Legislature, pursuant to
 12 section 2 of P.L.1991, c.164 (C.52:14-19.1), for the amount of
 13 appropriations needed to fund the Redevelopment Project Bridge
 14 Financing Program.

15
 16 12. (New section) a. To facilitate the efficient monetization of
 17 tax credits awarded under the program, the Department of the
 18 Treasury shall ²[, at such times as the department deems
 19 necessary,]² redeem the tax credits ²[awarded to] surrendered for
 20 redemption by² a developer for a redevelopment project at a
 21 discount from face value. ²[The tax credit redemptions shall be
 22 made at such discounts as the State Treasurer deems appropriate,
 23 except that the discount shall not exceed 10 percent of the face
 24 value of the tax credits.]²

25 b. ²To effectuate a redemption authorized pursuant to this
 26 section, in lieu of applying any tax credit certificate or tax credit
 27 transfer certificate against tax liability otherwise due pursuant to
 28 section 5 of P.L.1945, c.162 (C.54:10A-5), sections 2 and 3 of
 29 P.L.1945, c.132 (C.54:18A-2 and C.54:18A-3), section 1 of
 30 P.L.1950, c.231 (C.17:32-15), or N.J.S.17B:23-5, a taxpayer may
 31 surrender a tax credit certificate or tax credit transfer certificate for
 32 redemption to the director for a cash payment equal to 90 percent of
 33 the amount of tax credits evidenced by the certificate, provided that
 34 the issuance date of the tax credit certificate or tax credit transfer
 35 certificate to the taxpayer surrendering such certificate occurred at
 36 least one year prior to the date of surrender and that the certificate
 37 has not been sold or assigned previously.

38 c.² The tax credit redemptions shall be paid in the same manner
 39 as refunds of tax payable under section 5 of P.L.1945, c.162
 40 (C.54:10A-5), sections 2 and 3 of P.L.1945, c.132 (C.54:18A-2 and
 41 C.54:18A-3), section 1 of P.L.1950, c.231 (C.17:32-15), or
 42 N.J.S.17B:23-5, notwithstanding that such tax is not applicable to
 43 the person or entity seeking the redemption. ²[The State Treasurer
 44 shall allow the proceeds of the tax credit redemption to be issued
 45 over one or more tax periods, but not to exceed the applicable
 46 eligibility period.]²

1 13. Section 89 of P.L.2020, c.156 (C.52:18A-263) is amended to
2 read as follows:

3 89. a. The Director of the Division of Taxation in the
4 Department of the Treasury may purchase unused tax credits
5 awarded under a program listed in subsection b. of this section,
6 including tax credit transfer certificates issued by the director in
7 lieu of a tax credit allowed under such programs. The director shall
8 not pay consideration in excess of 75 percent of the credit amount
9 to be purchased, except for a credit awarded under:

10 (1) the "Emerge Program Act," sections 68 through 81 of
11 P.L.2020, c.156 (C.34:1B-336 et al.), which shall be subject to the
12 provisions of paragraph (4) of subsection d. of section 77 of
13 P.L.2020, c.156 (C.34:1B-345); or

14 (2) the "New Jersey Aspire Program Act," sections 54 through
15 67 (²[C.34:1B-222] C.34:1B-322² through C.34:1B-335), as
16 amended and supplemented, which shall be subject to the provisions
17 of section 12 of P.L. _____, c. _____ (C. _____) (pending before the
18 Legislature as this bill).

19 b. The Director of the Division of Taxation in the Department
20 of the Treasury may purchase tax credits awarded under the
21 following:

22 (1) the "Historic Property Reinvestment Act," sections ²[1] 2²
23 through 8 of P.L.2020, c.156 (²[C.34:1B-269] C.34:1B-270²
24 through C.34:1B-276);

25 (2) the "Brownfield Redevelopment Incentive Program Act,"
26 sections 9 through 19 of P.L.2020, c.156 (C.34:1B-277 through
27 C.34:1B-287);

28 (3) the "New Jersey Innovation Evergreen Act," sections 20
29 through 34 of P.L.2020, c.156 (C.34:1B-288 through C.34:1B-302);

30 (4) the "Food Desert Relief Act," sections 35 through 42 of
31 P.L.2020, c.156 (C.34:1B-303 through C.34:1B-310);

32 (5) the "New Jersey Community-Anchored Development Act,"
33 sections 43 through 53 of P.L.2020, c.156 (C.34:1B-311 through
34 C.34:1B-321);

35 (6) the "New Jersey Aspire Program Act," sections 54 through
36 67 of P.L.2020, c.156 (C.34:1B-322 through C.34:1B-335);

37 (7) the "Emerge Program Act," sections 68 through 81 of
38 P.L.2020, c.156 (C.34:1B-336 et al.);

39 (8) the Grow New Jersey Assistance Program established
40 pursuant to section 3 of P.L.2011, c.149 (C.34:1B-244);

41 (9) section 6 of P.L.2010, c.57 (C.34:1B-209.4);

42 (10) the State Economic Redevelopment and Growth Grant
43 program established pursuant to section 5 of P.L.2009, c.90
44 (C.52:27D-489e);

45 (11) section 1 of P.L.2018, c.56 (C.54:10A-5.39b); and

46 (12) section 2 of P.L.2018, c.56 (C.54A:4-12b).

47 (cf: P.L.2020, c.156, s.89)

1 14. Section 4 of P.L.1945, c.162 (C.54:10A-4) is amended to
2 read as follows:

3 4. For the purposes of this act, unless the context requires a
4 different meaning:

5 (a) "Commissioner" or "director" shall mean the Director of the
6 Division of Taxation of the State Department of the Treasury.

7 (b) "Allocation factor" shall mean the proportionate part of a
8 taxpayer's net worth or entire net income used to determine a
9 measure of its tax under this act.

10 (c) "Corporation" shall mean any corporation, joint-stock
11 company or association and any business conducted by a trustee or
12 trustees wherein interest or ownership is evidenced by a certificate
13 of interest or ownership or similar written instrument, any other
14 entity classified as a corporation for federal income tax purposes,
15 and any state or federally chartered building and loan association or
16 savings and loan association.

17 (d) "Net worth" shall mean the aggregate of the values disclosed
18 by the books of the corporation for (1) issued and outstanding
19 capital stock, (2) paid-in or capital surplus, (3) earned surplus and
20 undivided profits, and (4) surplus reserves which can reasonably be
21 expected to accrue to holders or owners of equitable shares, not
22 including reasonable valuation reserves, such as reserves for
23 depreciation or obsolescence or depletion. Notwithstanding the
24 foregoing, net worth shall not include any deduction for the amount
25 of the excess depreciation described in paragraph (2) (F) of
26 subsection (k) of this section. The foregoing aggregate of values
27 shall be reduced by 50% of the amount disclosed by the books of
28 the corporation for investment in the capital stock of one or more
29 subsidiaries, which investment is defined as ownership (1) of at
30 least 80% of the total combined voting power of all classes of stock
31 of the subsidiary entitled to vote and (2) of at least 80% of the total
32 number of shares of all other classes of stock except nonvoting
33 stock which is limited and preferred as to dividends. In the case of
34 investment in an entity organized under the laws of a foreign
35 country, the foregoing requisite degree of ownership shall effect a
36 like reduction of such investment from the net worth of the
37 taxpayer, if the foreign entity is considered a corporation for any
38 purpose under the United States federal income tax laws, such as
39 (but not by way of sole examples) for the purpose of supplying
40 deemed paid foreign tax credits or for the purpose of status as a
41 controlled foreign corporation. In calculating the net worth of a
42 taxpayer entitled to reduction for investment in subsidiaries, the
43 amount of liabilities of the taxpayer shall be reduced by such
44 proportion of the liabilities as corresponds to the ratio which the
45 excluded portion of the subsidiary values bears to the total assets of
46 the taxpayer.

1 In the case of banking corporations which have international
2 banking facilities as defined in subsection (n), the foregoing
3 aggregate of values shall also be reduced by retained earnings of the
4 international banking facility. Retained earnings means the earnings
5 accumulated over the life of such facility and shall not include the
6 distributive share of dividends paid and federal income taxes paid
7 or payable during the tax year.

8 If in the opinion of the director, the corporation's books do not
9 disclose fair valuations the director may make a reasonable
10 determination of the net worth which, in his opinion, would reflect
11 the fair value of the assets, exclusive of subsidiary investments as
12 defined aforesaid, carried on the books of the corporation, in
13 accordance with sound accounting principles, and such
14 determination shall be used as net worth for the purpose of this act.

15 (e) (Deleted by amendment, P.L.1998, c.114.)

16 (f) "Investment company" shall mean any corporation whose
17 business during the period covered by its report consisted, to the
18 extent of at least 90 percent thereof of holding, investing and
19 reinvesting in stocks, bonds, notes, mortgages, debentures, patents,
20 patent rights and other securities for its own account, but this shall
21 not include any corporation which: (1) is a merchant or a dealer of
22 stocks, bonds and other securities, regularly engaged in buying the
23 same and selling the same to customers; or (2) had less than 90
24 percent of its average gross assets in New Jersey, at cost, invested
25 in stocks, bonds, debentures, mortgages, notes, patents, patent rights
26 or other securities or consisting of cash on deposit during the period
27 covered by its report; or (3) is a banking corporation, a savings
28 institution, or a financial business corporation as defined in the
29 Corporation Business Tax Act.

30 (g) "Regulated investment company" shall mean any corporation
31 which for a period covered by its report, is registered and regulated
32 under the Investment Company Act of 1940 (²**[54 Stat. 789]** 15
33 U.S.C. ss.80a-1 et seq.²), as amended.

34 (h) "Taxpayer" shall mean any corporation, any combined group
35 filing a mandatory or elective New Jersey combined return, and any
36 partnership required, or consenting, to report or to pay taxes,
37 interest or penalties under this act. "Taxpayer" shall not include a
38 partnership that is listed on a United States national stock exchange.

39 (i) "Fiscal year" shall mean an accounting period ending on any
40 day other than the last day of December on the basis of which the
41 taxpayer is required to report for federal income tax purposes.

42 (j) Except as herein provided, "privilege period" shall mean the
43 calendar or fiscal accounting period for which a tax is payable
44 under this act.

45 (k) "Entire net income" shall mean total net income from all
46 sources, whether within or without the United States, and shall
47 include the gain derived from the employment of capital or labor, or

1 from both combined, as well as profit gained through a sale or
2 conversion of capital assets.

3 For the purpose of this act, the amount of a taxpayer's entire net
4 income shall be deemed prima facie to be equal in amount to the
5 taxable income, before net operating loss deduction and special
6 deductions, which the taxpayer is required to report, or, if the
7 taxpayer is classified as a partnership for federal tax purposes,
8 would otherwise be required to report, to the United States Treasury
9 Department for the purpose of computing its federal income tax,
10 provided however, that in the determination of such entire net
11 income,

12 (1) Entire net income shall exclude for the periods set forth in
13 paragraph (2)(F)(i) of this subsection, any amount, except with
14 respect to qualified mass commuting vehicles as described in
15 section 168(f)(8)(D)(v) of the Internal Revenue Code as in effect
16 immediately prior to January 1, 1984, which is included in a
17 taxpayer's federal taxable income solely as a result of an election
18 made pursuant to the provisions of paragraph (8) of that section.

19 (2) Entire net income shall be determined without the exclusion,
20 deduction or credit of:

21 (A) The amount of any exemption or credit allowed in any law
22 of the United States imposing any tax on or measured by the income
23 of corporations.

24 (B) Any part of any income from dividends or interest on any
25 kind of stock, securities or indebtedness, except as provided in
26 paragraph (5) of subsection (k) of this section.

27 (C) Taxes paid or accrued to the United States, a possession or
28 territory of the United States, a state, a political subdivision thereof,
29 or the District of Columbia, or to any foreign country, state,
30 province, territory or subdivision thereof, on or measured by profits
31 or income, or business presence or business activity, or the tax
32 imposed by this act, or any tax paid or accrued with respect to
33 subsidiary dividends excluded from entire net income as provided
34 in paragraph (5) of subsection (k) of this section.

35 (D) (Deleted by amendment, P.L.1985, c.143.)

36 (E) (Deleted by amendment, P.L.1995, c.418.)

37 (F) (i) The amount by which depreciation reported to the United
38 States Treasury Department for property placed in service on and
39 after January 1, 1981, but prior to taxpayer fiscal or calendar
40 accounting years beginning on and after the effective date of
41 P.L.1993, c.172, for purposes of computing federal taxable income
42 in accordance with section 168 of the Internal Revenue Code in
43 effect after December 31, 1980, exceeds the amount of depreciation
44 determined in accordance with the Internal Revenue Code
45 provisions in effect prior to January 1, 1981, but only with respect
46 to a taxpayer's accounting period ending after December 31, 1981;
47 provided, however, that where a taxpayer's accounting period

1 begins in 1981 and ends in 1982, no modification shall be required
2 with respect to this paragraph (F) for the report filed for such period
3 with respect to property placed in service during that part of the
4 accounting period which occurs in 1981. The provisions of this
5 subparagraph shall not apply to assets placed in service prior to
6 January 1, 1998 of a gas, gas and electric, and electric public utility
7 that was subject to the provisions of P.L.1940, c.5 (C.54:30A-49 et
8 seq.) prior to 1998.

9 (ii) For the periods set forth in subparagraph (F)(i) of paragraph
10 (2) of this subsection, any amount, except with respect to qualified
11 mass commuting vehicles as described in section 168(f)(8)(D)(v) of
12 the Internal Revenue Code as in effect immediately prior to January
13 1, 1984, which the taxpayer claimed as a deduction in computing
14 federal income tax pursuant to a qualified lease agreement under
15 paragraph (8) of that section.

16 The director shall promulgate rules and regulations necessary to
17 carry out the provisions of this section, which rules shall provide,
18 among others, the manner in which the remaining life of property
19 shall be reported.

20 (G) (i) The amount of any civil, civil administrative, or criminal
21 penalty or fine, including a penalty or fine under an administrative
22 consent order, assessed and collected for a violation of a State or
23 federal environmental law, an administrative consent order, or an
24 environmental ordinance or resolution of a local governmental
25 entity, and any interest earned on the penalty or fine, and any
26 economic benefits having accrued to the violator as a result of a
27 violation, which benefits are assessed and recovered in a civil, civil
28 administrative, or criminal action, or pursuant to an administrative
29 consent order. The provisions of this paragraph shall not apply to a
30 penalty or fine assessed or collected for a violation of a State or
31 federal environmental law, or local environmental ordinance or
32 resolution, if the penalty or fine was for a violation that resulted
33 from fire, riot, sabotage, flood, storm event, natural cause, or other
34 act of God beyond the reasonable control of the violator, or caused
35 by an act or omission of a person who was outside the reasonable
36 control of the violator.

37 (ii) The amount of treble damages paid to the Department of
38 Environmental Protection pursuant to subsection a. of section 7 of
39 P.L.1976, c.141 (C.58:10-23.11f), for costs incurred by the
40 department in removing, or arranging for the removal of, an
41 unauthorized discharge upon failure of the discharger to comply
42 with a directive from the department to remove, or arrange for the
43 removal of, the discharge.

44 (H) The amount of any sales and use tax paid by a utility vendor
45 pursuant to section 71 of P.L.1997, c.162.

46 (I) With respect to privilege periods ending before July 31,
47 2023, interest paid, accrued or incurred for the privilege period to a

1 related member, as defined in section 5 of P.L.2002, c.40
2 (C.54:10A-4.4), except that a deduction shall be permitted to the
3 extent that the taxpayer establishes by clear and convincing
4 evidence, as determined by the director, that: (i) a principal purpose
5 of the transaction giving rise to the payment of the interest was not
6 to avoid taxes otherwise due under Title 54 of the Revised Statutes
7 or Title 54A of the New Jersey Statutes, (ii) the interest is paid
8 pursuant to arm's length contracts at an arm's length rate of interest,
9 and (iii)(aa) the related member was subject to a tax on its net
10 income or receipts in this State or another state or possession of the
11 United States or in a foreign nation, (bb) a measure of the tax
12 includes the interest received from the related member, and (cc) the
13 rate of tax applied to the interest received by the related member is
14 equal to or greater than a rate three percentage points less than the
15 rate of tax applied to taxable interest by this State pursuant to
16 section 5 of P.L.1945, c.162 (C.54:10A-5).

17 With respect to privilege periods ending before July 31, 2023, a
18 deduction shall also be permitted if the taxpayer establishes by clear
19 and convincing evidence, as determined by the director, that the
20 disallowance of a deduction is unreasonable, or the taxpayer and the
21 director agree in writing to the application or use of an alternative
22 method of apportionment under section 8 of P.L.1945, c.162
23 (C.54:10A-8); nothing in this subsection shall be construed to limit
24 or negate the director's authority to otherwise enter into agreements
25 and compromises otherwise allowed by law.

26 With respect to privilege periods ending before July 31, 2023, a
27 deduction shall also be permitted to the extent that the taxpayer
28 establishes by a preponderance of the evidence, as determined by
29 the director, that the interest is directly or indirectly paid, accrued
30 or incurred to (i) a related member in a foreign nation which has in
31 force a comprehensive income tax treaty with the United States and
32 the related member (aa) was subject to tax in the foreign nation on a
33 tax base that included the payment paid, accrued, or incurred; and
34 (bb) under which the related member's income received from the
35 transaction was taxed at an effective tax rate equal to or greater than
36 a rate of three percentage points less than the rate of tax applied to
37 taxable interest by the State of New Jersey pursuant to section 5 of
38 P.L.1945, c.162 (C.54:10A-5), provided however that the taxpayer
39 shall disclose on its return for the privilege period the name of the
40 related member, the amount of the interest, the relevant foreign
41 nation, and such other information as the director may prescribe or
42 (ii) to an independent lender and the taxpayer guarantees the debt
43 on which the interest is required. The adjustments required by this
44 subparagraph shall not apply to transactions between related
45 members included in a combined group reported on a New Jersey
46 combined return.

1 (J) (i) Amounts deducted for federal tax purposes pursuant to
2 section 199 of the federal Internal Revenue Code of 1986, 26
3 U.S.C. s.199, except that this exclusion shall not apply to amounts
4 deducted pursuant to that section that are exclusively based upon
5 domestic production gross receipts of the taxpayer which are
6 derived only from any lease, rental, license, sale, exchange, or other
7 disposition of qualifying production property which the taxpayer
8 demonstrates to the satisfaction of the director was manufactured or
9 produced by the taxpayer in whole or in significant part within the
10 United States but not qualified production property that was grown
11 or extracted by the taxpayer. "Manufactured or produced" as used in
12 this paragraph shall be limited to performance of an operation or
13 series of operations the object of which is to place items of tangible
14 personal property in a form, composition, or character different
15 from that in which they were acquired. The change in form,
16 composition, or character shall be a substantial change, and result in
17 a transformation of property into a different or substantially more
18 usable product.

19 (ii) For privilege periods beginning after December 31, 2017,
20 notwithstanding the provisions of P.L.1945, c.162 (C.54:10A-1 et
21 seq.) or any other law to the contrary, for the purposes of
22 determining the amount of income pursuant to P.L.1945, c.162
23 (C.54:10A-1 et seq.) that is net of expenses, no amounts shall be
24 taken as a deduction pursuant to section 199A of the Internal
25 Revenue Code (26 U.S.C. s.199A).

26 (K) (i) For privilege periods beginning after December 31, 2017
27 and ending before July 31, 2022, the interest deduction limitation in
28 subsection (j) of section 163 of the Internal Revenue Code
29 (26 U.S.C. s.163), shall apply on a pro-rata basis to interest paid to
30 both related and unrelated parties, regardless of whether the related
31 parties are subject to the add-back provision of either subparagraph
32 (I) of paragraph (2) of this subsection or in section 5 of P.L.2002,
33 c.40 (C.54:10A-4.4).

34 (ii) For privilege periods beginning after December 31, 2017
35 and ending on and after July 31, 2022, the interest deduction
36 limitation in subsection (j) of section 163 of the Internal Revenue
37 Code (26 U.S.C. s.163), shall apply to a combined group as though
38 the combined group filed a federal consolidated return; provided,
39 however, for the purposes of applying the limitation in subsection
40 (j) of section 163 of the Internal Revenue Code (26 U.S.C. s.163),
41 with regard to affiliates that were members of the federal
42 consolidated return but were not members of the combined group
43 included on the New Jersey combined return, the combined group
44 and the affiliates will also be treated as having filed one federal
45 consolidated return.

46 (3) The director may, whenever necessary to properly reflect the
47 entire net income of any taxpayer, determine the year or period in

1 which any item of income or deduction shall be included, without
2 being limited to the method of accounting employed by the
3 taxpayer.

4 (4) There shall be allowed as a deduction from entire net income
5 of a banking corporation, to the extent not deductible in
6 determining federal taxable income, the eligible net income of an
7 international banking facility determined as follows:

8 (A) The eligible net income of an international banking facility
9 shall be the amount remaining after subtracting from the eligible
10 gross income the applicable expenses;

11 (B) Eligible gross income shall be the gross income derived by
12 an international banking facility, which shall include, but not be
13 limited to, gross income derived from:

14 (i) Making, arranging for, placing or carrying loans to foreign
15 persons, provided, however, that in the case of a foreign person
16 which is an individual, or which is a foreign branch of a domestic
17 corporation (other than a bank), or which is a foreign corporation or
18 foreign partnership which is controlled by one or more domestic
19 corporations (other than banks), domestic partnerships or resident
20 individuals, all the proceeds of the loan are for use outside of the
21 United States;

22 (ii) Making or placing deposits with foreign persons which are
23 banks or foreign branches of banks (including foreign subsidiaries)
24 or foreign branches of the taxpayers or with other international
25 banking facilities;

26 (iii) Entering into foreign exchange trading or hedging
27 transactions related to any of the transactions described in this
28 paragraph; or

29 (iv) Such other activities as an international banking facility
30 may, from time to time, be authorized to engage in;

31 (C) Applicable expenses shall be any expense or other
32 deductions attributable, directly or indirectly, to the eligible gross
33 income described in subparagraph (B) of this paragraph.

34 (5) (A) (i) Entire net income shall exclude 100% of dividends
35 which were included in computing such taxable income for federal
36 income tax purposes, paid to the taxpayer by one or more
37 subsidiaries owned by the taxpayer to the extent of the 80% or more
38 ownership of investment described in subsection (d) of this section
39 for privilege periods beginning on or before December 31, 2016.

40 (ii) For privilege periods beginning after December 31, 2016
41 and before January 1, 2019, entire net income shall exclude 95% of
42 dividends which were included in computing such taxable income
43 for federal income tax purposes, paid or deemed paid, to the
44 taxpayer by one or more subsidiaries owned by the taxpayer to the
45 extent of the 80% or more ownership of investment described in
46 subsection (d) of this section. For the purposes of calculating the
47 tax liability owed for the paid or deemed paid dividends included in

1 entire net income by this subsubparagraph (ii), the taxpayer shall
2 use either their three-year average allocation factor for the
3 taxpayer's 2014 through 2016 tax years reported on the taxpayer's
4 tax returns or 3.5 percent, whichever is lower.

5 (iii) For privilege periods beginning on and after January 1, 2019
6 and ending before July 31, 2023, entire net income shall exclude
7 95% of dividends which were included in computing such taxable
8 income for federal income tax purposes, paid or deemed paid to the
9 taxpayer by one or more subsidiaries owned by the taxpayer to the
10 extent of the 80% or more ownership of investment described in
11 subsection (d) of this section.

12 (iv) For privilege periods ending on and after July 31, 2023,
13 entire net income shall exclude 100 percent of dividends and
14 deemed dividends that were included in computing such taxable
15 income for federal income tax purposes, paid or deemed paid to the
16 taxpayer by one or more subsidiaries owned by the taxpayer to the
17 extent of the 80 percent or more ownership of investment described
18 in subsection (d) of this section.

19 (B) Entire net income shall exclude 50% of dividends which
20 were included in computing such taxable income for federal income
21 tax purposes, paid or deemed paid to the taxpayer by one or more
22 subsidiaries owned by the taxpayer to the extent of 50% or more
23 ownership of investment, such ownership of investment calculated
24 in the same manner as the 80% or more of ownership of investment
25 is calculated as described in subsection (d) of this section.

26 (C) To the extent a subsidiary received dividends from other
27 subsidiaries and included those dividends in its entire net income
28 for the purposes of determining its tax liability pursuant to section 5
29 of P.L.1945, c.162 (C.54:10A-5) and paid tax on those dividends,
30 the taxpayer receiving those same dividends from the subsidiary
31 shall exclude those dividends from its entire net income based on
32 the subsidiary's allocation factor used by the subsidiary in
33 determining its tax liability pursuant to section 5 of P.L.1945, c.162
34 (C.54:10A-5). This subparagraph (C) shall not apply to privilege
35 periods ending on and after July 31, 2019.

36 (D) For privilege periods ending on and after July 31, 2019 but
37 before July 31, 2020, to the extent a subsidiary received dividends
38 from other subsidiaries and included those dividends in its entire net
39 income for the purposes of determining its tax liability pursuant to
40 section 5 of P.L.1945, c.162 (C.54:10A-5) and paid tax on those
41 dividends, the taxpayer receiving those same dividends from the
42 subsidiary shall exclude those dividends from its entire net income.

43 (E) For privilege periods ending on and after July 31, 2020, for
44 purposes of this paragraph (5), the members of a combined group
45 filing a New Jersey combined return shall be treated as one taxpayer
46 with regard to dividends and deemed dividends that were received
47 as part of the unitary business of the combined group.

1 (F) For privilege periods ending on and after July 31, 2023:

2 (i) The exclusion provided by this paragraph (5) shall be
3 deducted from entire net income after the State modifications that
4 increase federal entire net income but before the other State
5 modifications that reduce entire net income and before the
6 allocation of entire net income to this State.

7 (ii) In computing the total amount of the dividends and deemed
8 dividends excluded by this paragraph (5) for privilege periods
9 ending on and after July 31, 2023, the amount of dividends and
10 deemed dividends excluded shall be reduced by the amount of the
11 expenses and deductions that are attributable to those dividends and
12 deemed dividends. For purposes of this paragraph (5), expenses
13 and deductions related to dividends shall equal five percent of all
14 dividends and deemed dividends received by a taxpayer during an
15 income year.

16 (G) For privilege periods ending on and after July 31, 2023, for
17 the purposes of this paragraph (5) and for subsection d. of section
18 18 of P.L.2018, c.48 (C.54:10A-4.6), the income amounts required
19 to be included in federal taxable income pursuant to 26 U.S.C.
20 s.951A, shall be considered a dividend.

21 (6) (A) Net operating loss deduction. For privilege periods
22 ending before July 31, 2019, there shall be allowed as a deduction
23 for the privilege period the net operating loss carryover to that
24 period.

25 (B) Net operating loss carryover. A net operating loss for any
26 privilege period ending after June 30, 1984 shall be a net operating
27 loss carryover to each of the seven privilege periods following the
28 period of the loss and a net operating loss for any privilege period
29 ending after June 30, 2009 shall be a net operating loss carryover to
30 each of the twenty privilege periods following the period of the
31 loss. The entire amount of the net operating loss for any privilege
32 period (the "loss period") shall be carried to the earliest of the
33 privilege periods to which the loss may be carried. The portion of
34 the loss which shall be carried to each of the other privilege periods
35 shall be the excess, if any, of the amount of the loss over the sum of
36 the entire net income, computed without the exclusions permitted in
37 paragraphs (4) and (5) of this subsection or the net operating loss
38 deduction provided by subparagraph (A) of this paragraph, for each
39 of the prior privilege periods to which the loss may be carried.

40 (C) Net operating loss. For purposes of this paragraph the term
41 "net operating loss" means the excess of the deductions over the
42 gross income used in computing entire net income without the net
43 operating loss deduction provided for in subparagraph (A) of this
44 paragraph and the exclusions in paragraphs (4) and (5) of this
45 subsection.

46 (D) Change in ownership. Where there is a change in 50% or
47 more of the ownership of a corporation because of redemption or

1 sale of stock and the corporation changes the trade or business
2 giving rise to the loss, no net operating loss sustained before the
3 changes may be carried over to be deducted from income earned
4 after such changes. In addition where the facts support the premise
5 that the corporation was acquired under any circumstances for the
6 primary purpose of the use of its net operating loss carryover, the
7 director may disallow the carryover.

8 (E) Notwithstanding the provisions of this paragraph (6) of
9 subsection (k) of this section to the contrary, for privilege periods
10 beginning during calendar year 2002 and calendar year 2003, no
11 deduction for any net operating loss carryover shall be allowed and
12 for privilege periods beginning during calendar year 2004 and
13 calendar year 2005, there shall be allowed as a deduction for the
14 privilege period so much of the net operating loss carryover as
15 reduces entire net income otherwise calculated by 50%. If and only
16 to the extent that any net operating loss carryover deduction is
17 disallowed by reason of this subparagraph (E), the date on which
18 the amount of the disallowed net operating loss carryover deduction
19 would otherwise expire shall be extended by a period equal to the
20 period for which application of the net operating loss was
21 disallowed by this subparagraph.

22 Provided, that this subparagraph (E) shall not restrict the
23 surrender or acquisition of corporation business tax benefit
24 certificates pursuant to section 1 of P.L.1997, c.334
25 (C.34:1B-7.42a) and shall not restrict the application of corporation
26 business tax benefit certificates pursuant to section 2 of P.L.1997,
27 c.334 (C.54:10A-4.2).

28 (F) Reduction for discharge of indebtedness. A net operating
29 loss for any privilege period ending after June 30, 2014, and any net
30 operating loss carryover to such privilege period, shall be reduced
31 by the amount excluded from federal taxable income under
32 subparagraph (A), (B), or (C) of paragraph (1) of subsection (a) of
33 section 108 of the federal Internal Revenue Code (26 U.S.C. s.108),
34 for the privilege period of the discharge of indebtedness.

35 (7) The entire net income of gas, electric and gas and electric
36 public utilities that were subject to, or would have been subject to
37 tax if doing business in this State, the provisions of P.L.1940, c.5
38 (C.54:30A-49 et seq.) prior to 1998, shall be adjusted by
39 substituting the New Jersey depreciation allowance for federal tax
40 depreciation with respect to assets placed in service prior to January
41 1, 1998. For gas, electric, and gas and electric public utilities that
42 were subject to, or would have been subject to tax if doing business
43 in this State, the provisions of P.L.1940, c.5 (C.54:30A-49 et seq.)
44 prior to 1998, the New Jersey depreciation allowance shall be
45 computed as follows: All depreciable assets placed in service prior
46 to January 1, 1998 shall be considered a single asset account. The
47 New Jersey tax basis of this depreciable asset account shall be an

1 amount equal to the carryover adjusted basis for federal income tax
2 purposes on December 31, 1997 of all depreciable assets in service
3 on December 31, 1997, increased by the excess, of the "net carrying
4 value," defined to be adjusted book basis of all assets and liabilities,
5 excluding deferred income taxes, recorded on the public utility's
6 books of account on December 31, 1997, over the carryover
7 adjusted basis for federal income tax purposes on December 31,
8 1997 of all assets and liabilities owned by the gas, electric, or gas
9 and electric public utility as of December 31, 1997. "Books of
10 account" for gas, gas and electric, and electric public utilities means
11 the uniform system of accounts as promulgated by the Federal
12 Energy Regulatory Commission and adopted by the Board of Public
13 Utilities. The following adjustments to entire net income shall be
14 made pursuant to this section:

15 (A) Depreciation for property placed in service prior to January
16 1, 1998 shall be adjusted as follows:

17 (i) Depreciation for federal income tax purposes shall be
18 disallowed in full.

19 (ii) A deduction shall be allowed for the New Jersey
20 depreciation allowance. The New Jersey depreciation allowance
21 shall be computed for the single asset account described above
22 based on the New Jersey tax basis as adjusted above as if all assets
23 in the single asset account were first placed in service on January 1,
24 1998. Depreciation shall be computed using the straight line method
25 over a thirty-year life. A full year's depreciation shall be allowed in
26 the initial tax year. No half-year convention shall apply. The
27 depreciable basis of the single account shall be reduced by the
28 adjusted federal tax basis of assets sold, retired, or otherwise
29 disposed of during any year on which gain or loss is recognized for
30 federal income tax purposes as described in subparagraph (B) of
31 this paragraph.

32 (B) Gains and losses on sales, retirements and other dispositions
33 of assets placed in service prior to January 1, 1998 shall be
34 recognized and reported on the same basis as for federal income tax
35 purposes.

36 (C) The Director of the Division of Taxation shall promulgate
37 regulations describing the methodology for allocating the single
38 asset account in the event that a portion of the utility's operations
39 are separated, spun-off, transferred to a separate company or
40 otherwise desegregated.

41 (8) In the case of taxpayers that are gas, electric, gas and
42 electric, or telecommunications public utilities as defined pursuant
43 to subsection (q) of this section, the director shall have authority to
44 promulgate rules and issue guidance correcting distortions and
45 adjusting timing differences resulting from the adoption of
46 P.L.1997, c.162 (C.54:10A-5.25 et al.).

1 (9) Notwithstanding paragraph (1) of this subsection, entire net
2 income shall not include the income derived by a corporation
3 organized in a foreign country from the international operation of a
4 ship or ships, or from the international operation of aircraft, if such
5 income is exempt from federal taxation pursuant to section 883 of
6 the federal Internal Revenue Code of 1986, 26 U.S.C. s.883.

7 (10) Entire net income shall exclude all income of an alien
8 corporation the activities of which are limited in this State to
9 investing or trading in stocks and securities for its own account,
10 investing or trading in commodities for its own account, or any
11 combination of those activities, within the meaning of section 864
12 of the federal Internal Revenue Code of 1986, 26 U.S.C. s.864, as in
13 effect on December 31, 1998. Notwithstanding the previous
14 sentence, if an alien corporation undertakes one or more infrequent,
15 extraordinary or non-recurring activities, including but not limited
16 to the sale of tangible property, only the income from such
17 infrequent, extraordinary or non-recurring activity shall be subject
18 to the tax imposed pursuant to P.L.1945, c.162 (C.54:10A-1 et
19 seq.), and that amount of income subject to tax shall be determined
20 without regard to the allocation to that specific transaction of any
21 general business expense of the taxpayer and shall be specifically
22 assigned to this State for taxation by this State without regard to
23 section 6 of P.L.1945, c.162 (C.54:10A-6). For the purposes of this
24 paragraph, "alien corporation" means a corporation organized under
25 the laws of a jurisdiction other than the United States or its political
26 subdivisions.

27 (11) No deduction shall be allowed for research and experimental
28 expenditures, to the extent that those research and experimental
29 expenditures are qualified research expenses or basic research
30 payments for which an amount of credit is claimed pursuant to
31 section 1 of P.L.1993, c.175 (C.54:10A-5.24) unless those research
32 and experimental expenditures are also used to compute a federal
33 credit claimed pursuant to section 41 of the federal Internal
34 Revenue Code of 1986, 26 U.S.C. s.41; provided, however, for
35 privilege periods beginning on and after January 1, 2022, a
36 deduction for research and experimental expenditures shall be
37 allowed during the same privilege period for which a credit is
38 claimed pursuant to section 1 of P.L.1993, c.175 (C.54:10A-5.24),
39 notwithstanding the timing schedule required by the federal Internal
40 Revenue Code of 1986, 26 U.S.C. s.174, for the deduction of
41 specified research and experimental expenditures.

42 (12)(A) Notwithstanding the provisions of subsection (k) of
43 section 168 of the federal Internal Revenue Code of 1986, 26
44 U.S.C. s.168, subsection (b) of section 1400L of the federal Internal
45 Revenue Code of 1986, 26 U.S.C. s.1400L, or any other federal
46 law, for property acquired after September 10, 2001, the
47 depreciation deduction otherwise allowed pursuant to section 167 of

1 the federal Internal Revenue Code of 1986, 26 U.S.C. s.167, shall
2 be determined pursuant to the provisions of the federal Internal
3 Revenue Code of 1986 (26 U.S.C. s.1 et seq.) in effect on
4 December 31, 2001.

5 (B) The director shall prescribe the rules and regulations
6 necessary to carry out the provisions of this paragraph, including,
7 among others, those for determining the adjusted basis of the
8 acquired property for the purposes of the Corporation Business Tax
9 Act (1945), P.L.1945, c.162 ²(C.54:10A-1 et seq.)².

10 (13)(A) Notwithstanding the provisions of section 179 of the
11 federal Internal Revenue Code of 1986, 26 U.S.C. s.179, for
12 property placed in service on or after January 1, 2004, the costs that
13 a taxpayer may otherwise elect to treat as an expense which is not
14 chargeable to a capital account shall be determined pursuant to the
15 provisions of the federal Internal Revenue Code of 1986 (26 U.S.C.
16 s.1 et seq.) in effect on December 31, 2002.

17 (B) The director shall prescribe the rules and regulations
18 necessary to carry out the provisions of this paragraph, including,
19 among others, those for determining the adjusted basis of the
20 acquired property for the purposes of the Corporation Business Tax
21 Act (1945), P.L.1945, c. 162 ²(C.54:10A-1 et seq.)².

22 (14)Notwithstanding the provisions of subsection (i) of section
23 108 of the federal Internal Revenue Code of 1986 (26 U.S.C. s.108),
24 for privilege periods beginning after December 31, 2008 and before
25 January 1, 2011, entire net income shall include the amount of
26 discharge of indebtedness income excluded for federal income tax
27 purposes pursuant to subsection (i) of section 108 of the federal
28 Internal Revenue Code of 1986 (26 U.S.C. s.108), and for privilege
29 periods beginning on or after January 1, 2014 and before January 1,
30 2019, entire net income shall exclude the amount of discharge of
31 indebtedness income included for federal income tax purposes,
32 pursuant to subsection (i) of section 108 of the federal Internal
33 Revenue Code of 1986 (26 U.S.C. s.108).

34 (15)Entire net income shall exclude the gain or income derived
35 from the sale or assignment of a tax credit transfer certificate
36 pursuant to section 7 of P.L.2011, c.149 (C.34:1B-248) **[and]**,
37 section 10 of P.L.2014, c.63 (C.34:1B-251), or the "New Jersey
38 Economic Recovery Act of 2020," P.L.2020, c.156 (C.34:1B-269 et
39 al.), as amended and supplemented.

40 (16)(A) There shall be allowed as a deduction an amount
41 computed in accordance with this paragraph.

42 (B) For purposes of this paragraph, "net deferred tax liability"
43 means deferred tax liabilities that exceed the deferred tax assets of
44 the combined group, as computed in accordance with generally
45 accepted accounting principles, and "net deferred tax asset" means
46 that deferred tax assets exceed the deferred tax liabilities of the

1 combined group, as computed in accordance with generally
2 accepted accounting principles.

3 (C) Only publicly traded companies, including affiliated
4 corporations participating in the filing of a publicly traded
5 company's financial statements prepared in accordance with
6 generally accepted accounting principles, as of the effective date of
7 this paragraph, shall be eligible for this deduction.

8 (D) If the provisions of sections 18 through 23 of P.L.2018, c.48
9 (C.54:10A-4.6 to C.54:10A-4.11) result in an aggregate increase to
10 the members' net deferred tax liability or an aggregate decrease to
11 the members' net deferred tax asset, or an aggregate change from a
12 net deferred tax asset to a net deferred tax liability, the combined
13 group shall be entitled to a deduction, as determined in this
14 paragraph.

15 (E) (i) Beginning with the combined group's first privilege
16 period on or after January 1 of the fifth year after the effective date
17 of P.L.2018, c.48 (C.54:10A-5.41 et al.), a combined group shall be
18 entitled to a deduction from combined group entire net income
19 equal to one-tenth of the amount necessary to offset the increase in
20 the net deferred tax liability or decrease in the net deferred tax
21 asset, or aggregate change from a net deferred tax asset to a net
22 deferred tax liability, according to the schedule provided by
23 subsubparagraphs (ii) and (iii) of this subparagraph (E). Such
24 increase in the net deferred tax liability or decrease in the net
25 deferred tax asset or the aggregate change from a net deferred tax
26 asset to a net deferred tax liability shall be computed based on the
27 change that would result from the imposition of the unitary
28 reporting requirements under sections 1 and 18 through 23 of
29 P.L.2018, c.48 (C.54:10A-5.41 and C.54:10A-4.6 to
30 C.54:10A-4.11) but for the deduction provided under this paragraph
31 as of the effective date of this paragraph.

32 (ii) For group privilege periods beginning on and after January
33 1, 2023, but before January 1, 2030, the combined group may
34 deduct one percent of the amount necessary to offset the increase in
35 the net deferred tax liability or decrease in the net deferred tax
36 asset, or aggregate change from a net deferred tax asset to a net
37 deferred tax liability, during a group privilege period. Such
38 increase in the net deferred tax liability or decrease in the net
39 deferred tax asset or the aggregate change from a net deferred tax
40 asset to a net deferred tax liability shall be computed based on the
41 change that would result from the imposition of the unitary
42 reporting requirements under sections 1 and 18 through 23 of
43 P.L.2018, c.48 (C.54:10A-5.41 and C.54:10A-4.6 to C.54:10A-
44 4.11) but for the deduction provided under this paragraph as of the
45 effective date of this paragraph.

46 (iii) For group privilege periods beginning on and after January
47 1, 2030, the combined group may deduct up to five percent of any

1 remaining unused amount of the deduction during the group
2 privilege period, until the group privilege period in which the total
3 deduction amount has been fully utilized. Such increase in the net
4 deferred tax liability or decrease in the net deferred tax asset or the
5 aggregate change from a net deferred tax asset to a net deferred tax
6 liability shall be computed based on the change that would result
7 from the imposition of the unitary reporting requirements under
8 sections 1 and 18 through 23 of P.L.2018, c.48 (C.54:10A-5.41 and
9 C.54:10A-4.6 to C.54:10A-4.11) but for the deduction provided
10 under this paragraph as of the effective date of this paragraph.

11 (F) The deferred tax impact determined in subparagraph (E) of
12 this paragraph must be converted to the annual Deferred Tax
13 Deduction amount, as follows:

14 (i) the deferred tax impact determined in subparagraph (E) of
15 this paragraph shall be divided by the rate determined under section
16 5 of P.L.1945, c.162 (C.54:10A-5) at the effective date of P.L.2018,
17 c.48 (C.54:10A-5.41 et al.);

18 (ii) the resulting amount shall be further divided by the New
19 Jersey unitary business allocation factor that was used by the
20 combined group in the calculation of the deferred tax assets and
21 deferred tax liabilities as described in subparagraph (E) of this
22 paragraph;

23 (iii) the resulting amount represents the total net Deferred Tax
24 Deduction available over the period as described in subparagraph
25 (E) of this paragraph.

26 (G) The deduction calculated under this paragraph shall not be
27 adjusted as a result of any events happening subsequent to such
28 calculation, including, but not limited to, any disposition or
29 abandonment of assets. Such deduction shall be calculated without
30 regard to the federal tax effect and shall not alter the tax basis of
31 any asset. If the deduction under this section is greater than
32 combined group entire net income, any excess deduction shall be
33 carried forward and applied as a deduction to combined group entire
34 net income in future privilege periods until fully utilized.

35 (H) Any combined group intending to claim a deduction under
36 this paragraph shall file a statement with the director on or before
37 July 1 of the year subsequent to the first privilege period for which
38 a combined return is required. Such statement shall specify the total
39 amount of the deduction which the combined group claims on such
40 form and in such manner as prescribed by the director. No
41 deduction shall be allowed under this paragraph for any privilege
42 period except to the extent claimed on such timely filed statement
43 in accordance with this paragraph.

44 (17)(A) In the case of a taxpayer that is a cannabis licensee,
45 there shall be allowed as a deduction an amount equal to any
46 expenditure that is eligible to be claimed as a federal income tax
47 deduction but is disallowed because cannabis is a controlled

1 substance under federal law, and income shall be determined
2 without regard to section 280E of the Internal Revenue Code (26
3 U.S.C. s.280E) for cannabis licensees.

4 (B) In the case of a taxpayer that is a cannabis licensee, there
5 shall be allowed as a deduction an amount equal to any expenditure
6 that would qualify as a specified research or experimental
7 expenditure pursuant to section 174 of the Internal Revenue Code
8 but is disallowed as a deduction for federal tax purposes because
9 cannabis is a controlled substance under federal law. Any
10 expenditure that is claimed as a deduction pursuant to this
11 subparagraph may also be claimed as a qualified research expense
12 for purposes of the credit allowed pursuant to section 1 of P.L.1993,
13 c.175 (C.54:10A-5.24).

14 (C) For purposes of this paragraph, "licensee" means the same as
15 that term is defined in section 3 of P.L.2021, c.16 (C.24:6I-33).

16 (18)For privilege periods ending on and after July 31, 2022:

17 (A) Notwithstanding subparagraph (A) of paragraph (2) of this
18 subsection or any other law or treaty to the contrary, for a
19 corporation that is incorporated or formed in a foreign nation with a
20 comprehensive tax treaty with the United States, and that is not a
21 member of a world-wide group combined return filed pursuant to
22 subsection b. of section 23 of P.L.2018, c.48 (C.54:10A-4.11),
23 entire net income shall not include an item of income or loss
24 excluded or exempted from federal taxable income under the terms
25 of the treaty, and no other deduction, exclusion, or elimination shall
26 be permitted for an item of income or loss excluded by this
27 paragraph.

28 (B) For a non-U.S. corporation that files a federal tax return and
29 is not a member of a combined group filing a New Jersey combined
30 return on a world-wide basis pursuant to subsection b. of section 23
31 of P.L.2018, c.48 (C.54:10A-4.11), the non-U.S. corporation shall
32 only include its income or loss included in federal taxable income,
33 which shall be limited to only the non-U.S. corporation's effectively
34 connected income or loss, as modified by the provisions of the
35 Corporation Business Tax Act (1945), P.L.1945, c.162 (C.54:10A-1
36 et seq.), and the items of expense and the allocation factor receipts
37 attributable to such items of income or loss.

38 (l) "Real estate investment trust" shall mean any corporation,
39 trust or association qualifying and electing to be taxed as a real
40 estate investment trust under federal law.

41 (m) "Financial business corporation" shall mean any corporate
42 enterprise which is (1) in substantial competition with the business
43 of national banks and which (2) employs moneyed capital with the
44 object of making profit by its use as money, through discounting
45 and negotiating promissory notes, drafts, bills of exchange and
46 other evidences of debt; buying and selling exchange; making of or
47 dealing in secured or unsecured loans and discounts; dealing in

1 securities and shares of corporate stock by purchasing and selling
2 such securities and stock without recourse, solely upon the order
3 and for the account of customers; or investing and reinvesting in
4 marketable obligations evidencing indebtedness of any person,
5 copartnership, association or corporation in the form of bonds,
6 notes or debentures commonly known as investment securities; or
7 dealing in or underwriting obligations of the United States, any
8 state or any political subdivision thereof, or of a corporate
9 instrumentality of any of them. This shall include, without
10 limitation of the foregoing, business commonly known as industrial
11 banks, dealers in commercial paper and acceptances, sales finance,
12 personal finance, small loan and mortgage financing businesses, as
13 well as any other enterprise employing moneyed capital coming
14 into competition with the business of national banks; provided that
15 the holding of bonds, notes, or other evidences of indebtedness by
16 individual persons not employed or engaged in the banking or
17 investment business and representing merely personal investments
18 not made in competition with the business of national banks, shall
19 not be deemed financial business. Nor shall "financial business"
20 include national banks, production credit associations organized
21 under the Farm Credit Act of 1933 or the Farm Credit Act of 1971,
22 Pub.L.92-181 (12 U.S.C. s.2091 et seq.), stock and mutual
23 insurance companies duly authorized to transact business in this
24 State, security brokers or dealers or investment companies or
25 bankers not employing moneyed capital coming into competition
26 with the business of national banks, real estate investment trusts, or
27 any of the following entities organized under the laws of this State:
28 credit unions, savings banks, savings and loan and building and
29 loan associations, pawnbrokers, and State banks and trust
30 companies.

31 (n) "International banking facility" shall mean a set of asset and
32 liability accounts segregated on the books and records of a
33 depository institution, United States branch or agency of a foreign
34 bank, or an Edge or Agreement Corporation that includes only
35 international banking facility time deposits and international
36 banking facility extensions of credit as such terms are defined in
37 section 204.8(a)(2) and section 204.8(a)(3) of Regulation D of the
38 board of governors of the Federal Reserve System, 12 CFR Part
39 204, effective December 3, 1981. In the event that the United States
40 enacts a law, or the board of governors of the Federal Reserve
41 System adopts a regulation which amends the present definition of
42 international banking facility or of such facilities' time deposits or
43 extensions of credit, the Commissioner of Banking and Insurance
44 shall forthwith adopt regulations defining such terms in the same
45 manner as such terms are set forth in the laws of the United States
46 or the regulations of the board of governors of the Federal Reserve

1 System. The regulations of the Commissioner of Banking and
2 Insurance shall thereafter provide the applicable definitions.

3 (o) "S corporation" means a corporation that has elected to be an
4 "S corporation" pursuant to section 1361 of the federal Internal
5 Revenue Code of 1986, 26 U.S.C. s.1361, for the taxable year.

6 (p) "New Jersey S corporation" means a taxpayer that has made
7 a valid election to be an S corporation for federal tax purposes, and
8 that has not made a valid election pursuant to subsection d. of
9 section ²[20] ³ of ²[P.L.2022, c.133] P.L.1993, c.173²
10 (C.54:10A-5.22).

11 (q) "Public Utility" means "public utility" as defined in
12 R.S.48:2-13.

13 (r) "Qualified investment partnership" means a partnership
14 under this act that has more than 10 members or partners with no
15 member or partner owning more than a 50% interest in the entity
16 and that derives at least 90% of its gross income from dividends,
17 interest, payments with respect to securities loans, and gains from
18 the sale or other disposition of stocks or securities or foreign
19 currencies or commodities or other similar income (including but
20 not limited to gains from swaps, options, futures or forward
21 contracts) derived with respect to its business of investing or
22 trading in those stocks, securities, currencies or commodities, but
23 "investment partnership" shall not include a "dealer in securities"
24 within the meaning of section 1236 of the federal Internal Revenue
25 Code of 1986, 26 U.S.C. s.1236.

26 (s) "Savings institution" means a state or federally chartered
27 building and loan association, savings and loan association, or
28 savings bank.

29 (t) "Partnership" means an entity classified as a partnership for
30 federal income tax purposes.

31 (u) "Prior net operating loss conversion carryover" means a net
32 operating loss incurred in a privilege period ending prior to July 31,
33 2019 and converted from a pre-allocation net operating loss to a
34 post-allocation net operating loss as follows:

35 (1) As used in this subsection:

36 "Base year" means the last privilege period ending prior to July
37 31, 2019.

38 "Base year BAF" means the taxpayer's business allocation factor
39 as provided in sections 6 through 10 of P.L.1945, c.162 (C.54:10A-
40 6 through C.54:10A-10) for purposes of calculating entire net
41 income for the base year, as such section was in effect for the last
42 privilege period ending prior to July 31, 2019.

43 "UNOL" means the unabsorbed portion of net operating loss as
44 calculated under paragraph (6) of subsection (k) of this section as
45 such paragraph was in effect for the last privilege period ending
46 prior to July 31, 2019, that was not deductible in previous privilege
47 periods and was eligible for carryover on the last day of the base

1 year subject to the limitations for deduction under such subsection,
2 including any net operating loss sustained by the taxpayer during
3 the base year.

4 (2) The prior net operating loss conversion carryover shall be
5 calculated as follows:

6 (A) The taxpayer shall first calculate the tax value of its UNOL
7 for the base year and for each preceding privilege period for which
8 there is a UNOL. The value of the UNOL for each privilege period
9 is equal to the product of (I) the amount of the taxpayer's UNOL for
10 a privilege period, and (II) the taxpayer's base year BAF. This result
11 shall equal the taxpayer's prior net operating loss conversion
12 carryover.

13 (B) The taxpayer shall continue to carry over its prior net
14 operating loss conversion carryover to offset its allocated entire net
15 income as provided in sections 6 through 10 of P.L.1945, c.162
16 (C.54:10A-6 through C.54:10A-10) for privilege periods ending on
17 and after July 31, 2019. Such carryover periods shall not exceed the
18 twenty privilege periods following the privilege period of the initial
19 loss. The entire amount of the prior net operating loss conversion
20 carryover for any privilege period shall be carried to the earliest of
21 the privilege periods to which the loss may be carried. The portion
22 of the prior net operating loss conversion carryover which shall be
23 carried to each of the other privilege periods shall be the excess, if
24 any, of the amount of the prior net operating loss conversion
25 carryover over the sum of the entire net income, computed without
26 the exclusions permitted in paragraphs (4) and (5) of subsection (k)
27 of this section allocated to this State. For privilege periods ending
28 on and after July 31, 2023, for the purpose of computing taxable net
29 income for a current privilege period, the amount of the prior net
30 operating loss conversion carryover shall be subtracted from entire
31 net income allocated to this State, after the application of
32 paragraphs (4) and (5) of subsection (k) of this section against
33 current privilege period income when the entire net income
34 allocated to this State for the privilege period is greater than zero.

35 (C) The prior net operating loss conversion carryover computed
36 under this subsection shall be applied against the entire net income
37 allocated to this State before the net operating loss carryover
38 computed under subsection (v) of this section.

39 (v) "Net operating loss deduction" means the amount allowed as
40 a deduction for the net operating loss carryover to the privilege
41 period, calculated as follows:

42 (1) Net operating loss carryover. A net operating loss for any
43 privilege period ending on or after July 31, 2019, shall be a net
44 operating loss carryover to each of the twenty privilege periods
45 following the period of the loss. The entire amount of the net
46 operating loss for any privilege period shall be carried to the earliest
47 of the privilege periods to which the loss may be carried. For

1 privilege periods ending before July 31, 2023, the portion of the
2 loss which shall be carried to each of the other privilege periods
3 shall be the excess, if any, of the amount of the loss over the sum of
4 the entire net income, computed without the exclusions permitted in
5 paragraphs (4) and (5) of subsection (k) of this section allocated to
6 this State. For privilege periods ending on and after July 31, 2023,
7 the portion of the loss that shall be carried to each of the other
8 privilege periods shall be the excess, if any, of the amount of the
9 loss over the sum of the entire net income, after the application of
10 paragraphs (4) and (5) of subsection (k) of this section allocated to
11 this State; provided, however, for the purpose of computing taxable
12 net income for the privilege period, the net operating loss carryover
13 shall only be subtracted from entire net income allocated to this
14 State when the entire net income allocated to this State is greater
15 than zero.

16 (2) Net operating loss. For purposes of this paragraph the term
17 "net operating loss" means the excess of the deductions over the
18 gross income used in computing entire net income, without regard
19 to any net operating loss carryover, and for privilege periods ending
20 before July 31, 2023, computed without the exclusions in
21 paragraphs (4) and (5) of subsection (k) of this section, and for
22 privilege periods ending on and after July 31, 2023, computed after
23 the application of paragraphs (4) and (5) of subsection (k) of this
24 section, allocated to this State pursuant to sections 6 through 10 of
25 P.L.1945, c.162 (C.54:10A-6 through C.54:10A-10).

26 (3) Reduction for discharge of indebtedness. A net operating
27 loss for any privilege period ending on or after July 31, 2019, and
28 any net operating loss carryover to such privilege period, shall be
29 reduced by the amount excluded from federal taxable income under
30 subparagraph (A), (B), or (C) of paragraph (1) of subsection (a) of
31 section 108 of the federal Internal Revenue Code, 26 U.S.C. s.108,
32 for the privilege period of the discharge of indebtedness.

33 (4) A net operating loss carryover shall not include any net
34 operating loss incurred during any privilege period ending prior to
35 July 31, 2019.

36 (5) Change in ownership. Where there is a change in 50% or
37 more of the ownership of a corporation because of redemption or
38 sale of stock and the corporation changes the trade or business
39 giving rise to the loss, no net operating loss sustained before the
40 changes may be carried over to be deducted from income earned
41 after such changes. In addition, where the facts support the premise
42 that the corporation was acquired under any circumstances for the
43 primary purpose of the use of its net operating loss carryover, the
44 director may disallow the carryover; provided, however, this
45 paragraph shall not apply between members of a combined group
46 reported on a New Jersey combined return.

(w) "Taxable net income" means entire net income allocated to this State as calculated pursuant to sections 6 through 8 of P.L.1945, c.162 (C.54:10A-6 through 54:10A-8) as modified by subtracting any prior net operating loss conversion carryforward calculated pursuant to subsection (u) of this section, and any net operating loss calculated pursuant to subsection (v) of this section; provided, however, for privilege periods ending on and after July 31, 2023, when subtracting any net operating losses calculated pursuant to subsection (v) of this section or the combined group net operating losses calculated pursuant to subsection h. of section 18 of P.L.2018, c.48 (C.54:10A-4.6), the limitation set forth in paragraph (2) of subsection (a) of Internal Revenue Code Section 172 (26 U.S.C. s.172(a)(2)) shall apply, except that August 1, 2023 is substituted for the reference to January 1, 2018 in subparagraph (A) of paragraph (2) of subsection a. of Internal Revenue Code Section 172 (26 U.S.C. s.172), and July 31, 2023 is substituted for the reference to December 31, 2017 in subparagraph (B) of paragraph (2) of subsection (a) of Internal Revenue Code Section 172 (26 U.S.C. s.172). For privilege periods ending on and after July 31, 2023, for a combined group, before subtracting the prior net operating loss conversion carryforwards and subtracting the net operating losses of the combined group when computing the total taxable net income, the combined group shall first add together the allocated entire net income from the unitary business of the combined group and the portion of allocated entire net income of members with activities independent of the group, and then subtract the prior net operating loss conversion carryforwards and then the net operating losses.

(x) "Affiliated group" means, for purposes of section 23 of P.L.2018, c.48 (C.54:10A-4.11), an affiliated group as defined in section 1504 of the federal Internal Revenue Code, 26 U.S.C. s.1504, except such affiliated group shall include all U.S. domestic corporations that are commonly owned, directly or indirectly, by any member of such affiliated group, without regard to whether the affiliated group includes (1) corporations included in more than one federal consolidated return, (2) corporations engaged in one or more unitary businesses, or (3) corporations that are not engaged in a unitary business with any other member of the affiliated group.

For purposes of this subsection:

"U.S. domestic corporations" means: (1) business entities wherever incorporated or formed that are U.S. domestic corporations, are deemed to be, or are treated as U.S. domestic corporations under the provisions of the federal Internal Revenue Code; or (2) any entities incorporated or formed under the laws of a foreign nation that are required to file federal tax returns if such entities have effectively connected income within the meaning of the federal Internal Revenue Code; and

1 "Commonly owned" means that more than 50 percent of the
2 voting control of each member of an affiliated group is directly or
3 indirectly owned by a common owner or owners, either corporate or
4 non-corporate, whether or not the owner or owners are members of
5 the affiliated group. Whether voting control is indirectly owned
6 shall be determined in accordance with section 318 of the federal
7 Internal Revenue Code (26 U.S.C. s.318).

8 (y) "Combinable captive insurance company" means an entity
9 that is treated as an association taxable as a corporation under the
10 federal Internal Revenue Code:

11 (1) more than 50% of the voting stock of which is owned or
12 controlled, directly or indirectly, by a single entity that is treated as
13 an association taxable as a corporation under the federal Internal
14 Revenue Code, and not exempt from federal income tax;

15 (2) that is licensed as a captive insurance company under the
16 laws of this State or another jurisdiction;

17 (3) whose business includes providing, directly and indirectly,
18 insurance or reinsurance covering the risks of its parent, members
19 of its affiliated group, or both; and

20 (4) 50% or less of whose gross receipts for the privilege period
21 consist of premiums from arrangements that constitute insurance for
22 federal income tax purposes.

23 A combinable captive insurance company shall not be exempt
24 under section 3 of P.L.1945, c.162 (C.54:10A-3). A captive
25 insurance company that does not meet the definition of combinable
26 captive insurance company shall be excluded as provided in
27 subsection k. of section 18 of P.L.2018, c.48 (C.54:10A-4.6) and
28 shall be exempt under section 3 of P.L.1945, c.162 (C.54:10A-3).

29 For purposes of this definition:

30 "Affiliated group" shall have the same meaning as that term is
31 given by section 1504 of the federal Internal Revenue Code, 26
32 U.S.C. s.1504, except that the term "common parent corporation" as
33 used in section 1504 of the federal Internal Revenue Code, 26
34 U.S.C. s.1504, shall mean any person, as defined in section 7701 of
35 the federal Internal Revenue Code, 26 U.S.C. s.7701, and references
36 to "at least 80%" in section 1504 of the federal Internal Revenue
37 Code, 26 U.S.C. s.1504, shall be read as "50% or more." Section
38 1504 of the federal Internal Revenue Code, 26 U.S.C. s.1504, shall
39 be read without regard to the exclusions provided for in subsection
40 (b) of that section.

41 "Gross receipts" includes the amounts included in gross receipts
42 for purposes of paragraph (15) of subsection (c) of section 501 of
43 the federal Internal Revenue Code, 26 U.S.C. s.501, except that
44 those amounts also include all premiums.

45 "Premiums" includes consideration for annuity contracts and
46 excludes any part of the consideration for insurance, reinsurance, or

1 annuity contracts that do not provide bona fide insurance,
2 reinsurance, or annuity benefits.

3 (z) "Combined group" means the group of all companies that
4 have common ownership and are engaged in a unitary business,
5 where at least one company is subject to tax under this chapter, and
6 shall include all business entities, except as provided for under any
7 section of the Corporation Business Tax Act (1945), P.L.1945,
8 c.162 (C.54:10A-1 et seq.).

9 A combined group shall be treated, for privilege periods ending
10 on and after July 31, 2020, as one taxpayer for purposes of
11 paragraph (1) of subsection (c) of section 5 of P.L.1945, c.162
12 (C.54:10A-5) and section 1 of P.L.2018, c.48 (C.54:10A-5.41) for
13 the income derived from the unitary business; provided however,
14 with regard to the surtax imposed pursuant to section 1 of P.L.2018,
15 c.48 (C.54:10A-5.41) and for that purpose only, the portion of
16 income that is attributable to a member which is a public utility
17 exempt from the surtax shall not be included when computing the
18 surtax due.

19 (aa) "Common ownership" means that more than 50% of the
20 voting control of each member of a combined group is directly or
21 indirectly owned by a common owner or owners, either corporate or
22 non-corporate, whether or not the owner or owners are members of
23 the combined group. Whether voting control is indirectly owned
24 shall be determined in accordance with section 318 of the federal
25 Internal Revenue Code, 26 U.S.C. s.318.

26 (bb) "Group privilege period" means, if two or more members in
27 the combined group file in the same federal consolidated tax return,
28 the same income year as that used on the federal consolidated tax
29 return and, in all other cases, the privilege period of the managerial
30 member.

31 (cc) "Managerial member" means if the combined group has a
32 common parent corporation and that common parent corporation is
33 a taxable member, the managerial member shall be the common
34 parent corporation. In other cases, the combined group shall select a
35 taxable member as its managerial member or, in the discretion of
36 the director or upon failure of the combined group to select its
37 managerial member, the director shall designate a taxable member
38 of the combined group as managerial member.

39 (dd) "Member" means a business entity that is a part of a
40 combined group.

41 A corporation exempt pursuant to section 3 of P.L.1945, c.162
42 (C.54:10A-3) from the tax imposed by P.L.1945, c.162 (C.54:10A-1
43 et seq.) shall not be a member of a combined group.

44 (ee) "Nontaxable member" means a member that is: (i) not
45 subject to tax pursuant to the Corporation Business Tax Act (1945),
46 P.L.1945, c.162 (C.54:10A-1 et seq.); or (ii) (deleted by
47 amendment, P.L.2020, c.118 (C.54:10A-5.46 et al.).

1 (ff) "Taxable member" means a member that is subject to tax
2 pursuant to the Corporation Business Tax Act (1945), P.L.1945,
3 c.162 (C.54:10A-1 et seq.).

4 A New Jersey S corporation shall only be included as a taxable
5 member of a combined group filing a New Jersey combined return
6 if the New Jersey S Corporation elects to be included as a member
7 and taxed at the same rate as the other members of the combined
8 group. A New Jersey S corporation that does not elect to be
9 included shall be excluded as a member of the combined return and
10 shall file a separate return.

11 (gg)"Unitary business" means, for privilege periods ending
12 before July 31, 2023, a single economic enterprise that is made up
13 either of separate parts of a single business entity or of a group of
14 business entities under common ownership that are sufficiently
15 interdependent, integrated, and interrelated through their activities
16 so as to provide a synergy and mutual benefit that produces a
17 sharing or exchange of value among them and a significant flow of
18 value among the separate parts. For privilege periods ending on
19 and after July 31, 2023, "unitary business" means a single economic
20 enterprise that is made up either of separate parts of a single
21 business entity or of a group of business entities under common
22 ownership that are sufficiently interdependent, integrated, or
23 interrelated through their activities so as to provide a synergy and
24 mutual benefit that produces a sharing or exchange of value among
25 them and a significant flow of value among the separate parts.
26 "Unitary business" shall be construed to the broadest extent
27 permitted under the Constitution of the United States. A business
28 conducted by a partnership which is in a unitary business with the
29 combined group shall be treated as the business of the partners that
30 are members of the combined group, whether the partnership
31 interest is held directly or indirectly through a series of
32 partnerships, to the extent of a partner's distributive share of
33 partnership income. The amount of partnership income to be
34 included in the partner's entire net income shall be determined in
35 accordance with subsection a. of section 3 of P.L.2001, c.136
36 (C.54:10A-15.6) or subsection a. of section 4 of P.L.2001, c.136
37 (C.54:10A-15.7), as applicable. A business conducted directly or
38 indirectly by one corporation is unitary with that portion of a
39 business conducted by another corporation through its direct or
40 indirect interest in a partnership.

41 (hh)"Captive investment company" shall mean, for privilege
42 periods ending on and after July 31, 2023, an investment company
43 that is not regularly traded on an established securities market and
44 of which more than 50 percent of the voting stock is owned or
45 controlled, directly or indirectly, by a single corporation, other than
46 an investment company, that is not exempt from federal income tax.
47 For purposes of this subsection, a captive investment company shall

1 not include any captive investment company of which at least 50
2 percent of the shares, by vote or value, is owned or controlled,
3 directly or indirectly, by a state or federally chartered bank, savings
4 bank, or savings and loan association with assets that do not exceed
5 \$15 billion.

6 For privilege periods ending on and after July 31, 2023, any
7 voting stock in an investment company that is held in a segregated
8 asset account of a life insurance corporation, as described in section
9 817 of the Internal Revenue Code, shall not be taken into account
10 for purposes of determining whether an investment company is a
11 captive regulated investment company.

12 For privilege periods ending on and after July 31, 2023, a captive
13 investment company shall be taxed in the same manner as a C
14 corporation, and subsection d. of section 5 of P.L.1945, c.162
15 (C.54:10A-5) shall not apply. A captive investment company shall
16 not be permitted to claim any deductions or expenses that were
17 permitted for federal purposes, solely as a result of the entity being
18 an investment company, when computing federal taxable net
19 income. A captive investment company shall be a member of a
20 combined group and shall be included as a member on the
21 combined return.

22 (ii) "Captive real estate investment trust" shall mean, for
23 privilege periods ending on and after July 31, 2023, a real estate
24 investment trust that is not regularly traded on an established
25 securities market and of which more than 50 percent of the voting
26 stock is owned or controlled, directly or indirectly, by a single
27 entity that is treated as an association taxable as a corporation under
28 the Internal Revenue Code, is not exempt from federal income tax,
29 and is not a real estate investment trust. For purposes of this
30 subsection, a captive real estate investment trust shall not include
31 any captive real estate investment trust of which at least 50 percent
32 of the shares, by vote or value, is owned or controlled, directly or
33 indirectly, by a state or federally chartered bank, savings bank, or
34 savings and loan association with assets that do not exceed \$15
35 billion.

36 For privilege periods ending on and after July 23, 2023, any
37 voting stock in a real estate investment trust that is held in a
38 segregated asset account of a life insurance corporation, as
39 described in section 817 of the Internal Revenue Code (26 U.S.C.
40 s.817), shall not be taken into account for purposes of determining
41 whether a real estate investment trust is a captive real estate
42 investment trust. For purposes of this subsection, an association
43 taxable as a corporation shall not include any listed Australian
44 property trust or any qualified foreign entity.

45 For privilege periods ending on and after July 31, 2023, a captive
46 real estate investment trust shall be taxed in the same manner as a C
47 corporation, and subsection d. of section 5 of P.L.1945, c.162

1 (C.54:10A-5) shall not apply. A captive real estate investment trust
2 shall not be permitted to claim any deductions or expenses that were
3 permitted for federal purposes, solely as a result of the entity being
4 a real estate investment trust, when computing federal taxable net
5 income. A captive real estate investment trust shall be a member of
6 a combined group and shall be included as a member on the
7 combined return.

8 As used in this subsection:

9 "Australian property trust" means an Australian unit trust that is
10 registered as a managed investment scheme under the Australian
11 Corporations Act, and in which the principal class of units is listed
12 on a recognized stock exchange in Australia and is regularly traded
13 on an established securities market; or an entity organized as a trust,
14 provided that a listed Australian property trust owns or controls,
15 directly or indirectly, 75 percent or more of the voting power or
16 value of the beneficial interests of shares of the trust.

17 "Qualified foreign entity" means a corporation, trust, association,
18 or partnership that is organized outside the laws of the United States
19 and that satisfies the following criteria:

20 (1) At least 75 percent of the entity's total asset value at the
21 close of its taxable year is represented by real estate assets, as
22 defined at subparagraph (B) of paragraph (5) of subsection (c) of
23 section 856 of the Internal Revenue Code (26 U.S.C. s.856),
24 including shares or certificates of beneficial interest in any real
25 estate investment trust, cash and cash equivalents, and United States
26 Government securities;

27 (2) The entity is not subject to tax on amounts distributed to its
28 beneficial owners, or is exempt from entity-level taxation;

29 (3) The entity distributes, on an annual basis, at least 85 percent
30 of its taxable income, as computed in the jurisdiction in which it is
31 organized, to the holders of its shares or certificates of beneficial
32 interest;

33 (4) No more than 10 percent of the voting power or value in the
34 entity is held directly, indirectly, or constructively by a single entity
35 or individual, or the shares or certificates of beneficial interests of
36 the entity are regularly traded on an established securities market;
37 and

38 (5) The entity is organized in a country that has a tax treaty with
39 the United States.

40 (jj) "Captive regulated investment company" shall mean, for
41 privilege periods ending on and after July 31, 2023, a regulated
42 investment company that is not regularly traded on an established
43 securities market, and of which more than 50 percent of the voting
44 stock is owned or controlled, directly or indirectly, by a single
45 corporation, other than a regulated investment company, that is not
46 exempt from federal income tax. For purposes of this subsection, a
47 captive regulated investment company shall not include any captive

1 regulated investment company of which at least 50 percent of the
2 shares, by vote or value, is owned or controlled, directly or
3 indirectly, by a state or federally chartered bank, savings bank, or
4 savings and loan association with assets that do not exceed \$15
5 billion.

6 For privilege periods ending on and after July 31, 2023, any
7 voting stock in a regulated investment company that is held in a
8 segregated asset account of a life insurance corporation, as
9 described in section 817 of the Internal Revenue Code (26 U.S.C.
10 s.817), shall not be taken into account for purposes of determining
11 whether a regulated investment company is a captive regulated
12 investment company.

13 For privilege periods ending on and after July 31, 2023, a captive
14 regulated investment company shall be taxed in the same manner as
15 a C corporation and subsection d. of section 5 of P.L.1945, c.162
16 (C.54:10A-5) shall not apply. A captive real estate investment
17 company shall not be permitted to claim any deductions or expenses
18 that were permitted for federal purposes, solely as a result of the
19 entity being a regulated investment company, when computing
20 federal taxable net income. A captive regulated investment
21 company shall be a member of a combined group and shall be
22 included as a member on the combined return.

23 (kk)"World-wide basis" and "world-wide group" shall mean, for
24 privilege periods ending on and after July 31, 2022, for the
25 purposes of sections 18 through 23 of P.L.2018, c.48 (C.54:10A-4.6
26 through C.54:10A-4.11) and for the purposes of combined reporting
27 in general under the Corporation Business Tax Act (1945),
28 P.L.1945, c.162 (C.54:10A-1 et seq.), that the combined group shall
29 include all of the members of the combined group, wherever located
30 or formed. For privilege periods ending on and after July 31, 2022,
31 the combined group shall include all of the income and attributes of
32 those members regardless of how or whether those members file
33 federal returns or report or include their income in federal taxable
34 income for federal purposes, and without regard to any exemption
35 or exclusion from federal taxable income under the terms of a tax
36 treaty; provided, however, any deductions that are allowed under
37 the federal Internal Revenue Code that are also allowable under the
38 Corporation Business Tax Act (1945), P.L.1945, c.162 (C.54:10A-1
39 et seq.), that would apply to a U.S. corporation, but that a non-U.S.
40 corporation is prohibited from claiming for federal corporation
41 income tax purposes because the corporation's income was not
42 included in federal taxable income for any reason or because the
43 corporation is a non-U.S. corporation, shall be allowed for the non-
44 U.S. corporation members of the combined group for New Jersey
45 corporation business tax purposes as though those non-U.S.
46 corporation members were U.S. corporations.
47 (cf: P.L.2023, c.96, s.1)

1 15. N.J.S.54A:5-1 is amended to read as follows:

2 54A:5-1. New Jersey Gross Income Defined. New Jersey gross
3 income shall consist of the following categories of income:

4 a. Salaries, wages, tips, fees, commissions, bonuses, and other
5 remuneration received for services rendered whether in cash or in
6 property, and amounts paid or distributed, or deemed paid or
7 distributed, out of a medical savings account that are not excluded
8 from gross income pursuant to section 5 of P.L.1997, c.414
9 (C.54A:6-27).

10 b. Net profits from business. The net income from the
11 operation of a business, profession or other activity after provision
12 for all costs and expenses incurred in the conduct thereof,
13 determined either on a cash or accrual basis in accordance with the
14 method of accounting allowed for federal income tax purposes but
15 without deduction of the amount of:

16 (1) taxes based on income;

17 (2) a civil, civil administrative, or criminal penalty or fine,
18 including a penalty or fine under an administrative consent order,
19 assessed and collected for a violation of a State or federal
20 environmental law, an administrative consent order, or an
21 environmental ordinance or resolution of a local governmental
22 entity, and any interest earned on the penalty or fine, and any
23 economic benefits having accrued to the violator as a result of a
24 violation, which benefits are assessed and recovered in a civil, civil
25 administrative, or criminal action, or pursuant to an administrative
26 consent order. The provisions of this paragraph shall not apply to a
27 penalty or fine assessed or collected for a violation of a State or
28 federal environmental law, or local environmental ordinance or
29 resolution, if the penalty or fine was for a violation that resulted
30 from fire, riot, sabotage, flood, storm event, natural cause, or other
31 act of God beyond the reasonable control of the violator, or caused
32 by an act or omission of a person who was outside the reasonable
33 control of the violator; and

34 (3) treble damages paid to the Department of Environmental
35 Protection pursuant to subsection a. of section 7 of P.L.1976, c.141
36 (C.58:10-23.11f) for costs incurred by the department in removing,
37 or arranging for the removal of, an unauthorized discharge upon the
38 failure of the discharger to comply with a directive from the
39 department to remove, or arrange for the removal of, a discharge.

40 c. Net gains or income from disposition of property. Net gains
41 or net income, less net losses, derived from the sale, exchange or
42 other disposition of property, including real or personal, whether
43 tangible or intangible as determined in accordance with the method
44 of accounting allowed for federal income tax purposes. For the
45 purpose of determining gain or loss, the basis of property shall be
46 the adjusted basis used for federal income tax purposes, except as
47 expressly provided for under this act, but without a deduction for

1 penalties, fines, or economic benefits excepted pursuant to
2 paragraph (2), or for treble damages excepted pursuant to paragraph
3 (3) of subsection b. of this section.

4 A taxpayer's net gain or loss on the sale, exchange or other
5 disposition of a share of an S corporation shall be calculated by
6 increasing the adjusted basis of the share by an amount equal to the
7 shareholder's net losses and deductions in respect of the share
8 allowed and deducted from income for federal income tax purposes,
9 not including any personal net operating loss deductions, to the
10 extent that such net losses were not offset by the taxpayer's pro rata
11 share of S corporation income otherwise subject to taxation
12 pursuant to subsection p. of this section in respect of another S
13 corporation, subject to rules of priority and assignment determined
14 by the director.

15 For the tax year 1976, any taxpayer with a tax liability under this
16 subsection, or under the "Tax on Capital Gains and Other Unearned
17 Income Act," P.L.1975, c.172 (C.54:8B-1 et seq.), shall not be
18 subject to payment of an amount greater than the amount he would
19 have paid if either return had covered all capital transactions during
20 the full tax year 1976; provided, however, that the rate which shall
21 apply to any capital gain shall be that in effect on the date of the
22 transaction. To the extent that any loss is used to offset any gain
23 under P.L.1975, c.172, it shall not be used to offset any gain under
24 the "New Jersey Gross Income Tax Act," N.J.S.54A:1-1 et seq.

25 The term "net gains or income" shall not include gains or income
26 derived from obligations which are referred to in clause (1) or (2) of
27 N.J.S.54A:6-14 of this act or from securities which evidence
28 ownership in a qualified investment fund as defined in section 2 of
29 P.L.1987, c.310 (C.54A:6-14.1). The term "net gains or income"
30 shall not include gains or income derived from the sale or
31 assignment of a tax credit transfer certificate pursuant to section 7
32 of P.L.2011, c.149 (C.34:1B-248) **and**, section 10 of P.L.2014,
33 c.63 (C.34:1B-251), or the "New Jersey Economic Recovery Act of
34 2020," P.L.2020, c.156 (C.34:1B-269 et al.), as amended and
35 supplemented, from any sale or assignment of a tax credit issued
36 pursuant to an award of tax credits approved by the New Jersey
37 Economic Development Authority **[prior to July 1, 2018]**,
38 regardless of when such sale or assignment occurs. The term "net
39 gains or net income" shall not include gains or income from
40 transactions to the extent to which nonrecognition is allowed for
41 federal income tax purposes. The term "sale, exchange or other
42 disposition" shall not include the exchange of stock or securities in
43 a corporation a party to a reorganization in pursuance of a plan of
44 reorganization, solely for stock or securities in such corporation or
45 in another corporation a party to the reorganization and the transfer
46 of property to a corporation by one or more persons solely in
47 exchange for stock or securities in such corporation if immediately

1 after the exchange such person or persons are in control of the
2 corporation. For purposes of this clause, stock or securities issued
3 for services shall not be considered as issued in return for property.

4 For purposes of this clause, the term "reorganization" means~~---~~:

5 (i) A statutory merger or consolidation;

6 (ii) The acquisition by one corporation, in exchange solely for
7 all or part of its voting stock (or in exchange solely for all or a part
8 of the voting stock of a corporation which is in control of the
9 acquiring corporation) of stock of another corporation if,
10 immediately after the acquisition, the acquiring corporation has
11 control of such other corporation (whether or not such acquiring
12 corporation had control immediately before the acquisition);

13 (iii) The acquisition by one corporation, in exchange solely for
14 all or part of its voting stock (or in exchange solely for all or a part
15 of the voting stock of a corporation which is in control of the
16 acquiring corporation), of substantially all of the properties of
17 another corporation, but in determining whether the exchange is
18 solely for stock the assumption by the acquiring corporation of a
19 liability of the other, or the fact that property acquired is subject to
20 a liability, shall be disregarded;

21 (iv) A transfer by a corporation of all or a part of its assets to
22 another corporation if immediately after the transfer the transferor,
23 or one or more of its shareholders (including persons who were
24 shareholders immediately before the transfer), or any combination
25 thereof, is in control of the corporation to which the assets are
26 transferred;

27 (v) A recapitalization;

28 (vi) A mere change in identity, form, or place of organization
29 however effected; or

30 (vii) The acquisition by one corporation, in exchange for stock of
31 a corporation (referred to in this subclause as "controlling
32 corporation") which is in control of the acquiring corporation, of
33 substantially all of the properties of another corporation which in
34 the transaction is merged into the acquiring corporation shall not
35 disqualify a transaction under subclause (i) if such transaction
36 would have qualified under subclause (i) if the merger had been into
37 the controlling corporation, and no stock of the acquiring
38 corporation is used in the transaction;

39 (viii) A transaction otherwise qualifying under subclause (i) shall
40 not be disqualified by reason of the fact that stock of a corporation
41 (referred to in this subclause as the "controlling corporation") which
42 before the merger was in control of the merged corporation is used
43 in the transaction, if after the transaction, the corporation surviving
44 the merger holds substantially all of its properties and of the
45 properties of the merged corporation (other than stock of the
46 controlling corporation distributed in the transaction); and in the
47 transaction, former shareholders of the surviving corporation

1 exchanged, for an amount of voting stock of the controlling
2 corporation, an amount of stock in the surviving corporation which
3 constitutes control of such corporation.

4 For purposes of this clause, the term "control" means the
5 ownership of stock possessing at least 80% of the total combined
6 voting power of all classes of stock entitled to vote and at least 80%
7 of the total number of shares of all other classes of stock of the
8 corporation.

9 For purposes of this clause, the term "a party to a reorganization"
10 includes a corporation resulting from a reorganization, and both
11 corporations, in the case of a reorganization resulting from the
12 acquisition by one corporation of stock or properties of another. In
13 the case of a reorganization qualifying under subclause (i) by reason
14 of subclause (vii) the term "a party to a reorganization" includes the
15 controlling corporation referred to in such subclause (vii).

16 Notwithstanding any provisions hereof, upon every such
17 exchange or conversion, the taxpayer's basis for the stock or
18 securities received shall be the same as the taxpayer's actual or
19 attributed basis for the stock, securities or property surrendered in
20 exchange therefor.

21 d. Net gains or net income derived from or in the form of rents,
22 royalties, patents, and copyrights.

23 e. Interest, except interest referred to in clause (1) or (2) of
24 N.J.S.54A:6-14, or distributions paid by a qualified investment fund
25 as defined in section 2 of P.L.1987, c.310 (C.54A:6-14.1), to the
26 extent provided in that section.

27 f. Dividends. "Dividends" means any distribution in cash or
28 property made by a corporation, association or business trust that is
29 not an S corporation, (1) out of accumulated earnings and profits, or
30 (2) out of earnings and profits of the year in which such dividend is
31 paid and any distribution in cash or property made by an S
32 corporation, as specifically determined pursuant to section 16 of
33 P.L.1993, c.173 (C.54A:5-14).

34 The term "dividends" shall not include distributions paid by a
35 qualified investment fund as defined in section 2 of P.L.1987, c.310
36 (C.54A:6-14.1), to the extent provided in that section.

37 g. Gambling winnings.

38 h. Net gains or income derived through estates or trusts.

39 i. Income in respect of a decedent.

40 j. Amounts distributed or withdrawn from an employee trust
41 attributable to contributions to the trust which were excluded from
42 gross income under the provisions of chapter 6 of Title 54A of the
43 New Jersey Statutes, amounts rolled over from an IRA, as defined
44 pursuant to subsection (a) of section 408 of the federal Internal
45 Revenue Code of 1986, 26 U.S.C. s.408, that is not a Roth IRA, as
46 defined pursuant to subsection b. of section 2 of P.L.1998,c.57
47 (C.54A:6-28) to an IRA that is a Roth IRA, and pensions and

1 annuities except to the extent of exclusions in N.J.S.54A:6-10
 2 hereunder, notwithstanding the provisions of N.J.S.18A:66-51,
 3 P.L.1973, c.140, s.41 (C.43:6A-41), P.L.1954, c.84, s.53
 4 (C.43:15A-53), P.L.1944, c.255, s.17 (C.43:16A-17), P.L.1965,
 5 c.89, s.45 (C.53:5A-45), R.S.43:10-14, P.L.1943, c.160, s.22
 6 (C.43:10-18.22), P.L.1948, c.310, s.22 (C.43:10-18.71), P.L.1954,
 7 c.218, s.32 (C.43:13-22.34), P.L.1964, c.275, s.11 (C.43:13-22.60),
 8 R.S.43:10-57, P.L.1938, c.330, s.13 (C.43:10-105), R.S.43:13-44,
 9 and P.L.1943, c.189, s.5 (C.43:13-37.5).

10 k. Distributive share of partnership income, excluding the gain
 11 or income derived from the sale or assignment of a tax credit
 12 transfer certificate pursuant to section 7 of P.L.2011, c.149
 13 (C.34:1B-248) **and**, section 10 of P.L.2014, c.63 (C.34:1B-251),
 14 or the "New Jersey Economic Recovery Act of 2020," P.L.2020,
 15 c.156 (C.34:1B-269 et al.), as amended and supplemented, from any
 16 sale or assignment of a tax credit issued pursuant to an award of tax
 17 credits approved by the New Jersey Economic Development
 18 Authority **prior to July 1, 2018**, regardless of when such sale or
 19 assignment occurs.

20 l. Amounts received as prizes and awards, except as provided
 21 in N.J.S.54A:6-8 and N.J.S.54A:6-11 hereunder.

22 m. Rental value of a residence furnished by an employer or a
 23 rental allowance paid by an employer to provide a home.

24 n. Alimony and separate maintenance payments to the extent
 25 that such payments are required to be made under a decree of
 26 divorce or separate maintenance but not including payments for
 27 support of minor children.

28 o. Income, gain or profit derived from acts or omissions
 29 defined as crimes or offenses under the laws of this State or any
 30 other jurisdiction.

31 p. Net pro rata share of S corporation income, excluding the
 32 gain or income derived from the sale or assignment of a tax credit
 33 transfer certificate pursuant to section 7 of P.L.2011, c.149
 34 (C.34:1B-248) **and**, section 10 P.L.2014, c.63 (C.34:1B-251), or
 35 the "New Jersey Economic Recovery Act of 2020," P.L.2020, c.156
 36 (C.34:1B-269 et al.), as amended and supplemented, from any sale
 37 or assignment of a tax credit issued pursuant to an award of tax
 38 credits approved by the New Jersey Economic Development
 39 Authority **prior to July 1, 2018**, regardless of when such sale or
 40 assignment occurs.

41 (cf: P.L.2018, c.131, s.8)

42
 43 ¹16. Section 1 of P.L.1979, c.303 (C.34:1B-5.1) is amended to
 44 read as follows:

45 1. a. The New Jersey Economic Development Authority shall
 46 adopt rules and regulations requiring that not less than the
 47 prevailing wage rate be paid to workers employed in the

1 performance of any construction contract, including contracts for
2 millwork fabrication, undertaken in connection with authority
3 financial assistance or any of its projects, those projects which it
4 undertakes pursuant to P.L.2002, c.43 (C.52:27BBB-1 et al.), or
5 undertaken to fulfill any condition of receiving authority financial
6 assistance, including the performance of any contract to construct,
7 renovate or otherwise prepare a facility for operations which are
8 necessary for the receipt of authority financial assistance, unless the
9 work performed under the contract is performed on a facility owned
10 by a landlord of the entity receiving the assistance and less than 35
11 percent of the facility is leased by the entity at the time of the
12 contract and under any agreement to subsequently lease the facility.
13 The prevailing wage rate shall be the rate determined by the
14 Commissioner of Labor and Workforce Development pursuant to
15 the provisions of P.L.1963, c.150 (C.34:11-56.25 et seq.). For the
16 purposes of this section, "authority financial assistance" means any
17 loan, loan guarantee, grant, incentive, tax exemption or other
18 financial assistance that is approved, funded, authorized,
19 administered or provided by the authority to any entity and is
20 provided before, during or after completion of a project, including
21 but not limited to, all authority financial assistance received by the
22 entity pursuant to the "Business Employment Incentive Program
23 Act," P.L.1996, c.26 (C.34:1B-124 et al.) that enables the entity to
24 engage in a construction contract, but this section shall not be
25 construed as requiring the payment of the prevailing wage for
26 construction commencing more than two years after an entity has
27 executed with the authority a commitment letter regarding authority
28 financial assistance and the first payment or other provision of the
29 assistance is received.

30 b. The New Jersey Economic Development Authority shall
31 adopt rules and regulations requiring that not less than the
32 prevailing wage rate be paid to workers employed in the
33 performance of any contract, for construction, demolition,
34 remediation, removal of hazardous substances, alteration, custom
35 fabrication, repair work, or maintenance work, including painting
36 and decorating, or excavation, grading, pile driving, concrete form,
37 or other types of foundation work in connection with the "New
38 Jersey Community-Anchored Development Act," sections 43
39 through 53 of P.L.2020, c.156 (C.34:1B-311 through 34:1B-321),
40 the "New Jersey Aspire Program Act," sections 54 through 67 of
41 P.L.2020, c.156 (C.34:1B-322 through C.34:1B-335), and the
42 **"²[New Jersey]² Emerge Program Act,"** sections 68 through 81 of
43 P.L.2020, c.156 (C.34:1B-336 et al.). The requirements of this
44 subsection shall apply to any site preparation work performed 24
45 months prior to and during the incentive eligibility period of any
46 project receiving tax credits under the "New Jersey Community-
47 Anchored Development Act," sections 43 through 53 of P.L.2020,

1 c.156 (C.34:1B-311 through C.34:1B-321), the "New Jersey Aspire
2 Program Act," sections 54 through 67 of P.L.2020, c.156 (C.34:1B-
3 322 through C.34:1B-335), and the "²【New Jersey】² Emerge
4 Program Act," sections 68 through 81 of P.L.2020, c.156 (C.34:1B-
5 336 et al.), and to projects receiving financial assistance under the
6 "Redevelopment Project Bridge Financing Program," established
7 pursuant to section 11 of P.L. , c. (C.) (pending before the
8 Legislature as this bill), in which there is a continuity of ownership
9 in the site of the redevelopment project, including work undertaken
10 to fulfill any condition of receiving tax credits under the programs.
11 Work that is subject to the requirements of this subsection shall
12 include the performance of any contract for construction,
13 demolition, remediation, removal of hazardous substances,
14 alteration, custom fabrication, repair work, or maintenance work,
15 including painting and decorating, or excavation, grading, pile
16 driving, concrete form, or other types of foundation work
17 undertaken on a facility for operations which are necessary for the
18 receipt of tax credits under the "New Jersey Community-Anchored
19 Development Act," sections 43 through 53 of P.L.2020, c.156
20 (C.34:1B-311 through C.34:1B-321), the "New Jersey Aspire
21 Program Act," sections 54 through 67 of P.L.2020, c.156 (C.34:1B-
22 322 through C.34:1B-335), and the "²【New Jersey】² Emerge
23 Program Act," sections 68 through 81 of P.L.2020, c.156 (C.34:1B-
24 336 et al.), or the receipt of financial assistance under the
25 "Redevelopment Project Bridge Financing Program," established
26 pursuant to section 11 of P.L. , c. (C.) (pending before the
27 Legislature as this bill), unless the work performed under the
28 contract is performed on a facility owned by a landlord of the entity
29 receiving the tax credit and less than 35 percent of the facility is
30 leased by the entity at the time of the contract and under any
31 agreement to subsequently lease the facility. The prevailing wage
32 rate shall be the rate determined by the Commissioner of Labor and
33 Workforce Development pursuant to the provisions of P.L.1963,
34 c.150 (C.34:11-56.25 et seq.), and all contractors and
35 subcontractors subject to the prevailing wage requirement set forth
36 in this section shall be registered with the Department of Labor and
37 Workforce Development pursuant to the provisions of section 5 of
38 P.L.1999, c.238 (C.34:11-56.52). An applicant for tax credits under
39 the "New Jersey Community-Anchored Development Act," sections
40 43 through 53 of P.L.2020, c.156 (C.34:1B-311 through C.34:1B-
41 321), the "New Jersey Aspire Program Act," sections 54 through 67
42 of P.L.2020, c.156 (C.34:1B-322 through C.34:1B-335), and the
43 "²【New Jersey】² Emerge Program Act," sections 68 through 81 of
44 P.L.2020, c.156 (C.34:1B-336 et al.), shall certify under penalty of
45 perjury as part of its application that all construction contracts
46 undertaken on any project in connection with an award under the
47 programs comply with the prevailing wage requirements of this

1 subsection. If at any time the authority determines that the
2 developer made a material misrepresentation regarding compliance
3 with the provisions of this subsection on the developer's
4 application, the developer shall forfeit 35 percent of the tax credits
5 allowed under the programs, and pay to the affected workers back
6 wages in an amount that compensates the workers at the prevailing
7 wage rate for the work performed.¹
8 (cf: P.L.2020, c.156, s.112)
9
10 ¹**[[16.]] 17.**¹ This act shall take effect immediately.

[Third Reprint]

ASSEMBLY, No. 2076

STATE OF NEW JERSEY

221st LEGISLATURE

PRE-FILED FOR INTRODUCTION IN THE 2024 SESSION

Sponsored by:

Assemblywoman ELIANA PINTOR MARIN

District 29 (Essex and Hudson)

Assemblywoman ELLEN J. PARK

District 37 (Bergen)

Assemblyman BENJIE E. WIMBERLY

District 35 (Bergen and Passaic)

Co-Sponsored by:

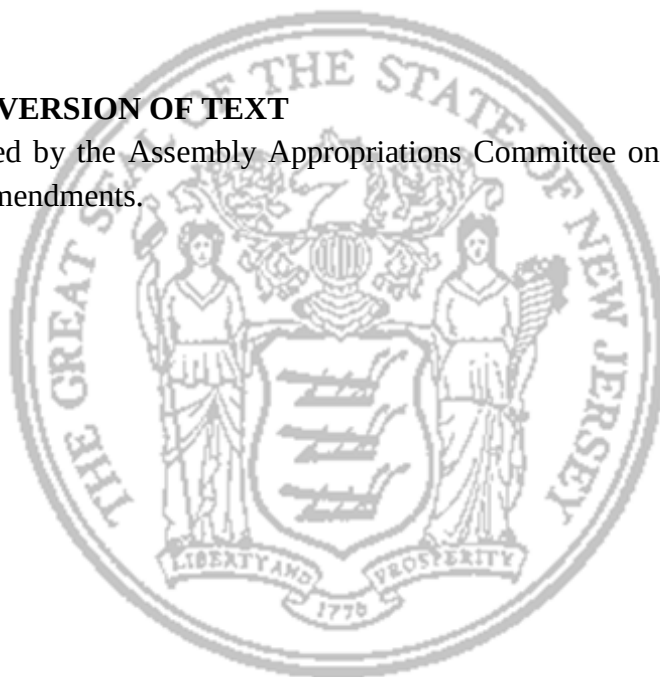
Assemblywomen Reynolds-Jackson and Speight

SYNOPSIS

Revises various provisions concerning New Jersey Aspire Program and surrender of tax credits issued under New Jersey Economic Recovery Act of 2020.

CURRENT VERSION OF TEXT

As reported by the Assembly Appropriations Committee on December 16, 2024, with amendments.



(Sponsorship Updated As Of: 12/19/2024)

1 AN ACT concerning the New Jersey Aspire Program, amending
 2 ³[various parts of the statutory law] P.L.2020, c.156 and
 3 P.L.2023, c.98³, and supplementing P.L.2020, c.156.

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

7
 8 1. Section 55 of P.L.2020, c.156 (C.34:1B-323) is amended to
 9 read as follows:

10 55. As used in sections 54 through 67 of P.L.2020, c.156
 11 (C.34:1B-322 through 34:1B-335):

12 "Agency" means the New Jersey Housing and Mortgage Finance
 13 Agency established pursuant to P.L.1983, c.530 (C.55:14K-1 et
 14 seq.).

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

17 "Aviation district" means all areas within the boundaries of the
 18 Atlantic City International Airport, established pursuant to section
 19 24 of P.L.1991, c.252 (C.27:25A-24), and the Federal Aviation
 20 Administration William J. Hughes Technical Center and the area
 21 within a one-mile radius of the outermost boundary of the Atlantic
 22 City International Airport and the Federal Aviation Administration
 23 William J. Hughes Technical Center ², and the Trenton-Mercer
 24 Airport, established pursuant to R.S.40:8-2 and the area within a
 25 one-mile radius of the outermost boundary of the ³[terminal located
 26 at 1100 Terminal Circle Drive, Ewing Township²] Trenton-Mercer
 27 Airport³.

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

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

41 "Cash flow" means the profit or loss that an investment property
 42 earns from rent, deposits, and other fees after financial obligations,

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 ACE committee amendments adopted May 13, 2024.

²Assembly AAP committee amendments adopted June 24, 2024.

³Assembly AAP committee amendments adopted December 16, 2024.

1 such as debt, maintenance, government payments, and other
2 expenses, have been paid.

3 "Collaborative workspace" means coworking, accelerator,
4 incubator, or other shared working environments that promote
5 collaboration, interaction, socialization, and coordination among
6 tenants through the clustering of multiple businesses or individuals.
7 For this purpose, the collaborative workspace shall be the greater
8 of: 2,500 of dedicated square feet or 10 percent of the total property
9 on which the redevelopment project is situated. The collaborative
10 workspace shall include a community manager, be focused on
11 collaboration among the community members, and include
12 regularly scheduled education events for the community members.
13 The collaborative workspace shall also include a physical open
14 space that supports the engagement of its community members.

15 "Commercial project" means a redevelopment project, which is
16 predominantly commercial and, if located in a government-
17 restricted municipality, contains 25,000 or more square feet, or if
18 located in any other municipality, contains 50,000 or more square
19 feet of office and retail space, industrial space ²including ¹, but not
20 limited to, any industrial¹ space ¹that is¹ predominantly used for
21 warehouse distribution or fulfillment centers ¹and has at least \$10
22 million in environmental remediation costs¹², or film studios,
23 professional stages, television studios, recording studios, screening
24 rooms, or other infrastructure for film production, and may include
25 a parking component. The term "commercial project" includes a
26 redevelopment project comprised solely of a health care or health
27 services center, which contains not less than 10,000 square feet
28 devoted to health care or health services, and which may include a
29 parking component. ³The term "commercial project" also includes
30 an industrial space that is predominantly used for warehouse
31 distribution or fulfillment centers if the eligible project cost
32 includes at least \$10,000,000 in environmental remediation costs.³

33 "Developer" means a person who enters or proposes to enter into
34 an incentive award agreement pursuant to the provisions of section
35 60 of P.L.2020, c.156 (C.34:1B-328), including, but not limited, to
36 a lender that completes a redevelopment project, operates a
37 redevelopment project, or completes and operates a redevelopment
38 project.

39 "Director" means the Director of the Division of Taxation in the
40 Department of the Treasury.

41 "Distressed municipality" means a municipality that is qualified
42 to receive assistance under P.L.1978, c.14 (C.52:27D-178 et seq.), a
43 municipality under the supervision of the Local Finance Board
44 pursuant to the provisions of the "Local Government Supervision
45 Act (1947)," P.L.1947, c.151 (C.52:27BB-1 et seq.), a municipality
46 identified by the Director of the Division of Local Government
47 Services in the Department of Community Affairs to be facing

1 serious fiscal distress, a SDA municipality, or a municipality in
2 which a major rail station is located.

3 "Economic development incentive" means a financial incentive,
4 awarded by the authority, or agreed to between the authority and a
5 business or person, for the purpose of stimulating economic
6 development or redevelopment in New Jersey, including, but not
7 limited to, a bond, grant, loan, loan guarantee, matching fund, tax
8 credit, or other tax expenditure.

9 "Eligibility period" means the period not to exceed ³[15] ¹⁰³
10 years ³[for a commercial or mixed-use project or the period not to
11 exceed 10 years for a residential project] ³, as³ specified in an
12 incentive award agreement during which a developer may claim a
13 tax credit under the program, as such period shall be determined by
14 the authority pursuant to subsection b. of section 60 of P.L.2020,
15 c.156 (C.34:1B-328) ³, provided that a developer may elect a period
16 not to exceed five years for a project located in a government-
17 restricted municipality or for a special mission non-profit project³.

18 "Enhanced area" means (1) a municipality that contains an urban
19 transit hub, as defined in section 2 of P.L.2007, c.346 (C.34:1B-
20 208); (2) the five municipalities with the highest poverty rates
21 according to the 2017 Municipal Revitalization Index; and (3) the
22 three municipalities with the highest percentage of SNAP recipients
23 according to the 2017 Municipal Revitalization Index.

24 "Environmental remediation costs" means any costs incurred by
25 a developer in the completion of any actions necessary to
26 investigate, clean up, or respond to a known, suspected, or
27 threatened discharge of contaminants, including, as necessary, the
28 preliminary assessment, site investigation, remedial investigation,
29 and remedial action, pursuant to sections 23 through 43 and section
30 45 of P.L.1993, c.139 (C.58:10B-1 et seq.).

31 "Food delivery source" means access to nutritious foods, such as
32 fresh fruits and vegetables, through grocery operators, including,
33 but not limited to a full-service supermarket or grocery store, and
34 other healthy food retailers of at least 16,000 square feet, including,
35 but not limited to, a prepared food establishment selling primarily
36 nutritious ready-to-serve meals.

37 "Food desert community" means a physically contiguous area in
38 the State in which residents have limited access to nutritious foods,
39 such as fresh fruits and vegetables, and that has been designated as
40 a food desert community pursuant to subsection b. of section 38 of
41 P.L.2020, c.156 (C.34:1B-306).

42 "Government-restricted municipality" means a municipality in
43 this State with a municipal revitalization index distress score of at
44 least 75, that met the criteria for designation as an urban aid
45 municipality in the 2019 State fiscal year, and that, on the effective
46 date of P.L.2020, c.156 (C.34:1B-269 et al.), is subject to financial
47 restrictions imposed pursuant to the "Municipal Stabilization and

1 Recovery Act," P.L.2016, c.4 (C.52:27BBBB-1 et seq.), or is
 2 restricted in its ability to levy property taxes on property in that
 3 municipality as a result of the State of New Jersey owning or
 4 controlling property representing at least 25 percent of the total land
 5 area of the municipality or as a result of the federal government of
 6 the United States owning or controlling at least 50 acres of the total
 7 land area of the municipality, which is dedicated as a national
 8 natural landmark. ³The term "government-restricted municipality"
 9 also includes any municipality that: has a population greater than
 10 50,000 and less than 60,000 according to the latest federal decennial
 11 census, is designated as the county seat of a county of the second
 12 class with a population greater than 800,000 according to the latest
 13 federal decennial census, and has an MRI distress score of 62.1; has
 14 a population greater than 70,000 and less than 100,000 according to
 15 the latest federal decennial census, is designated as the county seat
 16 of a county of the second class with a population greater than
 17 515,000 and less than 525,000 according to the latest federal
 18 decennial census, and has an MRI distress score of 100; or contains
 19 the intersection of Interstate 280 and the Garden State Parkway, and
 20 corresponding land areas occupied by such highways under the
 21 ownership or control of the federal government of the United States
 22 or of this State within its municipal boundary, and has an MRI
 23 distress score of 55.5.³

24 "Health care or health services center" means an establishment
 25 that consists of not less than 10,000 square feet devoted to health
 26 care or health services, where patients are admitted for or seek
 27 examination and treatment by one or more physicians, dentists,
 28 psychologists, or other medical practitioners, and which is located
 29 in a municipality with a ³**【Municipal Revitalization Index】 MRI**³
 30 distress score of at least 50, a distressed municipality, or a qualified
 31 incentive tract.

32 "Hospitality establishment" means a hotel, motel, or any
 33 business, however organized, that sells food, beverages, or both for
 34 consumption by patrons on the premises.

35 "Incentive area" means an aviation district; a port district; an
 36 area designated pursuant to the "State Planning Act," P.L.1985,
 37 c.398 (C.52:18A-196 et seq.), as Planning Area 1 (Metropolitan),
 38 Planning Area 2 (Suburban), **【or】** ³or³ a Designated Center³**【,】**³
 39 **【provided an area designated as Planning Area 2 (Suburban) or a**
 40 **Designated Center shall be located within a one-half mile radius of**
 41 **the mid-point, with bicycle and pedestrian connectivity, of a New**
 42 **Jersey Transit Corporation, Port Authority Transit Corporation, or**
 43 **Port Authority Trans-Hudson Corporation rail, bus, or ferry station,**
 44 **including all light rail stations, or a high-frequency bus stop as**
 45 **certified by the New Jersey Transit Corporation】** ³**【or an Endorsed**
 46 **Plan】 under the State Development and Redevelopment Plan**³; an

1 area designated as a brownfield site pursuant to the "Brownfield and
2 Contaminated Site Remediation Act," sections 23 through 43 and
3 section 45 of P.L.1993, c.139 (C.58:10B-1 et seq.); and an area of
4 not less than 100 acres for which a licensed site remediation
5 professional has certified environmental remediation costs, as
6 defined in this section and in accordance with the "Site Remediation
7 Reform Act," sections 1 through 29 of P.L.2009, c.60 (C.58:10C-1
8 et seq.), in an amount not less than \$10,000,000, provided that any
9 portion of such area is located in an area that otherwise qualifies as
10 an incentive area.

11 "Incentive award" means an award of tax credits to reimburse a
12 developer for all or a portion of the project financing gap of a
13 redevelopment project pursuant to the provisions of sections 54
14 through 67 of P.L.2020, c.156 (C.34:1B-322 through 34:1B-335).

15 "Incentive award agreement" means the contract executed
16 between a developer and the authority pursuant to section 60 of
17 P.L.2020, c.156 (C.34:1B-328), which sets forth the terms and
18 conditions under which the developer may receive the incentive
19 awards authorized pursuant to the provisions of sections 54 through
20 67 of P.L.2020, c.156 (C.34:1B-322 through 34:1B-335).

21 "Incubator facility" means a commercial property, which
22 contains 5,000 or more square feet of office, laboratory, or
23 industrial space, which is located near, and presents opportunities
24 for collaboration with, a research institution, teaching hospital,
25 college, or university, and within which at least 75 percent of the
26 gross leasable area is restricted for use by one or more technology
27 startup companies.

28 "Individuals with special needs" means individuals with mental
29 illness, individuals with physical or developmental disabilities, and
30 individuals in other emerging special needs groups identified by the
31 authority, based on guidelines established for the administration of
32 the Special Needs Housing Trust Fund established pursuant to
33 section 1 of P.L.2005, c.163 (C.34:1B-21.25a) or developed in
34 consultation with other State agencies.

35 "Labor harmony agreement" means an agreement between a
36 business that serves as the owner or operator of a retail
37 establishment, hospitality establishment, or distribution center and
38 one or more labor organizations, which requires, for the duration of
39 the agreement: that any participating labor organization and its
40 members agree to refrain from picketing, work stoppages, boycotts,
41 or other economic interference against the business; and that the
42 business agrees to maintain a neutral posture with respect to efforts
43 of any participating labor organization to represent employees at an
44 establishment or other unit in the retail establishment, hospitality
45 establishment, or distribution center, agrees to permit the labor
46 organization to have access to the employees, and agrees to
47 guarantee to the labor organization the right to obtain recognition as

1 the exclusive collective bargaining representatives of the employees
2 in an establishment or unit at the retail establishment, hospitality
3 establishment, or distribution center by demonstrating to the New
4 Jersey State Board of Mediation, Division of Private Employment
5 Dispute Settlement, or a mutually agreed-upon, neutral, third party
6 that a majority of workers in the unit have shown their preference
7 for the labor organization to be their representative by signing
8 authorization cards indicating that preference. The labor
9 organization or organizations shall be from a list of labor
10 organizations which have requested to be on the list and which the
11 Commissioner of Labor and Workforce Development has
12 determined represent substantial numbers of retail establishment,
13 hospitality establishment, or distribution center employees in the
14 State.

15 "Low-income housing" means housing affordable according to
16 federal Department of Housing and Urban Development or other
17 recognized standards for home ownership and rental costs and
18 occupied or reserved for occupancy by households with a gross
19 household income equal to 50 percent or less of the median gross
20 household income for households of the same size within the
21 housing region in which the housing is located.

22 "Major cultural institution" means a public or nonprofit
23 institution, not including an institution of higher education, within
24 this State that engages in the cultural, intellectual, scientific,
25 environmental, educational, or artistic enrichment of the people of
26 this State, and which institution is designated by the board as a
27 major cultural institution.

28 "Major rail station" means a railroad station that is located within
29 a qualified incentive area and that provides to the public access to a
30 minimum of six rail passenger service lines operated by the New
31 Jersey Transit Corporation.

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

39 ³["Mixed-use project" means a redevelopment project that
40 includes both a residential component and a nonresidential
41 component.]³

42 "Moderate-income housing" means housing affordable according
43 to federal Department of Housing and Urban Development or other
44 recognized standards for home ownership and rental costs and
45 occupied or reserved for occupancy by households with a gross
46 household income equal to more than 50 percent, but less than 80
47 percent, of the median gross household income for households of

1 the same size within the housing region in which the housing is
2 located.

3 ³"MRI distress score" means a municipal revitalization index
4 distress score, as documented in the 2023 Municipal Revitalization
5 Index developed by the Department of Community Affairs.³

6 "Municipal Revitalization Index" means the index by the
7 Department of Community Affairs ranking New Jersey's
8 municipalities according to eight separate indicators that measure
9 diverse aspects of social, economic, physical, and fiscal conditions
10 in each locality.

11 "Port district" means the portions of a qualified incentive area
12 that are located within:

13 a. the "Port of New York District" of the Port Authority of
14 New York and New Jersey, as defined in Article II of the Compact
15 Between the States of New York and New Jersey of 1921; or

16 b. a 15-mile radius of the outermost boundary of each marine
17 terminal facility established, acquired, constructed, rehabilitated, or
18 improved by the South Jersey Port District established pursuant to
19 "The South Jersey Port Corporation Act," P.L.1968, c.60
20 (C.12:11A-1 et seq.).

21 "Program" means the New Jersey Aspire Program established by
22 section 56 of P.L.2020, c.156 (C.34:1B-324).

23 "Project cost" or "²~~total~~ eligible² project cost" means the costs
24 incurred in connection with a redevelopment project by a developer
25 until the issuance of a permanent certificate of occupancy, or until
26 such other time specified by the authority, for a specific investment
27 or improvement, including the costs relating to lands, except the
28 cost of acquiring such lands, buildings, improvements, real or
29 personal property, or any interest therein, including leases
30 discounted to present value, including lands under water, riparian
31 rights, space rights, and air rights acquired, owned, developed or
32 redeveloped, constructed, reconstructed, rehabilitated, or improved,
33 any environmental remediation costs, plus costs not directly related
34 to construction, including capitalized interest paid to third parties,
35 of an amount not to exceed 20 percent of the total costs and the cost
36 of infrastructure improvements, including ancillary infrastructure
37 projects. When 100 percent of the residential units constructed in a
38 residential project are reserved for occupancy by low- and
39 moderate-income households, the term "project cost" shall also
40 include the developer fees paid before acquiring permanent
41 financing, as well as the deferred developer fees approved pursuant
42 to the rules established by the agency. In addition to the foregoing,
43 the term "project cost" shall include ³~~the following costs when~~
44 incurred by a developer ³, for a redevelopment project located in a
45 ³~~government restricted~~ ³government-restricted³ municipality ³:
46 any development, redevelopment, and relocation costs, including,
47 but not limited to ³, land ²~~and~~ ³costs ³, which land costs shall be

1 capped at no more than¹ in an amount not to exceed³ 20 percent of
2 the ³[total] eligible³ project cost ³[² building acquisition costs;
3 ²carrying costs and interest expenses on construction loans and
4 other financing up to project completion;² any soft costs, including
5 engineering, legal, accounting, and other professional services
6 required for the completion of the project; any environmental
7 remediation costs; and any infrastructure improvement for the
8 project area, including, but not limited to, costs of on- and off-site
9 utility, road, pier, wharf, bulkhead, or sidewalk construction or
10 repair]³. The fees associated with the application or administration
11 of a grant under sections 54 through 67 of P.L.2020, c.156
12 (C.34:1B-322 through 34:1B-335) shall not constitute a project cost
13 ³[, regardless of the location of the redevelopment project]³.

14 "Project financing gap" means the part of the total project cost,
15 including reasonable and appropriate return on investment, that
16 remains to be financed after all other sources of capital have been
17 accounted for, including, but not limited to developer contributed
18 capital, which shall not be less than 20 percent of the ²[total]²
19 ³total³ project cost, and investor or financial entity capital or loans
20 for which the developer, after making all good faith efforts to raise
21 additional capital, certifies that additional capital cannot be raised
22 from other sources on a non-recourse basis; provided, however, that
23 for a redevelopment project located in a government-restricted
24 municipality, the developer contributed capital shall not be less than
25 10 percent of the ²[total]² ³total³ project cost. Developer
26 contributed capital may consist of cash, deferred development fees,
27 costs for project feasibility incurred within the 12 months prior to
28 application, property value less any mortgages when the developer
29 owns the project site, and any other investment by the developer in
30 the project deemed acceptable by the authority, as provided by
31 regulations promulgated by the authority. Property value shall be
32 valued at the lesser of: (i) the purchase price, provided the property
33 was purchased pursuant to an arm's length transaction within 12
34 months of application; or (ii) the value as determined by a current
35 appraisal.

36 "Project labor agreement" means a form of pre-hire collective
37 bargaining agreement covering terms and conditions of a specific
38 project that satisfies the requirements set forth in section 5 of
39 P.L.2002, c.44 (C.52:38-5).

40 "Qualified incentive tract" means (i) a population census tract
41 having a poverty rate of 20 percent or more; or (ii) a census tract in
42 which the median family income for the census tract does not
43 exceed 80 percent of the greater of the Statewide median family
44 income or the median family income of the metropolitan statistical
45 area in which the census tract is situated.

1 "Quality childcare facility" is a child care center licensed by the
2 Department of Children and Families or a registered family child
3 care home with the Department of Human Services, operating
4 continuously, which has not been subject to an enforcement action,
5 and which has and maintains a licensed capacity for children age 13
6 years or younger who attend for less than 24 hours a day.

7 "Reasonable and appropriate return on investment" means the
8 discount rate at which the present value of the future cash flows of
9 an investment equals the cost of the investment. In determining the
10 "reasonable and appropriate return on investment," an investment
11 shall not include any federal, State, or local tax credits. For a
12 residential project that utilizes federal low-income housing tax
13 credits awarded by the agency, the "reasonable and appropriate
14 return on investment" shall be based on the approval of deferred
15 developer fees pursuant to the rules established by the agency. In
16 the event that a residential project, which utilizes federal low-
17 income housing tax credits awarded by the agency, generates
18 returns on equity other than federal or local grants or proceeds from
19 the sale of federal or local tax credits, the "reasonable and
20 appropriate return on investment" shall be based on both the
21 discount rate at which the present value of the future cash flows of
22 an investment equal the cost of the investment for the entire project,
23 and when evaluating only the units financed with federal low-
24 income housing tax credits awarded by the agency, the approval of
25 deferred developer fees pursuant to the rules established by the
26 agency.

27 "Redevelopment project" means a specific construction project
28 or improvement or phase of a project or improvement undertaken
29 by a developer, owner or tenant, or both, and any ancillary
30 infrastructure project. A redevelopment project may involve
31 construction or improvement upon lands, buildings, improvements,
32 or real and personal property, or any interest therein, including
33 lands under water, riparian rights, space rights, and air rights,
34 acquired, owned, developed or redeveloped, constructed,
35 reconstructed, rehabilitated, or improved.

36 "Residential project" means a redevelopment project that is
37 predominantly residential, intended for multi-family residency, and
38 may include a parking component.

39 "SDA district" means an SDA district as defined in section 3 of
40 P.L.2000, c.72 (C.18A:7G-3).

41 "SDA municipality" means a municipality in which an SDA
42 district is situated.

43 ²"Special mission non-profit project" means a project located in
44 a government-restricted municipality or in an enhanced area that:
45 serves a special mission, as determined by the authority, to
46 accomplish the public purpose of a non-profit that is a developer of
47 or is affiliated with the project; and includes no more than 100 units

1 of 100 percent ³**[affordable]** supportive³ housing units ³for tenants
2 requiring special needs or social services, which social services may
3 include licensed social workers,³ and no more than ³**[10,000]**
4 **25,000³** square feet of commercial space ³for the provision of on-
5 site social service programs that require a license from the
6 Department of Children and Families as a licensed child care center.
7 Special mission non-profit projects shall be exempt from the net
8 benefit test requirement, affordable housing requirements, and the
9 requirement to provide a market study as part of its application to
10 the authority³.²

11 ³**["Stranded asset"** means any building previously used for
12 commercial, retail, office space, manufacturing, or industrial
13 purposes, which building is no longer used for such purposes, and
14 which has been abandoned, experienced significant vacancies for at
15 least two consecutive years, or has fallen into such disrepair as to be
16 untenable.²"Stranded asset" includes vacant land that has been
17 left fallow for at least two consecutive years because of
18 environmental contamination.

19 "Targeted industry" means any industry identified from time to
20 time by the authority, which industry shall initially include
21 advanced transportation and logistics, advanced manufacturing,
22 aviation, autonomous vehicle and zero-emission vehicle research or
23 development, clean energy, life sciences, hemp processing,
24 information and high technology, finance and insurance,
25 professional services, film and digital media, non-retail food and
26 beverage businesses including food innovation, and other
27 innovative industries that disrupt current technologies or business
28 models.²³

29 "Technology startup company" means a for-profit business that
30 has been in operation fewer than seven years at the time that it
31 initially occupies or expands in a qualified business facility and is
32 developing or possesses a proprietary technology or business
33 method of a high technology or life science-related product,
34 process, or service, which proprietary technology or business
35 method the business intends to move to commercialization. The
36 business shall be deemed to have begun operation on the date that
37 the business first hired at least one employee in a full-time position.

38 "Total **[project]** ²**[development]** project² cost" ²**[or "total**
39 **redevelopment cost"]²** means the costs incurred in connection with
40 the redevelopment project by the developer until the issuance of a
41 permanent certificate of occupancy, or upon such other event
42 evidencing project completion as set forth in the incentive grant
43 agreement, for a specific investment or improvement.

44 "Tourism destination project" means a non-gaming business
45 facility that will be among the most visited privately owned or
46 operated tourism or recreation sites in the State, and which has been

1 determined by the authority to be in an area appropriate for
2 development and in need of economic development incentive
3 assistance, including a non-gaming business within an established
4 Tourism District with a significant impact on the economic viability
5 of that district.

6 "Transit hub" means an urban transit hub, as defined in section 2
7 of P.L.2007, c.346 (C.34:1B-208), that is located within an eligible
8 municipality, as defined in section 2 of P.L.2007, c.346 (C.34:1B-
9 208) and is located within a qualified incentive area.

10 "Transit hub municipality" means a Transit Village or a
11 municipality: a. which qualifies for State aid pursuant to P.L.1978,
12 c.14 (C.52:27D-178 et seq.), or which has continued to be a
13 qualified municipality thereunder pursuant to P.L.2007, c.111; and
14 b. in which 30 percent or more of the value of real property was
15 exempt from local property taxation during tax year 2006. The
16 percentage of exempt property shall be calculated by dividing the
17 total exempt value by the sum of the net valuation which is taxable
18 and that which is tax exempt.

19 "Transit Village" means a municipality that has been designated
20 as a transit village by the Commissioner of Transportation and the
21 Transit Village Task Force ²[established pursuant to P.L.1985,
22 c.398 (C.27:1A-5)]².

23 (cf: P.L.2023, c.98, s.1)
24

25 2. Section 56 of P.L.2020, c.156 (C.34:1B-324) is amended to
26 read as follows:

27 56. a. (1) The New Jersey Aspire Program is hereby established
28 as a program under the jurisdiction of the New Jersey Economic
29 Development Authority. The authority shall administer the
30 program to encourage redevelopment projects through the provision
31 of incentive awards to reimburse developers for certain project
32 financing gap costs. The board may approve the award of an
33 incentive award to a developer upon application to the authority
34 pursuant to sections 58 and 59 of P.L.2020, c.156 (C.34:1B-326 and
35 C.34:1B-327). The value of all tax credits approved by the
36 authority pursuant to sections 54 through 67 of P.L.2020, c.156
37 (C.34:1B-322 through 34:1B-335) shall be subject to the limitations
38 set forth in section 98 of P.L.2020, c.156 (C.34:1B-362).

39 (2) The authority, in consultation with the agency, shall adopt
40 rules and regulations, pursuant to subsection b. of section 67 of
41 P.L.2020, c.156 (C.34:1B-335), concerning the establishment and
42 administration of the affordability controls that shall apply to the
43 residential units constructed for occupancy by low- and moderate-
44 income households under the program, including, but not limited to,
45 residential units within residential projects that utilize federal low-
46 income housing tax credits awarded by the agency.
47 Notwithstanding any provision of law or regulation to the contrary,

1 the affordability controls shall, at a minimum, be consistent with the
2 affordability controls established in the rules and regulations
3 adopted pursuant to the "Fair Housing Act," P.L.1985, c.222
4 (C.52:27D-301 et al.), as in effect immediately prior to the effective
5 date of P.L.2023, c.98 (C.34:1B-335.1 et al.), including, but not
6 limited to, any requirements concerning the ~~bedroom~~
7 ~~distributions,~~ ³bedroom distributions,³ affordability averages,
8 affirmative marketing, and long-term deed restrictions of residential
9 units constructed for occupancy by low- and moderate-income
10 households ³, except not including the bedroom distribution
11 requirements for three-bedroom housing units]³.

12 b. The chief executive officer of the authority shall designate
13 one staff member per government-restricted municipality in order to
14 keep the municipality informed on activities within the municipality
15 and to coordinate economic development initiatives.
16 (cf: P.L.2023, c.98, s.2)

17
18 3. Section 57 of P.L.2020, c.156 (C.34:1B-325) is amended to
19 read as follows:

20 57. a. Prior to March 1, 2029, a developer shall be eligible to
21 receive an incentive award for a redevelopment project only if the
22 developer demonstrates to the authority at the time of application
23 that:

24 (1) without the incentive award, the redevelopment project is
25 not economically feasible;

26 (2) a project financing gap exists, or the authority determines
27 that the redevelopment project will generate a below market rate of
28 return;

29 (3) the redevelopment project, except a film studio, professional
30 stage, television studio, recording studio, screening room, or other
31 infrastructure used for film production, ³or a special mission non-
32 profit project,³ is located in the incentive area;

33 (4) ³[(a)]¹³ except for demolition and site remediation
34 activities, the developer has not commenced any construction at the
35 site of the redevelopment project prior to submitting an application,
36 unless the authority determines that the redevelopment project
37 would not be completed otherwise or, in the event the
38 redevelopment project is to be undertaken in phases, the requested
39 incentive award is limited to only phases for which construction has
40 not yet commenced;

41 ³[(b) if the developer has commenced demolition and site
42 remediation activities at the site of the redevelopment project prior
43 to submitting an application ²that includes those demolition and site
44 remediation costs as part of the eligible project cost² , all
45 construction workers employed to undertake demolition and site
46 remediation activities at the site were paid not less than the

1 prevailing wage rate for the worker's craft or trade, as determined
2 by the Commissioner of Labor and Workforce Development
3 pursuant to P.L.1963, c.150 (C.34:11-56.25 et seq.) and P.L.2005,
4 c.379 (C.34:11-56.58 et seq.);¹³

5 (5) the redevelopment project shall comply with minimum
6 environmental and sustainability standards;

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

10 (7) (a) during the eligibility period, each worker employed to
11 perform construction work at the redevelopment project shall be
12 paid not less than the prevailing wage rate for the worker's craft or
13 trade, as determined by the Commissioner of Labor and Workforce
14 Development pursuant to P.L.1963, c.150 (C.34:11-56.25 et seq.)
15 and P.L.2005, c.379 (C.34:11-56.58 et seq.);

16 (b) during the eligibility period, each worker employed to
17 perform building services work at the redevelopment project,
18 whether pursuant to contract by the developer or a commercial
19 tenant, commercial subtenant, or other commercial occupant, shall
20 be paid not less than the prevailing wage rate for the worker's craft
21 or trade, as determined by the Commissioner of Labor and
22 Workforce Development pursuant to P.L.1963, c.150 (C.34:11-
23 56.25 et seq.) and P.L.2005, c.379 (C.34:11-56.58 et seq.), except
24 that this requirement shall not apply to workers employed to
25 perform building services work by **[a]** ³**[any residential tenant or**
26 **any]** ^a commercial tenant, commercial subtenant, or other
27 commercial occupant that has a leasehold interest or other
28 occupancy right in a redevelopment project, which leasehold
29 interest or other occupancy right encompasses less than 5,000
30 square feet of space within the project. The developer shall include
31 in all commercial leases or other commercial occupancy
32 agreements, and shall require that all subleases or other commercial
33 occupancy agreements applicable to the redevelopment project
34 include, a provision setting forth the requirements of this
35 subparagraph, which provision shall be in a form acceptable to the
36 authority. Notwithstanding any provisions of law to the contrary, if
37 a commercial tenant, commercial subtenant, or other commercial
38 occupant violates this provision due to the underpayment of the
39 required prevailing wage rate, then the issuance of tax credits to the
40 developer and any co-applicant shall be delayed until such time as
41 documentation demonstrating compliance has been provided to the
42 Commissioner of Labor and Workforce Development, subsequently
43 reviewed and approved by the Commissioner of Labor and
44 Workforce Development, and verified by the authority, which
45 reviews and verification shall be completed. If a violation is not
46 cured, or is not capable of being cured, within one year of receipt of
47 notice of the violation, then the developer and any co-applicant

1 shall forfeit 50 percent of the tax credits otherwise authorized for
2 the tax period in which the notice of violation was issued. If the
3 violation is not cured on or before the conclusion of that tax period,
4 the developer and any co-applicant shall forfeit up to 100 percent of
5 the tax credits otherwise authorized, as determined by the authority,
6 in each subsequent tax period until the first tax period for which
7 documentation demonstrating compliance has been provided to the
8 Commissioner of Labor and Workforce Development, subsequently
9 reviewed and approved by the Commissioner of Labor and
10 Workforce Development, and verified by the authority, which
11 reviews and verifications shall be completed. In this event, the
12 developer and any co-applicant shall be allowed the full tax credit
13 amount beginning in the tax period in which documentation of
14 compliance was reviewed and approved by the Commissioner of
15 Labor and Workforce Development and verified by the authority,
16 including each subsequent tax period in which the tax credits are
17 otherwise authorized ³. The requirement of this subparagraph shall
18 not apply to the residential tenants or residential subtenants of a
19 redevelopment project³;

20 (c) in the event a redevelopment project, or any portion thereof,
21 is undertaken by a tenant pursuant to a contract and the tenant has a
22 leasehold of more than 55 percent of space in the building owned or
23 controlled by the developer, the requirement that each worker
24 employed to perform building service work at the building be paid
25 not less than the prevailing wage shall apply to the entire building,
26 except as otherwise provided in subparagraph (b) of this paragraph
27 for ³[all residential tenants and all]³ commercial tenants,
28 commercial subtenants, or other commercial occupants with a
29 leasehold interest or other occupancy right encompassing less than
30 5,000 square feet ³. The requirement of this subparagraph shall not
31 apply to the residential tenants or residential subtenants of a
32 redevelopment project³;

33 (8) (a) the redevelopment project shall be completed, and the
34 developer shall be issued a certificate of occupancy for the
35 redevelopment project facilities by the applicable enforcing agency,
36 within four years of executing the incentive award agreement, or in
37 the case of a redevelopment project with a ³[²total²]³ project cost
38 in excess of \$50,000,000, the incentive phase agreement
39 corresponding to the redevelopment project; or

40 (b) in the discretion of the authority, a redevelopment project
41 with a ³[²total²]³ project cost in excess of \$50,000,000, and that is
42 authorized to be completed in phases, may be allowed no more than
43 six years from the date on which the incentive award agreement is
44 executed to be issued a certificate of occupancy by the applicable
45 enforcement agency;

1 (9) the developer has complied with all requirements for filing
2 tax and information returns and for paying or remitting required
3 State taxes and fees by submitting, as a part of the application, a tax
4 clearance certificate, as described in section 1 of P.L.2007, c.101
5 (C.54:50-39); and

6 (10) the developer is not more than 24 months in arrears at the
7 time of application.

8 b. In addition to the requirements set forth in subsection a. of
9 this section, for a commercial project to qualify for an incentive
10 award the developer shall demonstrate that the developer shall
11 contribute capital of at least 20 percent of the ²**[total]**² ³total³
12 project cost, except that if a redevelopment project is located in a
13 government-restricted municipality, the developer shall contribute
14 capital of at least 10 percent of the ²**[total]**² ³total³ project cost.

15 c. In addition to the requirements set forth in subsection a. of
16 this section, for a residential project or a commercial project
17 comprised solely of a health care or health service center to qualify
18 for an incentive award, the residential project or health care or
19 health service center shall:

20 (1) have a total project cost of at least \$17,500,000, if the project
21 is located in a municipality with a population greater than 200,000
22 according to the latest federal decennial census;

23 (2) have a total project cost of at least \$10,000,000 if the project
24 is located in a municipality with a population less than 200,000
25 according to the latest federal decennial census; or

26 (3) have a total project cost of at least \$5,000,000 if the project is
27 in a qualified incentive tract or government-restricted municipality.

28 d. In addition to the requirements set forth in subsections a. and
29 c. of this section, for a residential project consisting of newly-
30 constructed residential units to qualify for an incentive award, the
31 developer shall reserve at least 20 percent of the residential units
32 constructed for occupancy by low- and moderate-income
33 households with affordability controls as adopted by the authority,
34 in consultation with the agency, in accordance with paragraph (2) of
35 subsection a. of section 56 of P.L.2020, c.156 (C.34:1B-324),
36 except that a residential project receiving a federal historic
37 rehabilitation tax credit pursuant to section 47 of the federal
38 Internal Revenue Code of 1986, 26 U.S.C. s.47, or a tax credit
39 pursuant to the "Historic Property Reinvestment Act," sections 2
40 through 8 of P.L.2020, c.156 (C.34:1B-270 through 34:1B-276),
41 shall be exempt from the affordability controls related to bedroom
42 distribution.

43 e. Prior to the board considering an application submitted by a
44 developer, the authority shall confirm with the Department of Labor
45 and Workforce Development, the Department of Environmental
46 Protection, and the Department of the Treasury whether the
47 developer is in substantial good standing with the respective

1 department, or has entered into an agreement with the respective
 2 department that includes a practical corrective action plan for the
 3 developer. The developer shall certify that any contractors or
 4 subcontractors that will perform work at the redevelopment project:
 5 (1) are registered as required by "The Public Works Contractor
 6 Registration Act," P.L.1999, c.238 (C.34:11-56.48 et seq.); (2) have
 7 not been debarred by the Department of Labor and Workforce
 8 Development from engaging in or bidding on Public Works
 9 Contracts in the State; and (3) possess a tax clearance certificate
 10 issued by the Division of Taxation in the Department of the
 11 Treasury. The authority may also contract with an independent
 12 third party to perform a background check on the developer.

13 f. Beginning ²[on] ³[after²] on³ the ³[third] fourth³ year
 14 ³[following the date of issuance of a final certificate of occupancy]
 15 of the eligibility period³ for a commercial project, and through the
 16 conclusion of the eligibility period, if the average occupancy rate of
 17 the commercial project is less than 60 percent during any applicable
 18 tax period, the developer and co-applicant shall forfeit all credits
 19 otherwise allowed for the tax period and for each subsequent tax
 20 period until the authority verifies documentation, submitted by the
 21 developer or co-applicant, demonstrating that the average
 22 occupancy rate has reached or surpassed 60 percent for the tax
 23 period. The full amount of credit shall be allowed to a developer
 24 and any co-applicant for the tax period in which the average
 25 occupancy rate reaches or surpasses 60 percent. Occupancy for the
 26 tax period shall be determined by the average of the monthly
 27 occupancy for the applicable tax period. The occupancy
 28 requirement in this subsection shall not apply to residential projects.
 29 (cf: P.L.2023, c.98, s.3)

30

31 4. Section 60 of P.L.2020, c.156 (C.34:1B-328) is amended to
 32 read as follows:

33 60. a. (1) Following approval and selection of an application
 34 pursuant to sections 58 and 59 of P.L.2020, c.156 (C.34:1B-326 and
 35 C.34:1B-327), the authority shall enter into an incentive award
 36 agreement with the developer. The chief executive officer of the
 37 authority shall negotiate the terms and conditions of the incentive
 38 award agreement on behalf of the State.

39 (2) For a phased project, the incentive phase agreement shall set
 40 forth, for each phase of the project and for the total project, the
 41 capital investment requirements and the time periods in which each
 42 phase of the project shall be commenced and completed. The
 43 awarding of tax credits shall be conditioned on the developer's
 44 compliance with the requirements of the agreement. A
 45 redevelopment project may be completed in phases in accordance
 46 with rules adopted by the authority if the redevelopment project has
 47 ³[a total] an eligible³ project cost in excess of \$50,000,000.

1 b. An incentive award agreement shall specify the amount of
2 the incentive award the authority shall award to the developer and
3 the duration of the eligibility period. The duration of the eligibility
4 period ~~shall not exceed 15 years for a commercial or mixed-use~~
5 ~~project and~~ shall not exceed 10 years for a commercial project,
6 mixed-use project, or residential project, except that ~~to~~ ³the
7 authority shall ³ ~~consider reducing~~ ³reduce ² the eligibility
8 period if a shorter period would ~~to~~ ³ reduce the total value of tax
9 credits needed to reimburse a developer for all or part of the project
10 financing gap of a redevelopment project, ~~the authority may, in its~~
11 ~~discretion, approve a duration for the eligibility period that is~~
12 ~~shorter than the applicable maximum periods~~ ³enhance access to
13 tax credit monetization on cost effective terms, or otherwise
14 enhance the effectiveness of the program ~~the authority may, in its~~
15 ~~discretion, approve a duration for the eligibility period that is~~
16 ~~shorter than the applicable maximum periods~~ ³. The incentive award
17 agreement shall provide an estimated date of completion and
18 include a requirement for periodic progress reports, including the
19 submittal of executed financing commitments and documents that
20 evidence site control; provided however, that the developer may sell
21 one or more buildings during the eligibility period, ³provided that
22 such sale is: an arms-length transaction to an unrelated party, or for
23 an amount at least equal to fair market value based on an appraisal
24 conducted within one year; and subject to the purchaser's
25 assumption of all obligations relating to the buildings pursuant to
26 sections 54 through 67 of P.L.2020, c.156 (C.34:1B-322 through
27 C.34:1B-335)) ~~subject to such rules and regulations as may be~~
28 ~~adopted by the authority.~~ ³ If the authority does not receive periodic
29 progress reports, or if the progress reports demonstrate
30 unsatisfactory progress, then the authority may rescind the incentive
31 award. If the authority rescinds an incentive award in the same
32 calendar year in which the authority approved the incentive award,
33 then the authority may assign the incentive award to another
34 applicant. The incentive award agreement may also provide for a
35 verification of the financing gap at the time the developer provides
36 executed financing commitments to the authority and a verification
37 of the developer's projected cash flow at the time of certification
38 that the project is completed ³, provided that the authority shall not
39 resize or reduce the tax credit based on the executed financing
40 commitments or the updated projected cash flow but that the
41 authority shall use the commitments and cash flow to calculate the
42 return on investment required pursuant to subsection c. of this
43 section. ³

44 c. To ensure the protection of taxpayer money, ³if the
45 authority determines at project certification that the actual capital
46 financing approach utilized by the project has resulted in a

1 financing gap that is smaller than the financing gap determined at
2 board approval, the authority shall reduce the amount of the tax
3 credit or accept payment from the developer on a pro rata basis. If
4 there is no project financing gap due to the actual capital financing
5 approach utilized by the project, then the developer shall forfeit the
6 incentive award. At at project certification and at³ the end of the
7 seventh year of the eligibility period, the authority shall evaluate the
8 developer's rate of return on investment and compare that rate of
9 return on investment to the reasonable and appropriate rate of return
10 at the time of board approval. If the actual rate of return on
11 investment exceeds the reasonable and appropriate rate of return on
12 investment at the time of board approval by more than 15 percent,
13 the authority shall require the developer to pay up to 20 percent of
14 the amount in excess of the reasonable and appropriate rate of
15 return on investment. ³For any year during the eligibility period in
16 which the director purchases a tax credit certificate or tax credit
17 transfer certificate issued for a redevelopment project pursuant to
18 section 89 of P.L.2020, c.156 (C.52:18A-263), if the actual rate of
19 return on investment exceeds the reasonable and appropriate rate of
20 return on investment at the time of board approval by more than 10
21 percent, the authority shall require the developer to pay up to 20
22 percent of the amount in excess of the reasonable and appropriate
23 rate of return on investment, except as otherwise provided in
24 paragraph (2) of subsection a. of section 89 of P.L.2020, c.156
25 (C.52:18A-263).³ The authority shall require an escrow account to
26 be held by the authority ³for any payment received pursuant to this
27 subsection³ until the end of the eligibility period. ³For any payment
28 amount calculated at project certification, the developer shall make
29 equal annual payments, which in aggregate shall equal the
30 calculated payment amount, with each annual report for the first
31 seven years of the eligibility period. At the end of the seventh year
32 of the eligibility period, the developer shall pay the authority any
33 additional amount required. For projects that have an eligibility
34 period of fewer than 10 years, the authority may adjust the year of
35 the eligibility period in which the evaluation of the rate of return
36 and contribution to the escrow account, as may be appropriate, are
37 required. The authority shall not reduce or recapture any tax credits
38 at project certification or at the end of the seventh year of the
39 eligibility period solely due to an increase to the return on
40 investment.³ Following the final year of the eligibility period, the
41 authority shall determine if the developer's rate of return exceeded
42 the reasonable and appropriate rate of return determined at board
43 approval. If the final rate of return does not exceed the reasonable
44 and appropriate rate of return determined at board approval, the
45 authority shall release to the developer the escrowed funds. If the
46 project final rate of return exceeds the reasonable and appropriate
47 rate of return determined at board approval, the authority shall

1 require the developer to pay up to 20 percent of the amount of the
2 excess, which shall include the funds held in escrow, and such
3 funds shall be deposited in the State General Fund.

4 d. The incentive award agreement shall include a requirement
5 that the authority confirm with the Department of Environmental
6 Protection, the Department of Labor and Workforce Development,
7 and the Department of the Treasury that the developer is in
8 substantial good standing with the respective department, or the
9 developer has entered into an agreement with the respective
10 department that includes a practical corrective action for the
11 developer, and the developer shall confirm that each contractor or
12 subcontractor performing work at the redevelopment project: (1) is
13 registered as required by "The Public Works Contractor
14 Registration Act," P.L.1999, c.238 (C.34:11-56.48 et seq.); (2) has
15 not been debarred ¹, suspended, or disqualified¹ by the Department
16 of Labor and Workforce Development from engaging in or bidding
17 on Public Works Contracts in the State ¹, or been debarred,
18 suspended, or disqualified by a federal agency from engaging in
19 federally-funded construction projects or bidding on federal
20 contracting opportunities¹; and (3) possesses a tax clearance
21 certificate issued by the Division of Taxation in the Department of
22 the Treasury. The incentive award agreement shall also include a
23 provision that the developer shall forfeit the incentive award in any
24 year in which the developer is neither in substantial good standing
25 with each department nor has entered into a practical corrective
26 action. The incentive award agreement shall also require a
27 developer to engage in on-site consultations with the Division of
28 Workplace Safety and Health in the Department of Health.

29 e. (1) Except as provided in paragraph (2) of this subsection,
30 the authority shall not enter into an incentive award agreement for a
31 redevelopment project that includes at least one retail establishment
32 which will have more than 10 employees, at least one distribution
33 center which will have more than 20 employees, or at least one
34 hospitality establishment which will have more than 10 employees,
35 unless the incentive award agreement includes a precondition that
36 any business that serves as the owner or operator of the retail
37 establishment, distribution center, or hospitality establishment
38 enters into a labor harmony agreement with a labor organization or
39 cooperating labor organizations which represent retail
40 establishment, hospitality establishment, or distribution center
41 employees in the State.

42 (2) A labor harmony agreement shall be required only if the
43 State has a proprietary interest in the redevelopment project and
44 shall remain in effect for as long as the State acts as a market
45 participant in the redevelopment project. The authority may enter
46 into an incentive award agreement with a developer without the
47 labor harmony agreement required under paragraph (1) of this

1 subsection if the authority determines that the redevelopment
2 project would not be able to go forward if a labor harmony
3 agreement is required. The authority shall support the
4 determination by a written finding, which provides the specific
5 basis for the determination.

6 (3) (Deleted by amendment, P.L.2023, c.98)

7 f. (1) Except for ³a special mission non-profit project in any
8 location, or³ a residential project that is located in a government-
9 restricted municipality³~~],~~³ and in which 100 percent of the
10 residential units constructed in the residential project are reserved
11 for occupancy by low- and moderate-income households, for a
12 redevelopment project whose ²~~[total]~~² ³total³ project cost equals or
13 exceeds \$10 million, in addition to the incentive award agreement, a
14 developer shall enter into a community benefits agreement with the
15 authority and the county or municipality in which the
16 redevelopment project is located. The agreement may include, but
17 shall not be limited to, requirements for training, employment, and
18 youth development and free services to underserved communities in
19 and around the community in which the redevelopment project is
20 located. Prior to entering a community benefits agreement, ³~~[the~~
21 ~~governing body of]~~³ the county or municipality in which the
22 redevelopment project is located shall hold at least one ³previously
23 advertised³ public hearing at which ³~~[the governing body shall~~
24 ~~hear]~~³ testimony from residents, community groups, and other
25 stakeholders ³shall have an opportunity to be heard³ on the needs of
26 the community that the agreement should address³, and the minutes
27 of the meeting shall be included in the resolution of the governing
28 body of the municipality or county adopting the community benefits
29 agreement³.

30 (2) The community benefits agreement shall provide for the
31 creation of a community advisory committee to oversee the
32 implementation of the agreement, monitor successes, ensure
33 compliance with the terms of the agreement, and produce an annual
34 public report. The community advisory committee created pursuant
35 to this paragraph shall be comprised of representatives of diverse
36 community groups and residents of the county or municipality in
37 which the redevelopment project is located.

38 (3) At the time the developer submits the annual report required
39 pursuant to section 62 of P.L.2020, c.156 (C.34:1B-330) to the
40 authority, the developer shall certify, under the penalty of perjury,
41 that it is in compliance with the terms of the community benefits
42 agreement. If the developer fails to provide the certification
43 required pursuant to this paragraph or the authority determines that
44 the developer is not in compliance with the terms of the community
45 benefits agreement based on the reports submitted by the
46 community advisory committee pursuant to paragraph (2) of this

1 subsection, then the authority may rescind an award or recapture all
2 or part of any tax credits awarded.

3 (4) Notwithstanding any requirement of this subsection to the
4 contrary, ³²because all redevelopment agreements require a
5 certificate of completion issued by the municipality to confirm the
6 developer's compliance with the redevelopment agreement,²³ a
7 developer shall be considered to have met the requirements of a
8 community benefits agreement [pursuant to this subsection] ³[,
9 and the requirements of paragraphs (2) and (3) of this subsection
10 shall not apply,] pursuant to this subsection³ if the developer
11 submits to the authority:

12 (a) a copy of either the developer's approval letter from the
13 authority or a redevelopment agreement applicable to the qualified
14 business facility, provided that the approval letter ³[is certified by
15 the municipality]³ or ³[the]³ redevelopment agreement is
16 [certified] ³[adopted by resolution at a public meeting] certified³
17 by the municipality in which the redevelopment project is located,
18 and includes provisions that meet [or exceed] ³or exceed³ the
19 [standards] ³[community benefit] standards³ required [for]
20 ³[under] for³ a community benefits agreement ²[in] ³[pursuant
21 to²³ in³ this subsection], as determined by the chief executive
22 officer pursuant to rules adopted by the authority] ³, as determined
23 by the chief executive officer pursuant to rules adopted by the
24 authority³; or

25 (b) a resolution adopted by the governing body of the
26 municipality in which the redevelopment project is located, which
27 resolution shall be adopted after at least one public hearing at which
28 the governing body provides an opportunity for residents,
29 community groups, and other stakeholders to testify, and which
30 resolution shall state that the governing body has determined that
31 the redevelopment project will provide economic and social benefits
32 to the community that fulfill the purposes of this subsection, which
33 benefits render a separate community benefit agreement
34 unnecessary, and explain the reasons supporting the governing
35 body's determination.

36 ³(c) The developer and the municipality or county shall submit
37 the executed community benefits agreement, redevelopment
38 agreement, or approved resolution to the authority within the same
39 time as all other conditions subsequent required in the approval
40 letter.³

41 g. A developer shall submit, prior to the first disbursement of
42 tax credits under the incentive award agreement, but no later than
43 six months following project completion, satisfactory evidence of
44 actual project costs, as certified by a certified public accountant,
45 evidence of a temporary certificate of occupancy, or other event
46 evidencing project completion that begins the eligibility period

1 indicated in the incentive award agreement. The developer, or an
 2 authorized agent of the developer, shall certify that the information
 3 provided pursuant to this subsection is true under the penalty of
 4 perjury. Claims, records, or statements submitted by a developer to
 5 the authority in order to receive tax credits shall not be considered
 6 claims, records, or statements made in connection with State tax
 7 laws.

8 h. The incentive award agreement shall include a provision
 9 allowing the authority to extend, in individual cases, the deadline
 10 for any annual reporting or certification requirement.

11 i. The incentive award agreement shall include one or more
 12 provisions, as determined by the authority, concerning the terms
 13 and conditions for default and the remedies for the developer of a
 14 redevelopment project in the event of default. The incentive award
 15 agreement shall not allow the authority to declare a cross-default
 16 when the developer of a redevelopment project, including any
 17 business affiliate of the developer or any other entity with common
 18 principals as the developer, is in default with any other assistance
 19 program administered by the authority.

20 (cf: P.L.2023, c.98, s.6)

21
 22 5. Section 61 of P.L.2020, c.156 (C.34:1B-329) is amended to
 23 read as follows:

24 61. a. Up to the limits established in subsection b. of this section
 25 and in accordance with an incentive award agreement, beginning
 26 upon the receipt of occupancy permits for any portion of the
 27 redevelopment project, or upon any other event evidencing project
 28 completion as set forth in the incentive award agreement, a
 29 developer shall be allowed a total tax credit **that shall not exceed**
 30 **³[as follows, subject to the enhancements set forth in subsection c.**
 31 **of this section] that shall not exceed³:**

32 (1) **³[80] (a) 85³ percent of the ²[total] eligible² project cost for**
 33 **a redevelopment project that ^{3,3} is located in a government-**
 34 **restricted municipality ³, which municipality qualified as a**
 35 **government-restricted municipality prior to the effective date of**
 36 **P.L. , c. (C.) (pending before the Legislature as this bill);³**
 37 **²or is a special mission non-profit project²; ³or**

38 **(b) 80 percent of the eligible project cost for a redevelopment**
 39 **project that is located in a government-restricted municipality,**
 40 **which municipality did not qualify as a government-restricted**
 41 **municipality prior to the effective date of P.L. , c. (C.)**
 42 **(pending before the Legislature as this bill);³**

43 (2) 60 percent of the **²[total] eligible²** project cost for a
 44 residential project that receives a four-percent allocation from the
 45 federal Low Income Housing Tax Credit Program administered by
 46 the agency ^{1,1} or a redevelopment project that is located in a

1 qualified incentive tract, enhanced area, or a municipality with a
2 Municipal Revitalization Index score of at least 50; or

3 (3) 50 percent of the ²~~total~~ eligible² project cost for any other
4 redevelopment project.

5 b. The value of all tax credits approved by the authority under
6 the program for a redevelopment project phase shall not exceed:

7 (1) \$120,000,000 per redevelopment project or phase for a
8 redevelopment project that is located in a government-restricted
9 municipality ²or is a special mission non-profit project²;

10 (2) \$90,000,000 per redevelopment project or phase for a
11 redevelopment project that is allowed a tax credit under paragraph
12 (2) of subsection a. of this section; and

13 (3) \$60,000,000 for any other redevelopment project or phase.

14 ³c. Notwithstanding the limitations set forth in subsection a. of
15 this section, but subject to the limitations of subsections b. and d. of
16 this section and the demonstration of a financing gap, a developer
17 shall be eligible for each of the following enhancements to the total
18 tax credit award:

19 (1) for a redevelopment project that includes the redevelopment
20 of a stranded asset, an enhancement of up to 10 percent of the
21 project cost of the redevelopment project;

22 (2) for a residential project that meets the three-bedroom
23 distribution requirement under the Uniform Housing Affordability
24 Controls, an enhancement of up to five percent of the project cost of
25 the residential project; and

26 (3) for a redevelopment project that meets local first source
27 hiring requirements for residents in the municipality or county
28 ¹[where] in which¹ the project is located ¹and in surrounding
29 municipalities, as appropriate¹ , an enhancement of up to three
30 percent of the project cost of the redevelopment project.

31 d. Except for a redevelopment project that is located in a
32 government restricted municipality:

33 (1) the total tax credits awarded for the redevelopment project,
34 together with all tax credits awarded under any other program
35 administered by the authority, shall not exceed 80 percent of the
36 project cost of the redevelopment project; and

37 (2) for a redevelopment project that receives tax credits under
38 the Federal Low-Income Housing Tax Credit Program, the total tax
39 credits awarded for the redevelopment project, together with all tax
40 credits awarded under any other program administered by the
41 authority and under the Federal Low-Income Housing Tax Credit
42 Program, shall not exceed 90 percent of the project cost.】³

43 (cf: P.L.2023, c.98, s.7)

44
45 6. Section 62 of P.L.2020, c.156 (C.34:1B-330) is amended to
46 read as follows:

1 62. a. A developer approved for an incentive award pursuant to
2 sections 58 and 59 of P.L.2020, c.156 (C.34:1B-326 and C.34:1B-
3 327) and that enters an incentive award agreement pursuant to
4 section 60 of P.L.2020, c.156 (C.34:1B-328) shall submit annually,
5 commencing in the year in which the incentive award is issued and
6 for the remainder of the eligibility period, a report indicating
7 whether the developer is aware of any condition, event, or act that
8 would cause the developer not to be in compliance with the
9 incentive award agreement or the provisions of sections 54 through
10 67 of P.L.2020, c.156 (C.34:1B-322 through C.34:1B-335) and any
11 additional reporting requirements contained in the incentive award
12 agreement or tax credit certificate. The developer, or an authorized
13 agent of the developer, shall certify that the information provided
14 pursuant to this subsection is true under the penalty of perjury.

15 b. (1) Upon receipt and review of each report submitted during
16 the eligibility period, the authority shall provide to the developer
17 and the director a certificate of compliance indicating the amount of
18 tax credits that the developer may apply against the developer's tax
19 liability. ³~~2~~The authority shall preliminarily determine whether
20 the annual report submitted by the developer is complete as early as
21 practicable after accepting each annual report. Within 90~~1~~
22 Notwithstanding any provision of law or regulation to the contrary,
23 the authority shall not require the developer to include a permanent
24 certificate of occupancy in the first annual report, but the developer
25 shall include the permanent certificate of occupancy in the next
26 annual report after the developer receives the permanent certificate
27 of occupancy. Subject to forfeiture, reduction, or other action for
28 failure to comply with a program requirement, within 120³~~90~~ days
29 after the authority preliminarily determines that an annual report is
30 complete, the authority shall either: (a) approve the annual report
31 and notify the director that the authority has approved the report
32 and that the director is to issue the tax credit certificate; or (b)
33 request more information from the developer to finalize the
34 approval. If the authority fails to act within³~~90~~ 120³ days from
35 its preliminary determination that the annual report is complete, the
36 annual report shall be deemed approved by the authority, and the
37 developer shall be entitled to receive its tax credit certificate.²

38 (2) Upon receipt by the director of the certificate of compliance,
39 the director shall allow the developer a credit against the tax
40 imposed pursuant to section 5 of P.L.1945, c.162 (C.54:10A-5). A
41 developer shall apply the credit awarded against the developer's
42 liability under section 5 of P.L.1945, c.162 (C.54:10A-5), sections 2
43 and 3 of P.L.1945, c.132 (C.54:18A-2 and C.54:18A-3), section 1
44 of P.L.1950, c.231 (C.17:32-15), or N.J.S.17B:23-5 ²~~1~~for the
45 privilege period ~~during~~ identified in the tax credit certificate
46 which the director ~~allows~~ issues to the developer ~~a tax credit~~

1 pursuant to this subsection, or within the three successive tax
 2 periods immediately following the tax period in which the tax credit
 3 certificate is received by the developer¹ in the tax period for which
 4 it was issued, in the tax period in which it was issued, or in any
 5 ³[successive]³ tax period ³[, as authorized pursuant to this
 6 subsection] during the eligibility period³, without the need to
 7 amend the tax return for the tax period for which the credit was
 8 issued, subject to the carry-forward provision in this section.
 9 Notwithstanding the foregoing, no more than the amount of tax
 10 credits equal to the total credit amount divided by the duration of
 11 the tax credit term, in years, may be taken in any tax period². A
 12 developer may carry forward an unused credit resulting from the
 13 limitations of paragraph (3) of this subsection, if necessary, for use
 14 in the seven privilege periods next following the privilege period
 15 for which the credits are [awarded] applied. Credits granted to a
 16 partnership shall be passed through to the partners, members, or
 17 owners, respectively, pro-rata, or pursuant to an executed agreement
 18 among the partners, members, or owners documenting an alternate
 19 distribution method provided to the director accompanied by any
 20 additional information as the director may prescribe.

21 (3) The director shall prescribe the order of priority of the
 22 application of the credit allowed under this section and any other
 23 credits allowed by law against the tax imposed under section 5 of
 24 P.L.1945, c.162 (C.54:10A-5). The amount of the credit applied
 25 under this section against the tax imposed pursuant to section 5 of
 26 P.L.1945, c.162 (C.54:10A-5) for a privilege period, together with
 27 any other credits allowed by law, shall not reduce the tax liability to
 28 an amount less than the statutory minimum provided in subsection
 29 (e) of section 5 of P.L.1945, c.162 (C.54:10A-5).
 30 (cf: P.L.2022, c.46, s.1)

31
 32 7. Section 63 of P.L.2020, c.156 (C.34:1B-331) is amended to
 33 read as follows:

34 63. a. ²(1)² A developer may apply to the director and the chief
 35 executive officer of the authority for a tax credit transfer certificate,
 36 covering one or more years, in lieu of the developer being allowed
 37 any amount of the credit against the tax liability of the developer.
 38 ³[²The authority shall preliminarily determine whether the
 39 application submitted by the developer is complete as early as
 40 practicable after accepting the application. Within 90] Subject to
 41 the forfeiture, reduction, or other action for failure to comply with a
 42 program requirement, within 120³ days after the authority
 43 preliminarily determines that an application is complete, the
 44 authority shall either: (a) approve the application and notify the
 45 director that the authority has approved the application and that the
 46 director is to issue the tax credit transfer certificate; or (b) request

1 more information from the developer to finalize the approval. If the
2 authority fails to act within ³[90] 120³ days from its preliminary
3 determination that the application is complete, the application shall
4 be deemed approved by the authority, and the developer shall be
5 entitled to receive its tax credit transfer certificate.

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

19 b. The developer shall not sell or assign, including a collateral
20 assignment, a tax credit transfer certificate allowed under this
21 section for consideration received by the developer of less than 85
22 percent of the transferred credit amount before considering any
23 further discounting to present value which shall be permitted,
24 except a developer of a residential project consisting of newly-
25 constructed residential units may assign a tax credit transfer
26 certificate for consideration of less than 85 percent subject to the
27 submission of a plan to the authority and the agency to use the
28 proceeds derived from the assignment of tax credits to complete the
29 residential project, except a developer of a residential project
30 consisting of newly-constructed residential units that has received
31 federal low income housing tax credits under 26 U.S.C.
32 s.42(b)(1)(B)(i) may assign a tax credit transfer certificate for
33 consideration of no less than 65 percent subject to the submission of
34 a plan to the authority and the New Jersey Housing and Mortgage
35 Finance Agency to use the proceeds derived from the assignment of
36 tax credits to complete the residential project. The tax credit
37 transfer certificate issued to a developer by the director shall be
38 subject to any limitations and conditions imposed on the application
39 of State tax credits pursuant to sections 54 through 67 of P.L.2020,
40 c.156 (C.34:1B-322 through 34:1B-335) and any other terms and
41 conditions that the director may prescribe; provided, however, that
42 the holder of a tax credit certificate may transfer all or part of the
43 tax credit amount, ²[within the three successive tax periods
44 immediately following the tax period in which the tax credit
45 certificate is received by the developer] ³[at any time after the date
46 of receipt of the tax credit certificate²,]³ on or after the date of
47 issuance of the tax credit transfer certificate, for use by the

1 transferee in the tax period for which it was issued ²or within the
 2 three successive tax periods immediately following the tax period in
 3 which the tax credit transfer certificate is received by the transferee,
 4 and the transferee may carry forward all or part of the tax credit
 5 amount in any of the next five successive tax periods after the tax
 6 period for which it was used] , in the tax period in which it was
 7 issued, or in any ³of the next three³ successive tax ³[period]
 8 periods. The tax certificate holder or transferee may first use the
 9 credit against tax liabilities in the tax period in which it was issued
 10 or in a succeeding tax period³, as authorized in this subsection,
 11 without the need to amend the tax return for the tax period for
 12 which the credit was issued, subject to the ³[carry-forward
 13 provision in] provisions of³ this section. A transferee may carry
 14 forward an unused credit for use in any of the next five successive
 15 tax periods, and the unused credit shall expire thereafter².
 16 Notwithstanding any provision of this section to the contrary, the
 17 amount of tax credits that may be claimed by the transferee in any
 18 tax period shall not exceed the total tax credit amount divided by
 19 the duration of the eligibility period in years.

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

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

- 26 (1) the name of the transferor;
- 27 (2) the name of the transferee;
- 28 (3) the value of the tax credit transfer certificate; and
- 29 (4) the consideration received by the transferor.

30 ²When a tax credit certificate is issued to a developer after
 31 the tax period in which all or part of the tax credits may be used by
 32 the developer or a holder of the credit transfer certificate, the
 33 developer or transferee shall be allowed to use the tax credit for the
 34 same tax period specified in the tax credit certificate, or within the
 35 three successive tax periods immediately following the tax period in
 36 which the certificate is received by the developer or transferee. In
 37 this circumstance, the developer or transferee shall not be required
 38 to amend its tax return for the tax period in which it applies the tax
 39 credit or for a tax period preceding the tax period in which the tax
 40 credit is applied.]]²

41 (cf: P.L.2023, c.98, s.8)

42
 43 8. Section 65 of P.L.2020, c.156 (C.34:1B-333) is amended to
 44 read as follows:

45 65. a. As used in this section, "transformative project" means a
 46 redevelopment project: that has a project financing gap; that has a

1 total project cost of at least \$150,000,000; that ²[, subject to the
 2 provisions of subsection h. of this section,]² includes 200,000 or
 3 more square feet of new or substantially renovated industrial,
 4 commercial, or residential space for a project located in a
 5 government-restricted municipality, that includes 250,000 or more
 6 square feet of film studios, professional stages, television studios,
 7 recording studios, screening rooms, or other infrastructure for film
 8 production, that includes 300,000 or more square feet of new or
 9 substantially renovated industrial, commercial, or residential space
 10 for a project located in an enhanced area, or that includes 500,000
 11 or more square feet of new or substantially renovated industrial,
 12 commercial, or residential space for any other project; and, for a
 13 commercial project, that is of special economic importance as
 14 measured by the level of new jobs, new capital investment,
 15 opportunities to leverage leadership in a high-priority targeted
 16 industry, or other state priorities as determined by the authority
 17 pursuant to rules and regulations promulgated to implement this
 18 section. Notwithstanding the provisions of subsection b. of section
 19 14 of P.L.2023, c.98 (C.34:1B-335.1) to the contrary, for
 20 applications submitted on and after the effective date of P.L.2023,
 21 c.98 (C.34:1B-335.1 et al.), if the redevelopment project is located
 22 entirely on land designated by the Department of Environmental
 23 Protection as a brownfield development area pursuant to section 7
 24 of P.L.2005, c.223 (C.58:10B-25.1), and the ³[²total²] eligible³
 25 project cost of the redevelopment project includes at least
 26 \$15,000,000 in environmental remediation costs, the redevelopment
 27 project shall constitute a project of special economic importance. A
 28 transformative project may be completed in phases, which phases
 29 may be determined by the authority based on factors such as written
 30 architectural plans and specifications completed before or during
 31 the physical work, certificates of occupancy, or financial and
 32 operational plans. The criteria developed by the authority shall
 33 include, but shall not be limited to:

34 (1) the extent to which the proposed transformative project
 35 would create modern facilities that enhance the State's
 36 competitiveness in attracting targeted industries;

37 (2) (a) for a residential project, the construction of 700 or more
 38 new residential units; ³[¹or¹]³

39 (b) for a ³mixed-use³ residential project containing [less] fewer
 40 than 700 new residential units ³[,] :

41 (i) ³[the construction of 200 or more new residential units if the
 42 project is located in a government-restricted municipality, 300 or
 43 more ²new² residential units if the project is located in an enhanced
 44 area, or 400 or more ²new² residential units for all other mixed-use
 45 projects; ³[¹or¹] and

1 (ii) the construction of 30,000 square feet or more of
2 commercial space, which commercial space may include retail
3 space; and³

4 (c) ³~~for a residential project~~ ²~~containing~~ , not located in a
5 government-restricted municipality or an enhanced area, that
6 contains² ~~less~~ fewer than 700 new residential units, the
7 construction of ~~50,000~~ 20,000 square feet or more of commercial
8 space, which commercial space may include retail space; and
9 ~~(Deleted by amendment, P.L. , c. (pending before the~~
10 Legislature as this bill)³

11 (d) for a residential project, 20 percent of the new residential
12 units shall be constructed for occupancy by low- and moderate-
13 income households with affordability controls as adopted by the
14 authority, in consultation with the agency, in accordance with
15 paragraph (2) of subsection a. of section 56 of P.L.2020, c.156
16 (C.34:1B-324), except that a residential project receiving a federal
17 historic rehabilitation tax credit pursuant to section 47 of the federal
18 Internal Revenue Code of 1986, 26 U.S.C. s.47, or a tax credit
19 pursuant to the "Historic Property Reinvestment Act," sections 2
20 through 8 of P.L.2020, c.156 (C.34:1B-270 through 34:1B-276),
21 shall be exempt from the affordability controls related to bedroom
22 distribution; and

23 (3) the extent to which the proposed project would leverage the
24 competitive economic development advantages of the State's mass
25 transit assets, higher education assets, and other economic
26 development assets in attracting or retaining both employers and
27 skilled workers generally or in targeted industries.

28 A "transformative project" shall not include a redevelopment
29 project at which more than 50 percent of the premises is occupied
30 by one or more businesses engaged in final point of sale retail.

31 b. (1) The authority may award incentive awards to
32 transformative projects in accordance with the provisions of
33 sections 55 through 67 of P.L.2020, c.156 (C.34:1B-323 through
34 34:1B-335).

35 (2) (a) For transformative projects completed in phases, the
36 developer shall enter into a transformative phase agreement with the
37 authority.

38 (b) As used in this subsection, "transformative phase agreement"
39 shall mean a sub-agreement of the incentive award agreement that
40 governs the timing, capital investment, and other applicable details
41 of the respective phase of a phased project.

42 (3) Notwithstanding the provisions of section 57 of P.L.2020,
43 c.156 (C.34:1B-325), or any other section of P.L.2020, c.156
44 (C.34:1B-269 et al.) to the contrary, a transformative project shall
45 be completed, and the developer shall be issued a certificate of
46 occupancy for the transformative project facilities by the applicable
47 enforcing agency, within five years of executing the incentive

1 award agreement, except that the authority may, in its discretion,
2 extend this deadline by up to one additional year. For
3 transformative projects completed in phases, the transformative
4 project shall be completed, and the developer shall be issued
5 certificates of occupancy for all phases of the transformative project
6 facilities by the applicable enforcing agency, within 10 years of
7 executing either the incentive award agreement or the first
8 transformative phase agreement corresponding to the transformative
9 project.

10 (4) Notwithstanding the provisions of sections 55 and 60 of
11 P.L.2020, c.156 (C.34:1B-323 and C.34:1B-328), or any other
12 section of P.L.2020, c.156 (C.34:1B-269 et al.) to the contrary, each
13 phase of a transformative project completed in phases shall have a
14 separate eligibility period. After completing each phase, the
15 developer shall submit a certification that the phase is completed.
16 If the authority approves the certification, the tax credit allowed to
17 the developer shall be increased by the tax credit amount
18 corresponding to that phase. Notwithstanding the different
19 eligibility periods for each phase, all conditions and requirements
20 applicable during an eligibility period pursuant to sections 55
21 through 67 of P.L.2020, c.156 (C.34:1B-323 through 34:1B-335)
22 shall apply to ²~~the entire~~ ³each phase of a² the entire³
23 transformative project until the end of the eligibility period ²~~for~~
24 ~~the last~~ ³of each completed² for the last³ phase.

25 (5) Notwithstanding the provisions of section 60 of P.L.2020,
26 c.156 (C.34:1B-328), or any other section of P.L.2020, c.156
27 (C.34:1B-269 et al.) to the contrary, for a transformative project
28 completed in phases, a review of the project financing gap shall be
29 performed at the certification of completion of each phase, and the
30 authority shall re-evaluate the developer's rate of return in the
31 seventh year and at the end of the eligibility period for the last
32 phase, provided that the authority may also re-evaluate the
33 developer's rate of return during the fifth year of any earlier phase.

34 (6) A transformative project receiving an incentive award
35 pursuant to this section, other than a project that includes 250,000
36 or more square feet of film studios, professional stages, television
37 studios, recording studios, screening rooms or other infrastructure
38 for film production, shall be located in an incentive area, a
39 distressed municipality, a government-restricted municipality, or an
40 enhanced area. A transformative project receiving an incentive
41 award pursuant to this section that includes 250,000 or more square
42 feet of film studios, professional stages, television studios,
43 recording studios, screening rooms or other infrastructure for film
44 production may be located anywhere in the State. The authority
45 shall not consider an application for a transformative project unless
46 the applicant submits with its application a letter evidencing support

- 1 for the transformative project from the governing body of the
2 municipality in which the transformative project is located.
- 3 c. The authority shall review the transformative project cost,
4 evaluate and validate the project financing gap estimated by the
5 developer, and conduct a State fiscal impact analysis to ensure that
6 the overall public assistance provided to the transformative project
7 will result in a net positive benefit to the State. In determining
8 whether a transformative project will result in a net positive benefit
9 to the State, the authority shall not consider the value of any taxes
10 exempted, abated, rebated, or retained under the "Five-Year
11 Exemption and Abatement Law," P.L.1991, c.441 (C.40A:21-1 et
12 seq.), the "Long Term Tax Exemption Law," P.L.1991, c.431
13 (C.40A:20-1 et al.), the "New Jersey Urban Enterprise Zones Act,"
14 P.L.1983, c.303 (C.52:27H-60 et seq.), or any other law that has the
15 effect of lowering or eliminating the developer's State or local tax
16 liability. The determination made pursuant to this subsection shall
17 be based on the potential tax liability of the developer without
18 regard for potential tax losses if the developer were to locate in
19 another state. The authority shall assess the cost of these reviews to
20 the applicant. A developer shall pay to the authority the full
21 amount of the direct costs of an analysis concerning the developer's
22 application for an incentive award that a third party retained by the
23 authority performs, if the authority deems such retention to be
24 necessary. The authority shall evaluate the net economic benefits
25 on a present value basis under which the requested tax credit
26 allocation amount is discounted to present value at the same
27 discount rate as the projected benefits from the implementation of
28 the proposed transformative project for which an award of tax
29 credits is being sought. Projects that are predominantly residential
30 ³or that qualify as special mission non-profit projects³ shall be
31 excluded from the calculation of the net benefit test required
32 pursuant to this subsection.
- 33 d. In determining net benefits for any business or person
34 considering locating in a transformative project and applying to
35 receive from the authority any other economic development
36 incentive subsequent to the award of transformative project tax
37 credits pursuant to section 65 of P.L.2020, c.156 (C.34:1B-333), the
38 authority shall not credit the business or person with any benefit
39 that was previously credited to the transformative project pursuant
40 to section 65 of P.L.2020, c.156 (C.34:1B-333).
- 41 e. The authority shall administer the credits awarded pursuant
42 to this section in accordance with the provisions of sections 62 and
43 63 of P.L.2020, c.156 (C.34:1B-330 and C.34:1B-331).
- 44 f. Prior to allocating an incentive award to a developer, the
45 authority shall confirm with the Department of Labor and
46 Workforce Development, the Department of Environmental
47 Protection, and the Department of the Treasury that the developer is

1 in substantial good standing with the respective department, or the
 2 developer has entered into an agreement with the respective
 3 department that includes a practical corrective action plan, and the
 4 developer shall certify that each contractor or subcontractor
 5 performing work at the transformative project: (1) is registered as
 6 required by "The Public Works Contractor Registration Act,"
 7 P.L.1999, c.238 (C.34:11-56.48 et seq.); (2) has not been debarred
 8 by the Department of Labor and Workforce Development from
 9 engaging in or bidding on Public Works Contracts in the State; and
 10 (3) possesses a tax clearance certificate issued by the Division of
 11 Taxation in the Department of the Treasury. The authority may also
 12 contract with an independent third party to perform a background
 13 check on the developer.

14 g. Notwithstanding the limitation on incentive awards set forth
 15 in subsection b. of section 61 and section 98 of P.L.2020, c.156
 16 (C.34:1B-329 and C.34:1B-362) to the contrary, the authority may
 17 allow a developer of a transformative project a tax credit in an
 18 amount not to exceed the lesser of:

19 (1) (a) ³**[80]** (i) ³85 percent of the ²**[total]** eligible² project cost
 20 for a transformative project that is located in a government-
 21 restricted municipality ³, which municipality qualified as a
 22 government-restricted municipality prior to the effective date of
 23 P.L. , c. (C.) (pending before the Legislature as this bill)³ ;
 24 ³or

25 (ii) 80 percent of the eligible project cost for a transformative
 26 project that is located in a government-restricted municipality,
 27 which municipality did not qualify as a government-restricted
 28 municipality prior to the effective date of P.L. , c. (C.)
 29 (pending before the Legislature as this bill);³

30 (b) 60 percent of the ²**[total]** eligible² project cost for a
 31 residential transformative project that receives a four-percent
 32 allocation from the federal Low Income Housing Tax Credit
 33 Program administered by the agency or a transformative project that
 34 is located in a qualified incentive tract, enhanced area, or a
 35 municipality with a Municipal Revitalization Index score of at least
 36 50; or

37 (c) 50 percent of the ²**[total]** eligible² project cost for any other
 38 transformative project;

39 (2) the total value of the project financing gap; or

40 (3) \$400,000,000, except that for a transformative project that is
 41 developed in phases, the \$400,000,000 limitation on incentive
 42 awards set forth in this paragraph shall apply to the total aggregate
 43 award for all phases of the transformative project.

44 ³**[h.** ¹Notwithstanding the limitations set forth in subsection g.
 45 of this section, a developer of a transformative project shall be
 46 eligible for each of the following enhancements to the total tax

1 credit award ², individually or in combination, subject to the
 2 demonstration of a financing gap and need for support² :

3 (1) for a transformative project that includes the redevelopment
 4 of a stranded asset, an enhancement of up to 10 percent of the
 5 project cost of the transformative project;

6 (2) for a residential transformative project that meets the three-
 7 bedroom distribution requirement under the Uniform Housing
 8 Affordability Controls, an enhancement of up to five percent of the
 9 project cost of the residential transformative project; and

10 (3) for a transformative project that meets local first source
 11 hiring requirements for residents in the municipality or county in
 12 which the project is located and in surrounding municipalities, as
 13 appropriate, an enhancement of up to three percent of the project
 14 cost of the transformative project.]³

15 ²[i. ¹ (1) The parking component of a transformative project
 16 shall be included in the calculation of the total square footage of the
 17 project, provided that the parking component shall be constructed in
 18 conformity with local zoning, planning, or similar requirements
 19 ¹[and] , or¹ up to the amount required by the Residential Site
 20 Improvement Standards ¹, regardless of whether the Residential Site
 21 Improvement Standards apply to the parking component¹ . Any
 22 portion of the parking component that exceeds the local parking
 23 requirements or the Residential Site Improvement Standards shall
 24 not be included in the calculation of the total square footage of the
 25 project.

26 (2) Notwithstanding any provision of paragraph (1) of this
 27 subsection to the contrary, the entire parking component of a
 28 project located in a government restricted municipality shall be
 29 included in the calculation of the total square footage of the
 30 project.]²

31 (cf: P.L.2023, c.98, s.9)

33 ³[9. Section 14 of P.L.2023, c.98 (C.34:1B-335.1) is amended
 34 to read as follows:

35 14. a. (1) Except as otherwise provided in subsection b. of this
 36 section, all program applications **[completed after]** submitted to ²or
 37 approved by² the authority ²[on or]² after ²[the date six months
 38 prior to the effective date of [P.L.2023, c.98 (C.34:1B-335.1 et
 39 al.)] P.L. , c. (C.) (pending before the Legislature as this
 40 bill)] January 1, 2023² shall be subject to the "New Jersey Aspire
 41 Program Act," sections 54 through 67 of P.L.2020, c.156 (C.34:1B-
 42 322 through 34:1B-335), as amended as supplemented by P.L.2023,
 43 c.98 (C.34:1B-335.1 et al.), and as further amended and
 44 supplemented by P.L. , c. (C.) (pending before the
 45 Legislatre as this bill), including the rules and regulations adopted
 46 pursuant to subsection b. of section 67 of P.L.2020, c.156 (C.34:1B-

1 335), except that applications submitted to the authority prior to the
2 effective date of P.L. , c. (C.) (pending before the
3 Legislature as this bill) shall be subject to the rules and regulations
4 concerning application fees that were in effect immediately before
5 the effective date of P.L. , c. (C.) (pending before the
6 Legislature as this bill).

7 (2) **【**Except as otherwise provided in subsection b. of this
8 section, all program applications completed on or before the
9 effective date of P.L.2023, c.98 (C.34:1B-335.1 et al.) shall be
10 subject to the provisions of the "New Jersey Aspire Program Act,"
11 sections 54 through 67 of P.L.2020, c.156 (C.34:1B-322 through
12 34:1B-335), as such provisions remained in effect immediately
13 before the effective date of P.L.2023, c.98 (C.34:1B-335.1 et al.),
14 including the rules and regulations adopted pursuant to subsection
15 a. of section 67 of P.L.2020, c.156 (C.34:1B-335).**】** (Deleted by
16 amendment, P.L. , c. (pending before the Legislature as this bill)

17 b. Notwithstanding any provision of P.L.2020, c.156
18 (C.34:1B-269 et al.) to the contrary, if a completed application for a
19 residential project is submitted to the authority on or before the
20 121st calendar day next following effective date of P.L.2023, c.98
21 (C.34:1B-335.1 et al.), the applicant for the residential project has
22 received all applicable approvals pursuant to the "Municipal Land
23 Use Law," P.L.1975, c.291 (C.40:55D-1 et seq.) on or before the
24 121st calendar day next following the effective date of P.L.2023,
25 c.98 (C.34:1B-335.1 et al.), and the applicant submits written notice
26 to the authority, before the authority's approval or denial of the
27 application, electing for the application to be governed under the
28 provisions of this subsection, then the residential units constructed
29 for occupancy by low- and moderate-income households within the
30 residential project shall not be subject to the affordability controls
31 adopted by the authority, in consultation with the agency, pursuant
32 to paragraph (2) of subsection a. of section 56 of P.L.2020, c.156
33 (C.34:1B-324) and subsection b. of section 67 of P.L.2020, c.156
34 (C.34:1B-335). In this event, the application for the residential
35 project shall be reviewed, approved, and administered in accordance
36 with the provisions of the "New Jersey Aspire Program Act,"
37 sections 54 through 67 of P.L.2020, c.156 (C.34:1B-322 through
38 34:1B-335), as such provisions remained in effect immediately
39 before the effective date of P.L.2023, c.98 (C.34:1B-335.1 et al.),
40 including the rules and regulations adopted pursuant to subsection
41 a. of section 67 of P.L.2020, c.156 (C.34:1B-335), except that the
42 application shall be subject to:

43 (1) the determination of a reasonable and appropriate return on
44 investment, as defined in section 55 of P.L.2020, c.156 (C.34:1B-
45 323), as amended by P.L.2023, c.98 (C.34:1B-335.1 et al.); ²**【and】**²

46 (2) the limitation on tax credit awards set forth in subsection b.
47 of section 61 of P.L.2020, c.156 (C.34:1B-329) and subsection g. of

section 65 of P.L.2020, c.156 (C.34:1B-333), respectively, as amended by P.L.2023, c.98 (C.34:1B-335.1 et al.) ²; and

(3) no proration of the tax credit for any year within the eligibility period².

(cf: P.L.2023, c.98, s.14) **1**³

3¹⁰. (New section) The authority shall promulgate a schedule of application and other fees imposed under the program, which fees shall be limited to the coverage of actual direct costs of administering the program, the coverage of reasonable indirect costs of administering the program, and the maintenance of reasonable reserves for administering the program. Any application fee or other fee charged by the authority shall be proportional to the tax credit amount awarded for a redevelopment project under the program. **1**³

3¹¹. (New section) a. The authority shall establish, as part of the program, a “Redevelopment Project Bridge Financing Program” to facilitate the ability of a developer to secure financing for a redevelopment project until such time as tax credits are issued pursuant to the “New Jersey Aspire Program Act,” sections 54 through 67 of P.L.2020, c.156 (C.34:1B-322 through C.34:1B-335), as amended as supplemented. Through the program, the authority shall provide full or partial loans or loan guarantees, at the authority’s discretion, to the developers of redevelopment projects for the purpose of ensuring the completion of the redevelopment projects. As determined by the authority, the Redevelopment Project Bridge Financing Program may consist of:

(1) the issuance of redevelopment project bridge financing loans, subject to the provisions of subsection b. of this section; and

(2) the provision of redevelopment project loan guarantees, subject to the provisions of subsection c. of this section.

b. (1) The authority may issue a redevelopment project bridge financing loan to the developer of an approved redevelopment project, upon application by the developer, provided that the authority determines that:

(a) a project financing gap continues to exist after the award of tax credits to the developer of the redevelopment project; and

(b) the redevelopment project bridge financing loan will enable the completion of the redevelopment project.

(2) A developer who seeks a redevelopment project bridge financing loan shall submit an application to the authority, which application shall include:

(a) a proposed loan principle and interest amount;

(b) a proposed repayment schedule;

(c) an accounting of the remaining project financing gap; and

(d) any other information as the authority shall require.

1 (3) The authority may issue the redevelopment project bridge
2 financing loan in such amount as it deems appropriate, subject to such
3 terms, including, but not limited to, interest rates, collateral, and
4 repayment or release schedules, as the authority shall deem reasonable
5 and appropriate ¹, except that each worker employed to perform
6 construction work on the redevelopment project shall be paid not less
7 than the prevailing wage rate for the worker's craft or trade, as
8 determined by the Commissioner of Labor and Workforce
9 Development pursuant to P.L.1963, c.150 (C.34:11-56.25 et seq.) and
10 P.L.2005, c.379 (C.34:11-56.58 et seq.)¹.

11 c. (1) The authority may provide a loan guarantee to the
12 developer of an approved redevelopment project, upon application by
13 the developer, provided that the authority determines that:

14 (a) a project financing gap continues to exist after the initial award
15 of tax credits to the developer of the redevelopment project; and

16 (b) the loan guarantee will enable the developer to access the
17 financing needed to complete the redevelopment project.

18 (2) A developer who seeks a loan guarantee shall submit an
19 application to the authority, which application shall include:

20 (a) a proposed loan guarantee amount and terms;

21 (b) an accounting of the remaining project financing gap; and

22 (c) any other information as the authority shall require.

23 (3) The authority may issue the loan guarantees in such amounts as
24 it deems appropriate, subject to such terms as the authority deems
25 reasonable and appropriate ¹, except that each worker employed to
26 perform construction work on the redevelopment project shall be paid
27 not less than the prevailing wage rate for the worker's craft or trade, as
28 determined by the Commissioner of Labor and Workforce
29 Development pursuant to P.L.1963, c.150 (C.34:11-56.25 et seq.) and
30 P.L.2005, c.379 (C.34:11-56.58 et seq.)¹.

31 d. (1) The authority shall establish a Redevelopment Project
32 Bridge Financing Revolving Fund from which the authority shall
33 provide all loans issued pursuant to subsection b. of this section and
34 provide all loan guarantees issued pursuant to subsection c. of this
35 section. All monies received from payments of the principle and
36 interest for loans issued pursuant to this section shall be deposited into
37 the Redevelopment Project Bridge Financing Revolving Fund, which
38 fund shall remain until the authority determines that there no longer
39 remains a need for bridge financing or until December 31, 2028,
40 whichever occurs first. After the fund is no longer needed, or upon its
41 expiration, all monies in the fund shall be deposited into the General
42 Fund.

43 (2) Within 90 days after the effective date of P.L. , c. (C.)
44 (pending before the Legislature as this bill), the authority shall submit
45 a recommendation to the Governor and to the Legislature, pursuant to
46 section 2 of P.L.1991, c.164 (C.52:14-19.1), for the amount of

1 appropriations needed to fund the Redevelopment Project Bridge
2 Financing Program.】³

3
4 ³【12. (New section) a. To facilitate the efficient
5 monetization of tax credits awarded under the program, the
6 Department of the Treasury shall ²【, at such times as the
7 department deems necessary,】² redeem the tax credits ²【awarded
8 to】 surrendered for redemption by² a developer for a redevelopment
9 project at a discount from face value. ²【The tax credit redemptions
10 shall be made at such discounts as the State Treasurer deems
11 appropriate, except that the discount shall not exceed 10 percent of
12 the face value of the tax credits.】²

13 b. ²To effectuate a redemption authorized pursuant to this
14 section, in lieu of applying any tax credit certificate or tax credit
15 transfer certificate against tax liability otherwise due pursuant to
16 section 5 of P.L.1945, c.162 (C.54:10A-5), sections 2 and 3 of
17 P.L.1945, c.132 (C.54:18A-2 and C.54:18A-3), section 1 of
18 P.L.1950, c.231 (C.17:32-15), or N.J.S.17B:23-5, a taxpayer may
19 surrender a tax credit certificate or tax credit transfer certificate for
20 redemption to the director for a cash payment equal to 90 percent of
21 the amount of tax credits evidenced by the certificate, provided that
22 the issuance date of the tax credit certificate or tax credit transfer
23 certificate to the taxpayer surrendering such certificate occurred at
24 least one year prior to the date of surrender and that the certificate
25 has not been sold or assigned previously.

26 c.² The tax credit redemptions shall be paid in the same manner
27 as refunds of tax payable under section 5 of P.L.1945, c.162
28 (C.54:10A-5), sections 2 and 3 of P.L.1945, c.132 (C.54:18A-2 and
29 C.54:18A-3), section 1 of P.L.1950, c.231 (C.17:32-15), or
30 N.J.S.17B:23-5, notwithstanding that such tax is not applicable to
31 the person or entity seeking the redemption. ²【The State Treasurer
32 shall allow the proceeds of the tax credit redemption to be issued
33 over one or more tax periods, but not to exceed the applicable
34 eligibility period.】²】³

35
36 ³【13.】 9.³ Section 89 of P.L.2020, c.156 (C.52:18A-263) is
37 amended to read as follows:

38 89. a. The Director of the Division of Taxation in the
39 Department of the Treasury may purchase unused tax credits
40 awarded under a program listed in subsection b. of this section,
41 including tax credit transfer certificates issued by the director in
42 lieu of a tax credit allowed under such programs. The director shall
43 not pay consideration in excess of 75 percent of the credit amount
44 to be purchased, except for a credit awarded under:

45 (1) the "Emerge Program Act," sections 68 through 81 of
46 P.L.2020, c.156 (C.34:1B-336 et al.), which shall be subject to the

- 1 provisions of paragraph (4) of subsection d. of section 77 of
 2 P.L.2020, c.156 (C.34:1B-345); ³~~or~~³
- 3 (2) the “New Jersey Aspire Program Act,” sections 54 through
 4 67 ³of P.L.2020, c.156³ (²~~C.34:1B-222~~ C.34:1B-322² through
 5 C.34:1B-335), as amended and supplemented, ³for³ which ³~~shall~~
 6 be subject to the provisions of section 12 of P.L. , c. (C.)
 7 (pending before the Legislature as this bill) the director shall pay an
 8 amount equal to 85 percent of the credit amount, provided that the
 9 issuance date of the tax credit certificate or tax credit transfer
 10 certificate to the developer or the holder of such certificate occurred at
 11 least one year prior to the date of application to the director, and
 12 further provided that, if the application to the director is submitted
 13 after the sixth year of the eligibility period, the amount in excess of the
 14 reasonable and appropriate rate of return on investment that the
 15 developer is required to pay pursuant to subsection c. of section 60 of
 16 P.L.2020, c.156 (C.34:1B-328) shall increase to 50 percent; or
- 17 (3) the “Cultural Arts Incentives Program Act,” P.L.2023, c.197
 18 (C.34:1B-383 et al.), for which the director shall pay an amount equal
 19 to 85 percent of the credit amount, provided that the issuance date of
 20 the tax credit certificate or tax credit transfer certificate to the
 21 developer or the holder of such certificate occurred at least one year
 22 prior to the date of application to the director³.
- 23 b. The Director of the Division of Taxation in the Department
 24 of the Treasury may purchase tax credits awarded under the
 25 following:
- 26 (1) the "Historic Property Reinvestment Act," sections ²~~1~~²
 27 through 8 of P.L.2020, c.156 (²~~C.34:1B-269~~ C.34:1B-270²
 28 through C.34:1B-276);
- 29 (2) the "Brownfield Redevelopment Incentive Program Act,"
 30 sections 9 through 19 of P.L.2020, c.156 (C.34:1B-277 through
 31 C.34:1B-287);
- 32 (3) the "New Jersey Innovation Evergreen Act," sections 20
 33 through 34 of P.L.2020, c.156 (C.34:1B-288 through C.34:1B-302);
- 34 (4) the "Food Desert Relief Act," sections 35 through 42 of
 35 P.L.2020, c.156 (C.34:1B-303 through C.34:1B-310);
- 36 (5) the "New Jersey Community-Anchored Development Act,"
 37 sections 43 through 53 of P.L.2020, c.156 (C.34:1B-311 through
 38 C.34:1B-321);
- 39 (6) the "New Jersey Aspire Program Act," sections 54 through
 40 67 of P.L.2020, c.156 (C.34:1B-322 through C.34:1B-335);
- 41 (7) the "Emerge Program Act," sections 68 through 81 of
 42 P.L.2020, c.156 (C.34:1B-336 et al.);
- 43 (8) the Grow New Jersey Assistance Program established
 44 pursuant to section 3 of P.L.2011, c.149 (C.34:1B-244);
- 45 (9) section 6 of P.L.2010, c.57 (C.34:1B-209.4);

1 (10) the State Economic Redevelopment and Growth Grant
2 program established pursuant to section 5 of P.L.2009, c.90
3 (C.52:27D-489e);

4 (11) section 1 of P.L.2018, c.56 (C.54:10A-5.39b); ³[and]³

5 (12) section 2 of P.L.2018, c.56 (C.54A:4-12b) ³; and

6 (13) the “Cultural Arts Incentives Program Act,” P.L.2023,
7 c.197 (C.34:1B-383 et al.)³.
8 (cf: P.L.2020, c.156, s.89)

9
10 ³[14. Section 4 of P.L.1945, c.162 (C.54:10A-4) is
11 amended to read as follows:

12 4. For the purposes of this act, unless the context requires a
13 different meaning:

14 (a) "Commissioner" or "director" shall mean the Director of the
15 Division of Taxation of the State Department of the Treasury.

16 (b) "Allocation factor" shall mean the proportionate part of a
17 taxpayer's net worth or entire net income used to determine a
18 measure of its tax under this act.

19 (c) "Corporation" shall mean any corporation, joint-stock
20 company or association and any business conducted by a trustee or
21 trustees wherein interest or ownership is evidenced by a certificate
22 of interest or ownership or similar written instrument, any other
23 entity classified as a corporation for federal income tax purposes,
24 and any state or federally chartered building and loan association or
25 savings and loan association.

26 (d) "Net worth" shall mean the aggregate of the values disclosed
27 by the books of the corporation for (1) issued and outstanding
28 capital stock, (2) paid-in or capital surplus, (3) earned surplus and
29 undivided profits, and (4) surplus reserves which can reasonably be
30 expected to accrue to holders or owners of equitable shares, not
31 including reasonable valuation reserves, such as reserves for
32 depreciation or obsolescence or depletion. Notwithstanding the
33 foregoing, net worth shall not include any deduction for the amount
34 of the excess depreciation described in paragraph (2) (F) of
35 subsection (k) of this section. The foregoing aggregate of values
36 shall be reduced by 50% of the amount disclosed by the books of
37 the corporation for investment in the capital stock of one or more
38 subsidiaries, which investment is defined as ownership (1) of at
39 least 80% of the total combined voting power of all classes of stock
40 of the subsidiary entitled to vote and (2) of at least 80% of the total
41 number of shares of all other classes of stock except nonvoting
42 stock which is limited and preferred as to dividends. In the case of
43 investment in an entity organized under the laws of a foreign
44 country, the foregoing requisite degree of ownership shall effect a
45 like reduction of such investment from the net worth of the
46 taxpayer, if the foreign entity is considered a corporation for any
47 purpose under the United States federal income tax laws, such as

(but not by way of sole examples) for the purpose of supplying deemed paid foreign tax credits or for the purpose of status as a controlled foreign corporation. In calculating the net worth of a taxpayer entitled to reduction for investment in subsidiaries, the amount of liabilities of the taxpayer shall be reduced by such proportion of the liabilities as corresponds to the ratio which the excluded portion of the subsidiary values bears to the total assets of the taxpayer.

In the case of banking corporations which have international banking facilities as defined in subsection (n), the foregoing aggregate of values shall also be reduced by retained earnings of the international banking facility. Retained earnings means the earnings accumulated over the life of such facility and shall not include the distributive share of dividends paid and federal income taxes paid or payable during the tax year.

If in the opinion of the director, the corporation's books do not disclose fair valuations the director may make a reasonable determination of the net worth which, in his opinion, would reflect the fair value of the assets, exclusive of subsidiary investments as defined aforesaid, carried on the books of the corporation, in accordance with sound accounting principles, and such determination shall be used as net worth for the purpose of this act.

(e) (Deleted by amendment, P.L.1998, c.114.)

(f) "Investment company" shall mean any corporation whose business during the period covered by its report consisted, to the extent of at least 90 percent thereof of holding, investing and reinvesting in stocks, bonds, notes, mortgages, debentures, patents, patent rights and other securities for its own account, but this shall not include any corporation which: (1) is a merchant or a dealer of stocks, bonds and other securities, regularly engaged in buying the same and selling the same to customers; or (2) had less than 90 percent of its average gross assets in New Jersey, at cost, invested in stocks, bonds, debentures, mortgages, notes, patents, patent rights or other securities or consisting of cash on deposit during the period covered by its report; or (3) is a banking corporation, a savings institution, or a financial business corporation as defined in the Corporation Business Tax Act.

(g) "Regulated investment company" shall mean any corporation which for a period covered by its report, is registered and regulated under the Investment Company Act of 1940 (²**[54 Stat. 789]** 15 U.S.C. ss.80a-1 et seq.²), as amended.

(h) "Taxpayer" shall mean any corporation, any combined group filing a mandatory or elective New Jersey combined return, and any partnership required, or consenting, to report or to pay taxes, interest or penalties under this act. "Taxpayer" shall not include a partnership that is listed on a United States national stock exchange.

1 (i) "Fiscal year" shall mean an accounting period ending on any
2 day other than the last day of December on the basis of which the
3 taxpayer is required to report for federal income tax purposes.

4 (j) Except as herein provided, "privilege period" shall mean the
5 calendar or fiscal accounting period for which a tax is payable
6 under this act.

7 (k) "Entire net income" shall mean total net income from all
8 sources, whether within or without the United States, and shall
9 include the gain derived from the employment of capital or labor, or
10 from both combined, as well as profit gained through a sale or
11 conversion of capital assets.

12 For the purpose of this act, the amount of a taxpayer's entire net
13 income shall be deemed prima facie to be equal in amount to the
14 taxable income, before net operating loss deduction and special
15 deductions, which the taxpayer is required to report, or, if the
16 taxpayer is classified as a partnership for federal tax purposes,
17 would otherwise be required to report, to the United States Treasury
18 Department for the purpose of computing its federal income tax,
19 provided however, that in the determination of such entire net
20 income,

21 (1) Entire net income shall exclude for the periods set forth in
22 paragraph (2)(F)(i) of this subsection, any amount, except with
23 respect to qualified mass commuting vehicles as described in
24 section 168(f)(8)(D)(v) of the Internal Revenue Code as in effect
25 immediately prior to January 1, 1984, which is included in a
26 taxpayer's federal taxable income solely as a result of an election
27 made pursuant to the provisions of paragraph (8) of that section.

28 (2) Entire net income shall be determined without the exclusion,
29 deduction or credit of:

30 (A) The amount of any exemption or credit allowed in any law
31 of the United States imposing any tax on or measured by the income
32 of corporations.

33 (B) Any part of any income from dividends or interest on any
34 kind of stock, securities or indebtedness, except as provided in
35 paragraph (5) of subsection (k) of this section.

36 (C) Taxes paid or accrued to the United States, a possession or
37 territory of the United States, a state, a political subdivision thereof,
38 or the District of Columbia, or to any foreign country, state,
39 province, territory or subdivision thereof, on or measured by profits
40 or income, or business presence or business activity, or the tax
41 imposed by this act, or any tax paid or accrued with respect to
42 subsidiary dividends excluded from entire net income as provided
43 in paragraph (5) of subsection (k) of this section.

44 (D) (Deleted by amendment, P.L.1985, c.143.)

45 (E) (Deleted by amendment, P.L.1995, c.418.)

46 (F) (i) The amount by which depreciation reported to the United
47 States Treasury Department for property placed in service on and

1 after January 1, 1981, but prior to taxpayer fiscal or calendar
2 accounting years beginning on and after the effective date of
3 P.L.1993, c.172, for purposes of computing federal taxable income
4 in accordance with section 168 of the Internal Revenue Code in
5 effect after December 31, 1980, exceeds the amount of depreciation
6 determined in accordance with the Internal Revenue Code
7 provisions in effect prior to January 1, 1981, but only with respect
8 to a taxpayer's accounting period ending after December 31, 1981;
9 provided, however, that where a taxpayer's accounting period
10 begins in 1981 and ends in 1982, no modification shall be required
11 with respect to this paragraph (F) for the report filed for such period
12 with respect to property placed in service during that part of the
13 accounting period which occurs in 1981. The provisions of this
14 subparagraph shall not apply to assets placed in service prior to
15 January 1, 1998 of a gas, gas and electric, and electric public utility
16 that was subject to the provisions of P.L.1940, c.5 (C.54:30A-49 et
17 seq.) prior to 1998.

18 (ii) For the periods set forth in subparagraph (F)(i) of paragraph
19 (2) of this subsection, any amount, except with respect to qualified
20 mass commuting vehicles as described in section 168(f)(8)(D)(v) of
21 the Internal Revenue Code as in effect immediately prior to January
22 1, 1984, which the taxpayer claimed as a deduction in computing
23 federal income tax pursuant to a qualified lease agreement under
24 paragraph (8) of that section.

25 The director shall promulgate rules and regulations necessary to
26 carry out the provisions of this section, which rules shall provide,
27 among others, the manner in which the remaining life of property
28 shall be reported.

29 (G) (i) The amount of any civil, civil administrative, or criminal
30 penalty or fine, including a penalty or fine under an administrative
31 consent order, assessed and collected for a violation of a State or
32 federal environmental law, an administrative consent order, or an
33 environmental ordinance or resolution of a local governmental
34 entity, and any interest earned on the penalty or fine, and any
35 economic benefits having accrued to the violator as a result of a
36 violation, which benefits are assessed and recovered in a civil, civil
37 administrative, or criminal action, or pursuant to an administrative
38 consent order. The provisions of this paragraph shall not apply to a
39 penalty or fine assessed or collected for a violation of a State or
40 federal environmental law, or local environmental ordinance or
41 resolution, if the penalty or fine was for a violation that resulted
42 from fire, riot, sabotage, flood, storm event, natural cause, or other
43 act of God beyond the reasonable control of the violator, or caused
44 by an act or omission of a person who was outside the reasonable
45 control of the violator.

46 (ii) The amount of treble damages paid to the Department of
47 Environmental Protection pursuant to subsection a. of section 7 of

1 P.L.1976, c.141 (C.58:10-23.11f), for costs incurred by the
2 department in removing, or arranging for the removal of, an
3 unauthorized discharge upon failure of the discharger to comply
4 with a directive from the department to remove, or arrange for the
5 removal of, the discharge.

6 (H) The amount of any sales and use tax paid by a utility vendor
7 pursuant to section 71 of P.L.1997, c.162.

8 (I) With respect to privilege periods ending before July 31,
9 2023, interest paid, accrued or incurred for the privilege period to a
10 related member, as defined in section 5 of P.L.2002, c.40
11 (C.54:10A-4.4), except that a deduction shall be permitted to the
12 extent that the taxpayer establishes by clear and convincing
13 evidence, as determined by the director, that: (i) a principal purpose
14 of the transaction giving rise to the payment of the interest was not
15 to avoid taxes otherwise due under Title 54 of the Revised Statutes
16 or Title 54A of the New Jersey Statutes, (ii) the interest is paid
17 pursuant to arm's length contracts at an arm's length rate of interest,
18 and (iii)(aa) the related member was subject to a tax on its net
19 income or receipts in this State or another state or possession of the
20 United States or in a foreign nation, (bb) a measure of the tax
21 includes the interest received from the related member, and (cc) the
22 rate of tax applied to the interest received by the related member is
23 equal to or greater than a rate three percentage points less than the
24 rate of tax applied to taxable interest by this State pursuant to
25 section 5 of P.L.1945, c.162 (C.54:10A-5).

26 With respect to privilege periods ending before July 31, 2023, a
27 deduction shall also be permitted if the taxpayer establishes by clear
28 and convincing evidence, as determined by the director, that the
29 disallowance of a deduction is unreasonable, or the taxpayer and the
30 director agree in writing to the application or use of an alternative
31 method of apportionment under section 8 of P.L.1945, c.162
32 (C.54:10A-8); nothing in this subsection shall be construed to limit
33 or negate the director's authority to otherwise enter into agreements
34 and compromises otherwise allowed by law.

35 With respect to privilege periods ending before July 31, 2023, a
36 deduction shall also be permitted to the extent that the taxpayer
37 establishes by a preponderance of the evidence, as determined by
38 the director, that the interest is directly or indirectly paid, accrued
39 or incurred to (i) a related member in a foreign nation which has in
40 force a comprehensive income tax treaty with the United States and
41 the related member (aa) was subject to tax in the foreign nation on a
42 tax base that included the payment paid, accrued, or incurred; and
43 (bb) under which the related member's income received from the
44 transaction was taxed at an effective tax rate equal to or greater than
45 a rate of three percentage points less than the rate of tax applied to
46 taxable interest by the State of New Jersey pursuant to section 5 of
47 P.L.1945, c.162 (C.54:10A-5), provided however that the taxpayer

1 shall disclose on its return for the privilege period the name of the
2 related member, the amount of the interest, the relevant foreign
3 nation, and such other information as the director may prescribe or
4 (ii) to an independent lender and the taxpayer guarantees the debt
5 on which the interest is required. The adjustments required by this
6 subparagraph shall not apply to transactions between related
7 members included in a combined group reported on a New Jersey
8 combined return.

9 (J) (i) Amounts deducted for federal tax purposes pursuant to
10 section 199 of the federal Internal Revenue Code of 1986, 26
11 U.S.C. s.199, except that this exclusion shall not apply to amounts
12 deducted pursuant to that section that are exclusively based upon
13 domestic production gross receipts of the taxpayer which are
14 derived only from any lease, rental, license, sale, exchange, or other
15 disposition of qualifying production property which the taxpayer
16 demonstrates to the satisfaction of the director was manufactured or
17 produced by the taxpayer in whole or in significant part within the
18 United States but not qualified production property that was grown
19 or extracted by the taxpayer. "Manufactured or produced" as used in
20 this paragraph shall be limited to performance of an operation or
21 series of operations the object of which is to place items of tangible
22 personal property in a form, composition, or character different
23 from that in which they were acquired. The change in form,
24 composition, or character shall be a substantial change, and result in
25 a transformation of property into a different or substantially more
26 usable product.

27 (ii) For privilege periods beginning after December 31, 2017,
28 notwithstanding the provisions of P.L.1945, c.162 (C.54:10A-1 et
29 seq.) or any other law to the contrary, for the purposes of
30 determining the amount of income pursuant to P.L.1945, c.162
31 (C.54:10A-1 et seq.) that is net of expenses, no amounts shall be
32 taken as a deduction pursuant to section 199A of the Internal
33 Revenue Code (26 U.S.C. s.199A).

34 (K) (i) For privilege periods beginning after December 31, 2017
35 and ending before July 31, 2022, the interest deduction limitation in
36 subsection (j) of section 163 of the Internal Revenue Code
37 (26 U.S.C. s.163), shall apply on a pro-rata basis to interest paid to
38 both related and unrelated parties, regardless of whether the related
39 parties are subject to the add-back provision of either subparagraph
40 (I) of paragraph (2) of this subsection or in section 5 of P.L.2002,
41 c.40 (C.54:10A-4.4).

42 (ii) For privilege periods beginning after December 31, 2017
43 and ending on and after July 31, 2022, the interest deduction
44 limitation in subsection (j) of section 163 of the Internal Revenue
45 Code (26 U.S.C. s.163), shall apply to a combined group as though
46 the combined group filed a federal consolidated return; provided,
47 however, for the purposes of applying the limitation in subsection

1 (j) of section 163 of the Internal Revenue Code (26 U.S.C. s.163),
2 with regard to affiliates that were members of the federal
3 consolidated return but were not members of the combined group
4 included on the New Jersey combined return, the combined group
5 and the affiliates will also be treated as having filed one federal
6 consolidated return.

7 (3) The director may, whenever necessary to properly reflect the
8 entire net income of any taxpayer, determine the year or period in
9 which any item of income or deduction shall be included, without
10 being limited to the method of accounting employed by the
11 taxpayer.

12 (4) There shall be allowed as a deduction from entire net income
13 of a banking corporation, to the extent not deductible in
14 determining federal taxable income, the eligible net income of an
15 international banking facility determined as follows:

16 (A) The eligible net income of an international banking facility
17 shall be the amount remaining after subtracting from the eligible
18 gross income the applicable expenses;

19 (B) Eligible gross income shall be the gross income derived by
20 an international banking facility, which shall include, but not be
21 limited to, gross income derived from:

22 (i) Making, arranging for, placing or carrying loans to foreign
23 persons, provided, however, that in the case of a foreign person
24 which is an individual, or which is a foreign branch of a domestic
25 corporation (other than a bank), or which is a foreign corporation or
26 foreign partnership which is controlled by one or more domestic
27 corporations (other than banks), domestic partnerships or resident
28 individuals, all the proceeds of the loan are for use outside of the
29 United States;

30 (ii) Making or placing deposits with foreign persons which are
31 banks or foreign branches of banks (including foreign subsidiaries)
32 or foreign branches of the taxpayers or with other international
33 banking facilities;

34 (iii) Entering into foreign exchange trading or hedging
35 transactions related to any of the transactions described in this
36 paragraph; or

37 (iv) Such other activities as an international banking facility
38 may, from time to time, be authorized to engage in;

39 (C) Applicable expenses shall be any expense or other
40 deductions attributable, directly or indirectly, to the eligible gross
41 income described in subparagraph (B) of this paragraph.

42 (5) (A) (i) Entire net income shall exclude 100% of dividends
43 which were included in computing such taxable income for federal
44 income tax purposes, paid to the taxpayer by one or more
45 subsidiaries owned by the taxpayer to the extent of the 80% or more
46 ownership of investment described in subsection (d) of this section
47 for privilege periods beginning on or before December 31, 2016.

1 (ii) For privilege periods beginning after December 31, 2016
2 and before January 1, 2019, entire net income shall exclude 95% of
3 dividends which were included in computing such taxable income
4 for federal income tax purposes, paid or deemed paid, to the
5 taxpayer by one or more subsidiaries owned by the taxpayer to the
6 extent of the 80% or more ownership of investment described in
7 subsection (d) of this section. For the purposes of calculating the
8 tax liability owed for the paid or deemed paid dividends included in
9 entire net income by this subsubparagraph (ii), the taxpayer shall
10 use either their three-year average allocation factor for the
11 taxpayer's 2014 through 2016 tax years reported on the taxpayer's
12 tax returns or 3.5 percent, whichever is lower.

13 (iii) For privilege periods beginning on and after January 1, 2019
14 and ending before July 31, 2023, entire net income shall exclude
15 95% of dividends which were included in computing such taxable
16 income for federal income tax purposes, paid or deemed paid to the
17 taxpayer by one or more subsidiaries owned by the taxpayer to the
18 extent of the 80% or more ownership of investment described in
19 subsection (d) of this section.

20 (iv) For privilege periods ending on and after July 31, 2023,
21 entire net income shall exclude 100 percent of dividends and
22 deemed dividends that were included in computing such taxable
23 income for federal income tax purposes, paid or deemed paid to the
24 taxpayer by one or more subsidiaries owned by the taxpayer to the
25 extent of the 80 percent or more ownership of investment described
26 in subsection (d) of this section.

27 (B) Entire net income shall exclude 50% of dividends which
28 were included in computing such taxable income for federal income
29 tax purposes, paid or deemed paid to the taxpayer by one or more
30 subsidiaries owned by the taxpayer to the extent of 50% or more
31 ownership of investment, such ownership of investment calculated
32 in the same manner as the 80% or more of ownership of investment
33 is calculated as described in subsection (d) of this section.

34 (C) To the extent a subsidiary received dividends from other
35 subsidiaries and included those dividends in its entire net income
36 for the purposes of determining its tax liability pursuant to section 5
37 of P.L.1945, c.162 (C.54:10A-5) and paid tax on those dividends,
38 the taxpayer receiving those same dividends from the subsidiary
39 shall exclude those dividends from its entire net income based on
40 the subsidiary's allocation factor used by the subsidiary in
41 determining its tax liability pursuant to section 5 of P.L.1945, c.162
42 (C.54:10A-5). This subparagraph (C) shall not apply to privilege
43 periods ending on and after July 31, 2019.

44 (D) For privilege periods ending on and after July 31, 2019 but
45 before July 31, 2020, to the extent a subsidiary received dividends
46 from other subsidiaries and included those dividends in its entire net
47 income for the purposes of determining its tax liability pursuant to

1 section 5 of P.L.1945, c.162 (C.54:10A-5) and paid tax on those
2 dividends, the taxpayer receiving those same dividends from the
3 subsidiary shall exclude those dividends from its entire net income.

4 (E) For privilege periods ending on and after July 31, 2020, for
5 purposes of this paragraph (5), the members of a combined group
6 filing a New Jersey combined return shall be treated as one taxpayer
7 with regard to dividends and deemed dividends that were received
8 as part of the unitary business of the combined group.

9 (F) For privilege periods ending on and after July 31, 2023:

10 (i) The exclusion provided by this paragraph (5) shall be
11 deducted from entire net income after the State modifications that
12 increase federal entire net income but before the other State
13 modifications that reduce entire net income and before the
14 allocation of entire net income to this State.

15 (ii) In computing the total amount of the dividends and deemed
16 dividends excluded by this paragraph (5) for privilege periods
17 ending on and after July 31, 2023, the amount of dividends and
18 deemed dividends excluded shall be reduced by the amount of the
19 expenses and deductions that are attributable to those dividends and
20 deemed dividends. For purposes of this paragraph (5), expenses
21 and deductions related to dividends shall equal five percent of all
22 dividends and deemed dividends received by a taxpayer during an
23 income year.

24 (G) For privilege periods ending on and after July 31, 2023, for
25 the purposes of this paragraph (5) and for subsection d. of section
26 18 of P.L.2018, c.48 (C.54:10A-4.6), the income amounts required
27 to be included in federal taxable income pursuant to 26 U.S.C.
28 s.951A, shall be considered a dividend.

29 (6) (A) Net operating loss deduction. For privilege periods
30 ending before July 31, 2019, there shall be allowed as a deduction
31 for the privilege period the net operating loss carryover to that
32 period.

33 (B) Net operating loss carryover. A net operating loss for any
34 privilege period ending after June 30, 1984 shall be a net operating
35 loss carryover to each of the seven privilege periods following the
36 period of the loss and a net operating loss for any privilege period
37 ending after June 30, 2009 shall be a net operating loss carryover to
38 each of the twenty privilege periods following the period of the
39 loss. The entire amount of the net operating loss for any privilege
40 period (the "loss period") shall be carried to the earliest of the
41 privilege periods to which the loss may be carried. The portion of
42 the loss which shall be carried to each of the other privilege periods
43 shall be the excess, if any, of the amount of the loss over the sum of
44 the entire net income, computed without the exclusions permitted in
45 paragraphs (4) and (5) of this subsection or the net operating loss
46 deduction provided by subparagraph (A) of this paragraph, for each
47 of the prior privilege periods to which the loss may be carried.

1 (C) Net operating loss. For purposes of this paragraph the term
2 "net operating loss" means the excess of the deductions over the
3 gross income used in computing entire net income without the net
4 operating loss deduction provided for in subparagraph (A) of this
5 paragraph and the exclusions in paragraphs (4) and (5) of this
6 subsection.

7 (D) Change in ownership. Where there is a change in 50% or
8 more of the ownership of a corporation because of redemption or
9 sale of stock and the corporation changes the trade or business
10 giving rise to the loss, no net operating loss sustained before the
11 changes may be carried over to be deducted from income earned
12 after such changes. In addition where the facts support the premise
13 that the corporation was acquired under any circumstances for the
14 primary purpose of the use of its net operating loss carryover, the
15 director may disallow the carryover.

16 (E) Notwithstanding the provisions of this paragraph (6) of
17 subsection (k) of this section to the contrary, for privilege periods
18 beginning during calendar year 2002 and calendar year 2003, no
19 deduction for any net operating loss carryover shall be allowed and
20 for privilege periods beginning during calendar year 2004 and
21 calendar year 2005, there shall be allowed as a deduction for the
22 privilege period so much of the net operating loss carryover as
23 reduces entire net income otherwise calculated by 50%. If and only
24 to the extent that any net operating loss carryover deduction is
25 disallowed by reason of this subparagraph (E), the date on which
26 the amount of the disallowed net operating loss carryover deduction
27 would otherwise expire shall be extended by a period equal to the
28 period for which application of the net operating loss was
29 disallowed by this subparagraph.

30 Provided, that this subparagraph (E) shall not restrict the
31 surrender or acquisition of corporation business tax benefit
32 certificates pursuant to section 1 of P.L.1997, c.334
33 (C.34:1B-7.42a) and shall not restrict the application of corporation
34 business tax benefit certificates pursuant to section 2 of P.L.1997,
35 c.334 (C.54:10A-4.2).

36 (F) Reduction for discharge of indebtedness. A net operating
37 loss for any privilege period ending after June 30, 2014, and any net
38 operating loss carryover to such privilege period, shall be reduced
39 by the amount excluded from federal taxable income under
40 subparagraph (A), (B), or (C) of paragraph (1) of subsection (a) of
41 section 108 of the federal Internal Revenue Code (26 U.S.C. s.108),
42 for the privilege period of the discharge of indebtedness.

43 (7) The entire net income of gas, electric and gas and electric
44 public utilities that were subject to, or would have been subject to
45 tax if doing business in this State, the provisions of P.L.1940, c.5
46 (C.54:30A-49 et seq.) prior to 1998, shall be adjusted by
47 substituting the New Jersey depreciation allowance for federal tax

1 depreciation with respect to assets placed in service prior to January
2 1, 1998. For gas, electric, and gas and electric public utilities that
3 were subject to, or would have been subject to tax if doing business
4 in this State, the provisions of P.L.1940, c.5 (C.54:30A-49 et seq.)
5 prior to 1998, the New Jersey depreciation allowance shall be
6 computed as follows: All depreciable assets placed in service prior
7 to January 1, 1998 shall be considered a single asset account. The
8 New Jersey tax basis of this depreciable asset account shall be an
9 amount equal to the carryover adjusted basis for federal income tax
10 purposes on December 31, 1997 of all depreciable assets in service
11 on December 31, 1997, increased by the excess, of the "net carrying
12 value," defined to be adjusted book basis of all assets and liabilities,
13 excluding deferred income taxes, recorded on the public utility's
14 books of account on December 31, 1997, over the carryover
15 adjusted basis for federal income tax purposes on December 31,
16 1997 of all assets and liabilities owned by the gas, electric, or gas
17 and electric public utility as of December 31, 1997. "Books of
18 account" for gas, gas and electric, and electric public utilities means
19 the uniform system of accounts as promulgated by the Federal
20 Energy Regulatory Commission and adopted by the Board of Public
21 Utilities. The following adjustments to entire net income shall be
22 made pursuant to this section:

23 (A) Depreciation for property placed in service prior to January
24 1, 1998 shall be adjusted as follows:

25 (i) Depreciation for federal income tax purposes shall be
26 disallowed in full.

27 (ii) A deduction shall be allowed for the New Jersey
28 depreciation allowance. The New Jersey depreciation allowance
29 shall be computed for the single asset account described above
30 based on the New Jersey tax basis as adjusted above as if all assets
31 in the single asset account were first placed in service on January 1,
32 1998. Depreciation shall be computed using the straight line method
33 over a thirty-year life. A full year's depreciation shall be allowed in
34 the initial tax year. No half-year convention shall apply. The
35 depreciable basis of the single account shall be reduced by the
36 adjusted federal tax basis of assets sold, retired, or otherwise
37 disposed of during any year on which gain or loss is recognized for
38 federal income tax purposes as described in subparagraph (B) of
39 this paragraph.

40 (B) Gains and losses on sales, retirements and other dispositions
41 of assets placed in service prior to January 1, 1998 shall be
42 recognized and reported on the same basis as for federal income tax
43 purposes.

44 (C) The Director of the Division of Taxation shall promulgate
45 regulations describing the methodology for allocating the single
46 asset account in the event that a portion of the utility's operations

1 are separated, spun-off, transferred to a separate company or
2 otherwise desegregated.

3 (8) In the case of taxpayers that are gas, electric, gas and
4 electric, or telecommunications public utilities as defined pursuant
5 to subsection (q) of this section, the director shall have authority to
6 promulgate rules and issue guidance correcting distortions and
7 adjusting timing differences resulting from the adoption of
8 P.L.1997, c.162 (C.54:10A-5.25 et al.).

9 (9) Notwithstanding paragraph (1) of this subsection, entire net
10 income shall not include the income derived by a corporation
11 organized in a foreign country from the international operation of a
12 ship or ships, or from the international operation of aircraft, if such
13 income is exempt from federal taxation pursuant to section 883 of
14 the federal Internal Revenue Code of 1986, 26 U.S.C. s.883.

15 (10) Entire net income shall exclude all income of an alien
16 corporation the activities of which are limited in this State to
17 investing or trading in stocks and securities for its own account,
18 investing or trading in commodities for its own account, or any
19 combination of those activities, within the meaning of section 864
20 of the federal Internal Revenue Code of 1986, 26 U.S.C. s.864, as in
21 effect on December 31, 1998. Notwithstanding the previous
22 sentence, if an alien corporation undertakes one or more infrequent,
23 extraordinary or non-recurring activities, including but not limited
24 to the sale of tangible property, only the income from such
25 infrequent, extraordinary or non-recurring activity shall be subject
26 to the tax imposed pursuant to P.L.1945, c.162 (C.54:10A-1 et
27 seq.), and that amount of income subject to tax shall be determined
28 without regard to the allocation to that specific transaction of any
29 general business expense of the taxpayer and shall be specifically
30 assigned to this State for taxation by this State without regard to
31 section 6 of P.L.1945, c.162 (C.54:10A-6). For the purposes of this
32 paragraph, "alien corporation" means a corporation organized under
33 the laws of a jurisdiction other than the United States or its political
34 subdivisions.

35 (11) No deduction shall be allowed for research and experimental
36 expenditures, to the extent that those research and experimental
37 expenditures are qualified research expenses or basic research
38 payments for which an amount of credit is claimed pursuant to
39 section 1 of P.L.1993, c.175 (C.54:10A-5.24) unless those research
40 and experimental expenditures are also used to compute a federal
41 credit claimed pursuant to section 41 of the federal Internal
42 Revenue Code of 1986, 26 U.S.C. s.41; provided, however, for
43 privilege periods beginning on and after January 1, 2022, a
44 deduction for research and experimental expenditures shall be
45 allowed during the same privilege period for which a credit is
46 claimed pursuant to section 1 of P.L.1993, c.175 (C.54:10A-5.24),
47 notwithstanding the timing schedule required by the federal Internal

1 Revenue Code of 1986, 26 U.S.C. s.174, for the deduction of
2 specified research and experimental expenditures.

3 (12)(A) Notwithstanding the provisions of subsection (k) of
4 section 168 of the federal Internal Revenue Code of 1986, 26
5 U.S.C. s.168, subsection (b) of section 1400L of the federal Internal
6 Revenue Code of 1986, 26 U.S.C. s.1400L, or any other federal
7 law, for property acquired after September 10, 2001, the
8 depreciation deduction otherwise allowed pursuant to section 167 of
9 the federal Internal Revenue Code of 1986, 26 U.S.C. s.167, shall
10 be determined pursuant to the provisions of the federal Internal
11 Revenue Code of 1986 (26 U.S.C. s.1 et seq.) in effect on
12 December 31, 2001.

13 (B) The director shall prescribe the rules and regulations
14 necessary to carry out the provisions of this paragraph, including,
15 among others, those for determining the adjusted basis of the
16 acquired property for the purposes of the Corporation Business Tax
17 Act (1945), P.L.1945, c.162 ²(C.54:10A-1 et seq.)².

18 (13)(A) Notwithstanding the provisions of section 179 of the
19 federal Internal Revenue Code of 1986, 26 U.S.C. s.179, for
20 property placed in service on or after January 1, 2004, the costs that
21 a taxpayer may otherwise elect to treat as an expense which is not
22 chargeable to a capital account shall be determined pursuant to the
23 provisions of the federal Internal Revenue Code of 1986 (26 U.S.C.
24 s.1 et seq.) in effect on December 31, 2002.

25 (B) The director shall prescribe the rules and regulations
26 necessary to carry out the provisions of this paragraph, including,
27 among others, those for determining the adjusted basis of the
28 acquired property for the purposes of the Corporation Business Tax
29 Act (1945), P.L.1945, c. 162 ²(C.54:10A-1 et seq.)².

30 (14)Notwithstanding the provisions of subsection (i) of section
31 108 of the federal Internal Revenue Code of 1986 (26 U.S.C. s.108),
32 for privilege periods beginning after December 31, 2008 and before
33 January 1, 2011, entire net income shall include the amount of
34 discharge of indebtedness income excluded for federal income tax
35 purposes pursuant to subsection (i) of section 108 of the federal
36 Internal Revenue Code of 1986 (26 U.S.C. s.108), and for privilege
37 periods beginning on or after January 1, 2014 and before January 1,
38 2019, entire net income shall exclude the amount of discharge of
39 indebtedness income included for federal income tax purposes,
40 pursuant to subsection (i) of section 108 of the federal Internal
41 Revenue Code of 1986 (26 U.S.C. s.108).

42 (15)Entire net income shall exclude the gain or income derived
43 from the sale or assignment of a tax credit transfer certificate
44 pursuant to section 7 of P.L.2011, c.149 (C.34:1B-248) **[and]**,
45 section 10 of P.L.2014, c.63 (C.34:1B-251), or the "New Jersey
46 Economic Recovery Act of 2020," P.L.2020, c.156 (C.34:1B-269 et
47 al.), as amended and supplemented.

1 (16)(A) There shall be allowed as a deduction an amount
2 computed in accordance with this paragraph.

3 (B) For purposes of this paragraph, "net deferred tax liability"
4 means deferred tax liabilities that exceed the deferred tax assets of
5 the combined group, as computed in accordance with generally
6 accepted accounting principles, and "net deferred tax asset" means
7 that deferred tax assets exceed the deferred tax liabilities of the
8 combined group, as computed in accordance with generally
9 accepted accounting principles.

10 (C) Only publicly traded companies, including affiliated
11 corporations participating in the filing of a publicly traded
12 company's financial statements prepared in accordance with
13 generally accepted accounting principles, as of the effective date of
14 this paragraph, shall be eligible for this deduction.

15 (D) If the provisions of sections 18 through 23 of P.L.2018, c.48
16 (C.54:10A-4.6 to C.54:10A-4.11) result in an aggregate increase to
17 the members' net deferred tax liability or an aggregate decrease to
18 the members' net deferred tax asset, or an aggregate change from a
19 net deferred tax asset to a net deferred tax liability, the combined
20 group shall be entitled to a deduction, as determined in this
21 paragraph.

22 (E) (i) Beginning with the combined group's first privilege
23 period on or after January 1 of the fifth year after the effective date
24 of P.L.2018, c.48 (C.54:10A-5.41 et al.), a combined group shall be
25 entitled to a deduction from combined group entire net income
26 equal to one-tenth of the amount necessary to offset the increase in
27 the net deferred tax liability or decrease in the net deferred tax
28 asset, or aggregate change from a net deferred tax asset to a net
29 deferred tax liability, according to the schedule provided by
30 subsubparagraphs (ii) and (iii) of this subparagraph (E). Such
31 increase in the net deferred tax liability or decrease in the net
32 deferred tax asset or the aggregate change from a net deferred tax
33 asset to a net deferred tax liability shall be computed based on the
34 change that would result from the imposition of the unitary
35 reporting requirements under sections 1 and 18 through 23 of
36 P.L.2018, c.48 (C.54:10A-5.41 and C.54:10A-4.6 to
37 C.54:10A-4.11) but for the deduction provided under this paragraph
38 as of the effective date of this paragraph.

39 (ii) For group privilege periods beginning on and after January
40 1, 2023, but before January 1, 2030, the combined group may
41 deduct one percent of the amount necessary to offset the increase in
42 the net deferred tax liability or decrease in the net deferred tax
43 asset, or aggregate change from a net deferred tax asset to a net
44 deferred tax liability, during a group privilege period. Such
45 increase in the net deferred tax liability or decrease in the net
46 deferred tax asset or the aggregate change from a net deferred tax
47 asset to a net deferred tax liability shall be computed based on the

1 change that would result from the imposition of the unitary
2 reporting requirements under sections 1 and 18 through 23 of
3 P.L.2018, c.48 (C.54:10A-5.41 and C.54:10A-4.6 to C.54:10A-
4 4.11) but for the deduction provided under this paragraph as of the
5 effective date of this paragraph.

6 (iii) For group privilege periods beginning on and after January
7 1, 2030, the combined group may deduct up to five percent of any
8 remaining unused amount of the deduction during the group
9 privilege period, until the group privilege period in which the total
10 deduction amount has been fully utilized. Such increase in the net
11 deferred tax liability or decrease in the net deferred tax asset or the
12 aggregate change from a net deferred tax asset to a net deferred tax
13 liability shall be computed based on the change that would result
14 from the imposition of the unitary reporting requirements under
15 sections 1 and 18 through 23 of P.L.2018, c.48 (C.54:10A-5.41 and
16 C.54:10A-4.6 to C.54:10A-4.11) but for the deduction provided
17 under this paragraph as of the effective date of this paragraph.

18 (F) The deferred tax impact determined in subparagraph (E) of
19 this paragraph must be converted to the annual Deferred Tax
20 Deduction amount, as follows:

21 (i) the deferred tax impact determined in subparagraph (E) of
22 this paragraph shall be divided by the rate determined under section
23 5 of P.L.1945, c.162 (C.54:10A-5) at the effective date of P.L.2018,
24 c.48 (C.54:10A-5.41 et al.);

25 (ii) the resulting amount shall be further divided by the New
26 Jersey unitary business allocation factor that was used by the
27 combined group in the calculation of the deferred tax assets and
28 deferred tax liabilities as described in subparagraph (E) of this
29 paragraph;

30 (iii) the resulting amount represents the total net Deferred Tax
31 Deduction available over the period as described in subparagraph
32 (E) of this paragraph.

33 (G) The deduction calculated under this paragraph shall not be
34 adjusted as a result of any events happening subsequent to such
35 calculation, including, but not limited to, any disposition or
36 abandonment of assets. Such deduction shall be calculated without
37 regard to the federal tax effect and shall not alter the tax basis of
38 any asset. If the deduction under this section is greater than
39 combined group entire net income, any excess deduction shall be
40 carried forward and applied as a deduction to combined group entire
41 net income in future privilege periods until fully utilized.

42 (H) Any combined group intending to claim a deduction under
43 this paragraph shall file a statement with the director on or before
44 July 1 of the year subsequent to the first privilege period for which
45 a combined return is required. Such statement shall specify the total
46 amount of the deduction which the combined group claims on such
47 form and in such manner as prescribed by the director. No

1 deduction shall be allowed under this paragraph for any privilege
2 period except to the extent claimed on such timely filed statement
3 in accordance with this paragraph.

4 (17)(A) In the case of a taxpayer that is a cannabis licensee,
5 there shall be allowed as a deduction an amount equal to any
6 expenditure that is eligible to be claimed as a federal income tax
7 deduction but is disallowed because cannabis is a controlled
8 substance under federal law, and income shall be determined
9 without regard to section 280E of the Internal Revenue Code (26
10 U.S.C. s.280E) for cannabis licensees.

11 (B) In the case of a taxpayer that is a cannabis licensee, there
12 shall be allowed as a deduction an amount equal to any expenditure
13 that would qualify as a specified research or experimental
14 expenditure pursuant to section 174 of the Internal Revenue Code
15 but is disallowed as a deduction for federal tax purposes because
16 cannabis is a controlled substance under federal law. Any
17 expenditure that is claimed as a deduction pursuant to this
18 subparagraph may also be claimed as a qualified research expense
19 for purposes of the credit allowed pursuant to section 1 of P.L.1993,
20 c.175 (C.54:10A-5.24).

21 (C) For purposes of this paragraph, "licensee" means the same as
22 that term is defined in section 3 of P.L.2021, c.16 (C.24:6I-33).

23 (18)For privilege periods ending on and after July 31, 2022:

24 (A) Notwithstanding subparagraph (A) of paragraph (2) of this
25 subsection or any other law or treaty to the contrary, for a
26 corporation that is incorporated or formed in a foreign nation with a
27 comprehensive tax treaty with the United States, and that is not a
28 member of a world-wide group combined return filed pursuant to
29 subsection b. of section 23 of P.L.2018, c.48 (C.54:10A-4.11),
30 entire net income shall not include an item of income or loss
31 excluded or exempted from federal taxable income under the terms
32 of the treaty, and no other deduction, exclusion, or elimination shall
33 be permitted for an item of income or loss excluded by this
34 paragraph.

35 (B) For a non-U.S. corporation that files a federal tax return and
36 is not a member of a combined group filing a New Jersey combined
37 return on a world-wide basis pursuant to subsection b. of section 23
38 of P.L.2018, c.48 (C.54:10A-4.11), the non-U.S. corporation shall
39 only include its income or loss included in federal taxable income,
40 which shall be limited to only the non-U.S. corporation's effectively
41 connected income or loss, as modified by the provisions of the
42 Corporation Business Tax Act (1945), P.L.1945, c.162 (C.54:10A-1
43 et seq.), and the items of expense and the allocation factor receipts
44 attributable to such items of income or loss.

45 (l) "Real estate investment trust" shall mean any corporation,
46 trust or association qualifying and electing to be taxed as a real
47 estate investment trust under federal law.

1 (m) "Financial business corporation" shall mean any corporate
2 enterprise which is (1) in substantial competition with the business
3 of national banks and which (2) employs moneyed capital with the
4 object of making profit by its use as money, through discounting
5 and negotiating promissory notes, drafts, bills of exchange and
6 other evidences of debt; buying and selling exchange; making of or
7 dealing in secured or unsecured loans and discounts; dealing in
8 securities and shares of corporate stock by purchasing and selling
9 such securities and stock without recourse, solely upon the order
10 and for the account of customers; or investing and reinvesting in
11 marketable obligations evidencing indebtedness of any person,
12 copartnership, association or corporation in the form of bonds,
13 notes or debentures commonly known as investment securities; or
14 dealing in or underwriting obligations of the United States, any
15 state or any political subdivision thereof, or of a corporate
16 instrumentality of any of them. This shall include, without
17 limitation of the foregoing, business commonly known as industrial
18 banks, dealers in commercial paper and acceptances, sales finance,
19 personal finance, small loan and mortgage financing businesses, as
20 well as any other enterprise employing moneyed capital coming
21 into competition with the business of national banks; provided that
22 the holding of bonds, notes, or other evidences of indebtedness by
23 individual persons not employed or engaged in the banking or
24 investment business and representing merely personal investments
25 not made in competition with the business of national banks, shall
26 not be deemed financial business. Nor shall "financial business"
27 include national banks, production credit associations organized
28 under the Farm Credit Act of 1933 or the Farm Credit Act of 1971,
29 Pub.L.92-181 (12 U.S.C. s.2091 et seq.), stock and mutual
30 insurance companies duly authorized to transact business in this
31 State, security brokers or dealers or investment companies or
32 bankers not employing moneyed capital coming into competition
33 with the business of national banks, real estate investment trusts, or
34 any of the following entities organized under the laws of this State:
35 credit unions, savings banks, savings and loan and building and
36 loan associations, pawnbrokers, and State banks and trust
37 companies.

38 (n) "International banking facility" shall mean a set of asset and
39 liability accounts segregated on the books and records of a
40 depository institution, United States branch or agency of a foreign
41 bank, or an Edge or Agreement Corporation that includes only
42 international banking facility time deposits and international
43 banking facility extensions of credit as such terms are defined in
44 section 204.8(a)(2) and section 204.8(a)(3) of Regulation D of the
45 board of governors of the Federal Reserve System, 12 CFR Part
46 204, effective December 3, 1981. In the event that the United States
47 enacts a law, or the board of governors of the Federal Reserve

1 System adopts a regulation which amends the present definition of
2 international banking facility or of such facilities' time deposits or
3 extensions of credit, the Commissioner of Banking and Insurance
4 shall forthwith adopt regulations defining such terms in the same
5 manner as such terms are set forth in the laws of the United States
6 or the regulations of the board of governors of the Federal Reserve
7 System. The regulations of the Commissioner of Banking and
8 Insurance shall thereafter provide the applicable definitions.

9 (o) "S corporation" means a corporation that has elected to be an
10 "S corporation" pursuant to section 1361 of the federal Internal
11 Revenue Code of 1986, 26 U.S.C. s.1361, for the taxable year.

12 (p) "New Jersey S corporation" means a taxpayer that has made
13 a valid election to be an S corporation for federal tax purposes, and
14 that has not made a valid election pursuant to subsection d. of
15 section ²~~20~~ ³ of ²~~P.L.2022, c.133~~ P.L.1993, c.173²
16 (C.54:10A-5.22).

17 (q) "Public Utility" means "public utility" as defined in
18 R.S.48:2-13.

19 (r) "Qualified investment partnership" means a partnership
20 under this act that has more than 10 members or partners with no
21 member or partner owning more than a 50% interest in the entity
22 and that derives at least 90% of its gross income from dividends,
23 interest, payments with respect to securities loans, and gains from
24 the sale or other disposition of stocks or securities or foreign
25 currencies or commodities or other similar income (including but
26 not limited to gains from swaps, options, futures or forward
27 contracts) derived with respect to its business of investing or
28 trading in those stocks, securities, currencies or commodities, but
29 "investment partnership" shall not include a "dealer in securities"
30 within the meaning of section 1236 of the federal Internal Revenue
31 Code of 1986, 26 U.S.C. s.1236.

32 (s) "Savings institution" means a state or federally chartered
33 building and loan association, savings and loan association, or
34 savings bank.

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

37 (u) "Prior net operating loss conversion carryover" means a net
38 operating loss incurred in a privilege period ending prior to July 31,
39 2019 and converted from a pre-allocation net operating loss to a
40 post-allocation net operating loss as follows:

41 (1) As used in this subsection:

42 "Base year" means the last privilege period ending prior to July
43 31, 2019.

44 "Base year BAF" means the taxpayer's business allocation factor
45 as provided in sections 6 through 10 of P.L.1945, c.162 (C.54:10A-
46 6 through C.54:10A-10) for purposes of calculating entire net

1 income for the base year, as such section was in effect for the last
2 privilege period ending prior to July 31, 2019.

3 "UNOL" means the unabsorbed portion of net operating loss as
4 calculated under paragraph (6) of subsection (k) of this section as
5 such paragraph was in effect for the last privilege period ending
6 prior to July 31, 2019, that was not deductible in previous privilege
7 periods and was eligible for carryover on the last day of the base
8 year subject to the limitations for deduction under such subsection,
9 including any net operating loss sustained by the taxpayer during
10 the base year.

11 (2) The prior net operating loss conversion carryover shall be
12 calculated as follows:

13 (A) The taxpayer shall first calculate the tax value of its UNOL
14 for the base year and for each preceding privilege period for which
15 there is a UNOL. The value of the UNOL for each privilege period
16 is equal to the product of (I) the amount of the taxpayer's UNOL for
17 a privilege period, and (II) the taxpayer's base year BAF. This result
18 shall equal the taxpayer's prior net operating loss conversion
19 carryover.

20 (B) The taxpayer shall continue to carry over its prior net
21 operating loss conversion carryover to offset its allocated entire net
22 income as provided in sections 6 through 10 of P.L.1945, c.162
23 (C.54:10A-6 through C.54:10A-10) for privilege periods ending on
24 and after July 31, 2019. Such carryover periods shall not exceed the
25 twenty privilege periods following the privilege period of the initial
26 loss. The entire amount of the prior net operating loss conversion
27 carryover for any privilege period shall be carried to the earliest of
28 the privilege periods to which the loss may be carried. The portion
29 of the prior net operating loss conversion carryover which shall be
30 carried to each of the other privilege periods shall be the excess, if
31 any, of the amount of the prior net operating loss conversion
32 carryover over the sum of the entire net income, computed without
33 the exclusions permitted in paragraphs (4) and (5) of subsection (k)
34 of this section allocated to this State. For privilege periods ending
35 on and after July 31, 2023, for the purpose of computing taxable net
36 income for a current privilege period, the amount of the prior net
37 operating loss conversion carryover shall be subtracted from entire
38 net income allocated to this State, after the application of
39 paragraphs (4) and (5) of subsection (k) of this section against
40 current privilege period income when the entire net income
41 allocated to this State for the privilege period is greater than zero.

42 (C) The prior net operating loss conversion carryover computed
43 under this subsection shall be applied against the entire net income
44 allocated to this State before the net operating loss carryover
45 computed under subsection (v) of this section.

1 (v) "Net operating loss deduction" means the amount allowed as
2 a deduction for the net operating loss carryover to the privilege
3 period, calculated as follows:

4 (1) Net operating loss carryover. A net operating loss for any
5 privilege period ending on or after July 31, 2019, shall be a net
6 operating loss carryover to each of the twenty privilege periods
7 following the period of the loss. The entire amount of the net
8 operating loss for any privilege period shall be carried to the earliest
9 of the privilege periods to which the loss may be carried. For
10 privilege periods ending before July 31, 2023, the portion of the
11 loss which shall be carried to each of the other privilege periods
12 shall be the excess, if any, of the amount of the loss over the sum of
13 the entire net income, computed without the exclusions permitted in
14 paragraphs (4) and (5) of subsection (k) of this section allocated to
15 this State. For privilege periods ending on and after July 31, 2023,
16 the portion of the loss that shall be carried to each of the other
17 privilege periods shall be the excess, if any, of the amount of the
18 loss over the sum of the entire net income, after the application of
19 paragraphs (4) and (5) of subsection (k) of this section allocated to
20 this State; provided, however, for the purpose of computing taxable
21 net income for the privilege period, the net operating loss carryover
22 shall only be subtracted from entire net income allocated to this
23 State when the entire net income allocated to this State is greater
24 than zero.

25 (2) Net operating loss. For purposes of this paragraph the term
26 "net operating loss" means the excess of the deductions over the
27 gross income used in computing entire net income, without regard
28 to any net operating loss carryover, and for privilege periods ending
29 before July 31, 2023, computed without the exclusions in
30 paragraphs (4) and (5) of subsection (k) of this section, and for
31 privilege periods ending on and after July 31, 2023, computed after
32 the application of paragraphs (4) and (5) of subsection (k) of this
33 section, allocated to this State pursuant to sections 6 through 10 of
34 P.L.1945, c.162 (C.54:10A-6 through C.54:10A-10).

35 (3) Reduction for discharge of indebtedness. A net operating
36 loss for any privilege period ending on or after July 31, 2019, and
37 any net operating loss carryover to such privilege period, shall be
38 reduced by the amount excluded from federal taxable income under
39 subparagraph (A), (B), or (C) of paragraph (1) of subsection (a) of
40 section 108 of the federal Internal Revenue Code, 26 U.S.C. s.108,
41 for the privilege period of the discharge of indebtedness.

42 (4) A net operating loss carryover shall not include any net
43 operating loss incurred during any privilege period ending prior to
44 July 31, 2019.

45 (5) Change in ownership. Where there is a change in 50% or
46 more of the ownership of a corporation because of redemption or
47 sale of stock and the corporation changes the trade or business

1 giving rise to the loss, no net operating loss sustained before the
2 changes may be carried over to be deducted from income earned
3 after such changes. In addition, where the facts support the premise
4 that the corporation was acquired under any circumstances for the
5 primary purpose of the use of its net operating loss carryover, the
6 director may disallow the carryover; provided, however, this
7 paragraph shall not apply between members of a combined group
8 reported on a New Jersey combined return.

9 (w) "Taxable net income" means entire net income allocated to
10 this State as calculated pursuant to sections 6 through 8 of
11 P.L.1945, c.162 (C.54:10A-6 through 54:10A-8) as modified by
12 subtracting any prior net operating loss conversion carryforward
13 calculated pursuant to subsection (u) of this section, and any net
14 operating loss calculated pursuant to subsection (v) of this section;
15 provided, however, for privilege periods ending on and after July
16 31, 2023, when subtracting any net operating losses calculated
17 pursuant to subsection (v) of this section or the combined group net
18 operating losses calculated pursuant to subsection h. of section 18
19 of P.L.2018, c.48 (C.54:10A-4.6), the limitation set forth in
20 paragraph (2) of subsection (a) of Internal Revenue Code Section
21 172 (26 U.S.C. s.172(a)(2)) shall apply, except that August 1, 2023
22 is substituted for the reference to January 1, 2018 in subparagraph
23 (A) of paragraph (2) of subsection a. of Internal Revenue Code
24 Section 172 (26 U.S.C. s.172), and July 31, 2023 is substituted for
25 the reference to December 31, 2017 in subparagraph (B) of
26 paragraph (2) of subsection (a) of Internal Revenue Code Section
27 172 (26 U.S.C. s.172). For privilege periods ending on and after
28 July 31, 2023, for a combined group, before subtracting the prior
29 net operating loss conversion carryforwards and subtracting the net
30 operating losses of the combined group when computing the total
31 taxable net income, the combined group shall first add together the
32 allocated entire net income from the unitary business of the
33 combined group and the portion of allocated entire net income of
34 members with activities independent of the group, and then subtract
35 the prior net operating loss conversion carryforwards and then the
36 net operating losses.

37 (x) "Affiliated group" means, for purposes of section 23 of
38 P.L.2018, c.48 (C.54:10A-4.11), an affiliated group as defined in
39 section 1504 of the federal Internal Revenue Code, 26 U.S.C.
40 s.1504, except such affiliated group shall include all U.S. domestic
41 corporations that are commonly owned, directly or indirectly, by
42 any member of such affiliated group, without regard to whether the
43 affiliated group includes (1) corporations included in more than one
44 federal consolidated return, (2) corporations engaged in one or more
45 unitary businesses, or (3) corporations that are not engaged in a
46 unitary business with any other member of the affiliated group.

47 For purposes of this subsection:

1 "U.S. domestic corporations" means: (1) business entities
2 wherever incorporated or formed that are U.S. domestic
3 corporations, are deemed to be, or are treated as U.S. domestic
4 corporations under the provisions of the federal Internal Revenue
5 Code; or (2) any entities incorporated or formed under the laws of a
6 foreign nation that are required to file federal tax returns if such
7 entities have effectively connected income within the meaning of
8 the federal Internal Revenue Code; and

9 "Commonly owned" means that more than 50 percent of the
10 voting control of each member of an affiliated group is directly or
11 indirectly owned by a common owner or owners, either corporate or
12 non-corporate, whether or not the owner or owners are members of
13 the affiliated group. Whether voting control is indirectly owned
14 shall be determined in accordance with section 318 of the federal
15 Internal Revenue Code (26 U.S.C. s.318).

16 (y) "Combinable captive insurance company" means an entity
17 that is treated as an association taxable as a corporation under the
18 federal Internal Revenue Code:

19 (1) more than 50% of the voting stock of which is owned or
20 controlled, directly or indirectly, by a single entity that is treated as
21 an association taxable as a corporation under the federal Internal
22 Revenue Code, and not exempt from federal income tax;

23 (2) that is licensed as a captive insurance company under the
24 laws of this State or another jurisdiction;

25 (3) whose business includes providing, directly and indirectly,
26 insurance or reinsurance covering the risks of its parent, members
27 of its affiliated group, or both; and

28 (4) 50% or less of whose gross receipts for the privilege period
29 consist of premiums from arrangements that constitute insurance for
30 federal income tax purposes.

31 A combinable captive insurance company shall not be exempt
32 under section 3 of P.L.1945, c.162 (C.54:10A-3). A captive
33 insurance company that does not meet the definition of combinable
34 captive insurance company shall be excluded as provided in
35 subsection k. of section 18 of P.L.2018, c.48 (C.54:10A-4.6) and
36 shall be exempt under section 3 of P.L.1945, c.162 (C.54:10A-3).

37 For purposes of this definition:

38 "Affiliated group" shall have the same meaning as that term is
39 given by section 1504 of the federal Internal Revenue Code, 26
40 U.S.C. s.1504, except that the term "common parent corporation" as
41 used in section 1504 of the federal Internal Revenue Code, 26
42 U.S.C. s.1504, shall mean any person, as defined in section 7701 of
43 the federal Internal Revenue Code, 26 U.S.C. s.7701, and references
44 to "at least 80%" in section 1504 of the federal Internal Revenue
45 Code, 26 U.S.C. s.1504, shall be read as "50% or more." Section
46 1504 of the federal Internal Revenue Code, 26 U.S.C. s.1504, shall

1 be read without regard to the exclusions provided for in subsection
2 (b) of that section.

3 "Gross receipts" includes the amounts included in gross receipts
4 for purposes of paragraph (15) of subsection (c) of section 501 of
5 the federal Internal Revenue Code, 26 U.S.C. s.501, except that
6 those amounts also include all premiums.

7 "Premiums" includes consideration for annuity contracts and
8 excludes any part of the consideration for insurance, reinsurance, or
9 annuity contracts that do not provide bona fide insurance,
10 reinsurance, or annuity benefits.

11 (z) "Combined group" means the group of all companies that
12 have common ownership and are engaged in a unitary business,
13 where at least one company is subject to tax under this chapter, and
14 shall include all business entities, except as provided for under any
15 section of the Corporation Business Tax Act (1945), P.L.1945,
16 c.162 (C.54:10A-1 et seq.).

17 A combined group shall be treated, for privilege periods ending
18 on and after July 31, 2020, as one taxpayer for purposes of
19 paragraph (1) of subsection (c) of section 5 of P.L.1945, c.162
20 (C.54:10A-5) and section 1 of P.L.2018, c.48 (C.54:10A-5.41) for
21 the income derived from the unitary business; provided however,
22 with regard to the surtax imposed pursuant to section 1 of P.L.2018,
23 c.48 (C.54:10A-5.41) and for that purpose only, the portion of
24 income that is attributable to a member which is a public utility
25 exempt from the surtax shall not be included when computing the
26 surtax due.

27 (aa) "Common ownership" means that more than 50% of the
28 voting control of each member of a combined group is directly or
29 indirectly owned by a common owner or owners, either corporate or
30 non-corporate, whether or not the owner or owners are members of
31 the combined group. Whether voting control is indirectly owned
32 shall be determined in accordance with section 318 of the federal
33 Internal Revenue Code, 26 U.S.C. s.318.

34 (bb) "Group privilege period" means, if two or more members in
35 the combined group file in the same federal consolidated tax return,
36 the same income year as that used on the federal consolidated tax
37 return and, in all other cases, the privilege period of the managerial
38 member.

39 (cc) "Managerial member" means if the combined group has a
40 common parent corporation and that common parent corporation is
41 a taxable member, the managerial member shall be the common
42 parent corporation. In other cases, the combined group shall select a
43 taxable member as its managerial member or, in the discretion of
44 the director or upon failure of the combined group to select its
45 managerial member, the director shall designate a taxable member
46 of the combined group as managerial member.

1 (dd)"Member" means a business entity that is a part of a
2 combined group.

3 A corporation exempt pursuant to section 3 of P.L.1945, c.162
4 (C.54:10A-3) from the tax imposed by P.L.1945, c.162 (C.54:10A-1
5 et seq.) shall not be a member of a combined group.

6 (ee)"Nontaxable member" means a member that is: (i) not
7 subject to tax pursuant to the Corporation Business Tax Act (1945),
8 P.L.1945, c.162 (C.54:10A-1 et seq.); or (ii) (deleted by
9 amendment, P.L.2020, c.118 (C.54:10A-5.46 et al.).

10 (ff)"Taxable member" means a member that is subject to tax
11 pursuant to the Corporation Business Tax Act (1945), P.L.1945,
12 c.162 (C.54:10A-1 et seq.).

13 A New Jersey S corporation shall only be included as a taxable
14 member of a combined group filing a New Jersey combined return
15 if the New Jersey S Corporation elects to be included as a member
16 and taxed at the same rate as the other members of the combined
17 group. A New Jersey S corporation that does not elect to be
18 included shall be excluded as a member of the combined return and
19 shall file a separate return.

20 (gg)"Unitary business" means, for privilege periods ending
21 before July 31, 2023, a single economic enterprise that is made up
22 either of separate parts of a single business entity or of a group of
23 business entities under common ownership that are sufficiently
24 interdependent, integrated, and interrelated through their activities
25 so as to provide a synergy and mutual benefit that produces a
26 sharing or exchange of value among them and a significant flow of
27 value among the separate parts. For privilege periods ending on
28 and after July 31, 2023, "unitary business" means a single economic
29 enterprise that is made up either of separate parts of a single
30 business entity or of a group of business entities under common
31 ownership that are sufficiently interdependent, integrated, or
32 interrelated through their activities so as to provide a synergy and
33 mutual benefit that produces a sharing or exchange of value among
34 them and a significant flow of value among the separate parts.
35 "Unitary business" shall be construed to the broadest extent
36 permitted under the Constitution of the United States. A business
37 conducted by a partnership which is in a unitary business with the
38 combined group shall be treated as the business of the partners that
39 are members of the combined group, whether the partnership
40 interest is held directly or indirectly through a series of
41 partnerships, to the extent of a partner's distributive share of
42 partnership income. The amount of partnership income to be
43 included in the partner's entire net income shall be determined in
44 accordance with subsection a. of section 3 of P.L.2001, c.136
45 (C.54:10A-15.6) or subsection a. of section 4 of P.L.2001, c.136
46 (C.54:10A-15.7), as applicable. A business conducted directly or
47 indirectly by one corporation is unitary with that portion of a

1 business conducted by another corporation through its direct or
2 indirect interest in a partnership.

3 (hh)"Captive investment company" shall mean, for privilege
4 periods ending on and after July 31, 2023, an investment company
5 that is not regularly traded on an established securities market and
6 of which more than 50 percent of the voting stock is owned or
7 controlled, directly or indirectly, by a single corporation, other than
8 an investment company, that is not exempt from federal income tax.
9 For purposes of this subsection, a captive investment company shall
10 not include any captive investment company of which at least 50
11 percent of the shares, by vote or value, is owned or controlled,
12 directly or indirectly, by a state or federally chartered bank, savings
13 bank, or savings and loan association with assets that do not exceed
14 \$15 billion.

15 For privilege periods ending on and after July 31, 2023, any
16 voting stock in an investment company that is held in a segregated
17 asset account of a life insurance corporation, as described in section
18 817 of the Internal Revenue Code, shall not be taken into account
19 for purposes of determining whether an investment company is a
20 captive regulated investment company.

21 For privilege periods ending on and after July 31, 2023, a captive
22 investment company shall be taxed in the same manner as a C
23 corporation, and subsection d. of section 5 of P.L.1945, c.162
24 (C.54:10A-5) shall not apply. A captive investment company shall
25 not be permitted to claim any deductions or expenses that were
26 permitted for federal purposes, solely as a result of the entity being
27 an investment company, when computing federal taxable net
28 income. A captive investment company shall be a member of a
29 combined group and shall be included as a member on the
30 combined return.

31 (ii) "Captive real estate investment trust" shall mean, for
32 privilege periods ending on and after July 31, 2023, a real estate
33 investment trust that is not regularly traded on an established
34 securities market and of which more than 50 percent of the voting
35 stock is owned or controlled, directly or indirectly, by a single
36 entity that is treated as an association taxable as a corporation under
37 the Internal Revenue Code, is not exempt from federal income tax,
38 and is not a real estate investment trust. For purposes of this
39 subsection, a captive real estate investment trust shall not include
40 any captive real estate investment trust of which at least 50 percent
41 of the shares, by vote or value, is owned or controlled, directly or
42 indirectly, by a state or federally chartered bank, savings bank, or
43 savings and loan association with assets that do not exceed \$15
44 billion.

45 For privilege periods ending on and after July 23, 2023, any
46 voting stock in a real estate investment trust that is held in a
47 segregated asset account of a life insurance corporation, as

1 described in section 817 of the Internal Revenue Code (26 U.S.C.
2 s.817), shall not be taken into account for purposes of determining
3 whether a real estate investment trust is a captive real estate
4 investment trust. For purposes of this subsection, an association
5 taxable as a corporation shall not include any listed Australian
6 property trust or any qualified foreign entity.

7 For privilege periods ending on and after July 31, 2023, a captive
8 real estate investment trust shall be taxed in the same manner as a C
9 corporation, and subsection d. of section 5 of P.L.1945, c.162
10 (C.54:10A-5) shall not apply. A captive real estate investment trust
11 shall not be permitted to claim any deductions or expenses that were
12 permitted for federal purposes, solely as a result of the entity being
13 a real estate investment trust, when computing federal taxable net
14 income. A captive real estate investment trust shall be a member of
15 a combined group and shall be included as a member on the
16 combined return.

17 As used in this subsection:

18 "Australian property trust" means an Australian unit trust that is
19 registered as a managed investment scheme under the Australian
20 Corporations Act, and in which the principal class of units is listed
21 on a recognized stock exchange in Australia and is regularly traded
22 on an established securities market; or an entity organized as a trust,
23 provided that a listed Australian property trust owns or controls,
24 directly or indirectly, 75 percent or more of the voting power or
25 value of the beneficial interests of shares of the trust.

26 "Qualified foreign entity" means a corporation, trust, association,
27 or partnership that is organized outside the laws of the United States
28 and that satisfies the following criteria:

29 (1) At least 75 percent of the entity's total asset value at the
30 close of its taxable year is represented by real estate assets, as
31 defined at subparagraph (B) of paragraph (5) of subsection (c) of
32 section 856 of the Internal Revenue Code (26 U.S.C. s.856),
33 including shares or certificates of beneficial interest in any real
34 estate investment trust, cash and cash equivalents, and United States
35 Government securities;

36 (2) The entity is not subject to tax on amounts distributed to its
37 beneficial owners, or is exempt from entity-level taxation;

38 (3) The entity distributes, on an annual basis, at least 85 percent
39 of its taxable income, as computed in the jurisdiction in which it is
40 organized, to the holders of its shares or certificates of beneficial
41 interest;

42 (4) No more than 10 percent of the voting power or value in the
43 entity is held directly, indirectly, or constructively by a single entity
44 or individual, or the shares or certificates of beneficial interests of
45 the entity are regularly traded on an established securities market;
46 and

1 (5) The entity is organized in a country that has a tax treaty with
2 the United States.

3 (jj) "Captive regulated investment company" shall mean, for
4 privilege periods ending on and after July 31, 2023, a regulated
5 investment company that is not regularly traded on an established
6 securities market, and of which more than 50 percent of the voting
7 stock is owned or controlled, directly or indirectly, by a single
8 corporation, other than a regulated investment company, that is not
9 exempt from federal income tax. For purposes of this subsection, a
10 captive regulated investment company shall not include any captive
11 regulated investment company of which at least 50 percent of the
12 shares, by vote or value, is owned or controlled, directly or
13 indirectly, by a state or federally chartered bank, savings bank, or
14 savings and loan association with assets that do not exceed \$15
15 billion.

16 For privilege periods ending on and after July 31, 2023, any
17 voting stock in a regulated investment company that is held in a
18 segregated asset account of a life insurance corporation, as
19 described in section 817 of the Internal Revenue Code (26 U.S.C.
20 s.817), shall not be taken into account for purposes of determining
21 whether a regulated investment company is a captive regulated
22 investment company.

23 For privilege periods ending on and after July 31, 2023, a captive
24 regulated investment company shall be taxed in the same manner as
25 a C corporation and subsection d. of section 5 of P.L.1945, c.162
26 (C.54:10A-5) shall not apply. A captive real estate investment
27 company shall not be permitted to claim any deductions or expenses
28 that were permitted for federal purposes, solely as a result of the
29 entity being a regulated investment company, when computing
30 federal taxable net income. A captive regulated investment
31 company shall be a member of a combined group and shall be
32 included as a member on the combined return.

33 (kk) "World-wide basis" and "world-wide group" shall mean, for
34 privilege periods ending on and after July 31, 2022, for the
35 purposes of sections 18 through 23 of P.L.2018, c.48 (C.54:10A-4.6
36 through C.54:10A-4.11) and for the purposes of combined reporting
37 in general under the Corporation Business Tax Act (1945),
38 P.L.1945, c.162 (C.54:10A-1 et seq.), that the combined group shall
39 include all of the members of the combined group, wherever located
40 or formed. For privilege periods ending on and after July 31, 2022,
41 the combined group shall include all of the income and attributes of
42 those members regardless of how or whether those members file
43 federal returns or report or include their income in federal taxable
44 income for federal purposes, and without regard to any exemption
45 or exclusion from federal taxable income under the terms of a tax
46 treaty; provided, however, any deductions that are allowed under
47 the federal Internal Revenue Code that are also allowable under the

1 Corporation Business Tax Act (1945), P.L.1945, c.162 (C.54:10A-1
2 et seq.), that would apply to a U.S. corporation, but that a non-U.S.
3 corporation is prohibited from claiming for federal corporation
4 income tax purposes because the corporation's income was not
5 included in federal taxable income for any reason or because the
6 corporation is a non-U.S. corporation, shall be allowed for the non-
7 U.S. corporation members of the combined group for New Jersey
8 corporation business tax purposes as though those non-U.S.
9 corporation members were U.S. corporations.

10 (cf: P.L.2023, c.96, s.1)J³

11
12 ³J15. N.J.S.54A:5-1 is amended to read as follows:

13 54A:5-1. New Jersey Gross Income Defined. New Jersey gross
14 income shall consist of the following categories of income:

15 a. Salaries, wages, tips, fees, commissions, bonuses, and other
16 remuneration received for services rendered whether in cash or in
17 property, and amounts paid or distributed, or deemed paid or
18 distributed, out of a medical savings account that are not excluded
19 from gross income pursuant to section 5 of P.L.1997, c.414
20 (C.54A:6-27).

21 b. Net profits from business. The net income from the
22 operation of a business, profession or other activity after provision
23 for all costs and expenses incurred in the conduct thereof,
24 determined either on a cash or accrual basis in accordance with the
25 method of accounting allowed for federal income tax purposes but
26 without deduction of the amount of:

27 (1) taxes based on income;

28 (2) a civil, civil administrative, or criminal penalty or fine,
29 including a penalty or fine under an administrative consent order,
30 assessed and collected for a violation of a State or federal
31 environmental law, an administrative consent order, or an
32 environmental ordinance or resolution of a local governmental
33 entity, and any interest earned on the penalty or fine, and any
34 economic benefits having accrued to the violator as a result of a
35 violation, which benefits are assessed and recovered in a civil, civil
36 administrative, or criminal action, or pursuant to an administrative
37 consent order. The provisions of this paragraph shall not apply to a
38 penalty or fine assessed or collected for a violation of a State or
39 federal environmental law, or local environmental ordinance or
40 resolution, if the penalty or fine was for a violation that resulted
41 from fire, riot, sabotage, flood, storm event, natural cause, or other
42 act of God beyond the reasonable control of the violator, or caused
43 by an act or omission of a person who was outside the reasonable
44 control of the violator; and

45 (3) treble damages paid to the Department of Environmental
46 Protection pursuant to subsection a. of section 7 of P.L.1976, c.141
47 (C.58:10-23.11f) for costs incurred by the department in removing,

1 or arranging for the removal of, an unauthorized discharge upon the
2 failure of the discharger to comply with a directive from the
3 department to remove, or arrange for the removal of, a discharge.

4 c. Net gains or income from disposition of property. Net gains
5 or net income, less net losses, derived from the sale, exchange or
6 other disposition of property, including real or personal, whether
7 tangible or intangible as determined in accordance with the method
8 of accounting allowed for federal income tax purposes. For the
9 purpose of determining gain or loss, the basis of property shall be
10 the adjusted basis used for federal income tax purposes, except as
11 expressly provided for under this act, but without a deduction for
12 penalties, fines, or economic benefits excepted pursuant to
13 paragraph (2), or for treble damages excepted pursuant to paragraph
14 (3) of subsection b. of this section.

15 A taxpayer's net gain or loss on the sale, exchange or other
16 disposition of a share of an S corporation shall be calculated by
17 increasing the adjusted basis of the share by an amount equal to the
18 shareholder's net losses and deductions in respect of the share
19 allowed and deducted from income for federal income tax purposes,
20 not including any personal net operating loss deductions, to the
21 extent that such net losses were not offset by the taxpayer's pro rata
22 share of S corporation income otherwise subject to taxation
23 pursuant to subsection p. of this section in respect of another S
24 corporation, subject to rules of priority and assignment determined
25 by the director.

26 For the tax year 1976, any taxpayer with a tax liability under this
27 subsection, or under the "Tax on Capital Gains and Other Unearned
28 Income Act," P.L.1975, c.172 (C.54:8B-1 et seq.), shall not be
29 subject to payment of an amount greater than the amount he would
30 have paid if either return had covered all capital transactions during
31 the full tax year 1976; provided, however, that the rate which shall
32 apply to any capital gain shall be that in effect on the date of the
33 transaction. To the extent that any loss is used to offset any gain
34 under P.L.1975, c.172, it shall not be used to offset any gain under
35 the "New Jersey Gross Income Tax Act," N.J.S.54A:1-1 et seq.

36 The term "net gains or income" shall not include gains or income
37 derived from obligations which are referred to in clause (1) or (2) of
38 N.J.S.54A:6-14 of this act or from securities which evidence
39 ownership in a qualified investment fund as defined in section 2 of
40 P.L.1987, c.310 (C.54A:6-14.1). The term "net gains or income"
41 shall not include gains or income derived from the sale or
42 assignment of a tax credit transfer certificate pursuant to section 7
43 of P.L.2011, c.149 (C.34:1B-248) **【and】**, section 10 of P.L.2014,
44 c.63 (C.34:1B-251), or the "New Jersey Economic Recovery Act of
45 2020," P.L.2020, c.156 (C.34:1B-269 et al.), as amended and
46 supplemented, from any sale or assignment of a tax credit issued
47 pursuant to an award of tax credits approved by the New Jersey

1 Economic Development Authority **【prior to July 1, 2018】**,
2 regardless of when such sale or assignment occurs. The term "net
3 gains or net income" shall not include gains or income from
4 transactions to the extent to which nonrecognition is allowed for
5 federal income tax purposes. The term "sale, exchange or other
6 disposition" shall not include the exchange of stock or securities in
7 a corporation a party to a reorganization in pursuance of a plan of
8 reorganization, solely for stock or securities in such corporation or
9 in another corporation a party to the reorganization and the transfer
10 of property to a corporation by one or more persons solely in
11 exchange for stock or securities in such corporation if immediately
12 after the exchange such person or persons are in control of the
13 corporation. For purposes of this clause, stock or securities issued
14 for services shall not be considered as issued in return for property.

15 For purposes of this clause, the term "reorganization" means~~【--】~~:

16 (i) A statutory merger or consolidation;

17 (ii) The acquisition by one corporation, in exchange solely for
18 all or part of its voting stock (or in exchange solely for all or a part
19 of the voting stock of a corporation which is in control of the
20 acquiring corporation) of stock of another corporation if,
21 immediately after the acquisition, the acquiring corporation has
22 control of such other corporation (whether or not such acquiring
23 corporation had control immediately before the acquisition);

24 (iii) The acquisition by one corporation, in exchange solely for
25 all or part of its voting stock (or in exchange solely for all or a part
26 of the voting stock of a corporation which is in control of the
27 acquiring corporation), of substantially all of the properties of
28 another corporation, but in determining whether the exchange is
29 solely for stock the assumption by the acquiring corporation of a
30 liability of the other, or the fact that property acquired is subject to
31 a liability, shall be disregarded;

32 (iv) A transfer by a corporation of all or a part of its assets to
33 another corporation if immediately after the transfer the transferor,
34 or one or more of its shareholders (including persons who were
35 shareholders immediately before the transfer), or any combination
36 thereof, is in control of the corporation to which the assets are
37 transferred;

38 (v) A recapitalization;

39 (vi) A mere change in identity, form, or place of organization
40 however effected; or

41 (vii) The acquisition by one corporation, in exchange for stock of
42 a corporation (referred to in this subclause as "controlling
43 corporation") which is in control of the acquiring corporation, of
44 substantially all of the properties of another corporation which in
45 the transaction is merged into the acquiring corporation shall not
46 disqualify a transaction under subclause (i) if such transaction
47 would have qualified under subclause (i) if the merger had been into

1 the controlling corporation, and no stock of the acquiring
2 corporation is used in the transaction;

3 (viii) A transaction otherwise qualifying under subclause (i) shall
4 not be disqualified by reason of the fact that stock of a corporation
5 (referred to in this subclause as the "controlling corporation") which
6 before the merger was in control of the merged corporation is used
7 in the transaction, if after the transaction, the corporation surviving
8 the merger holds substantially all of its properties and of the
9 properties of the merged corporation (other than stock of the
10 controlling corporation distributed in the transaction); and in the
11 transaction, former shareholders of the surviving corporation
12 exchanged, for an amount of voting stock of the controlling
13 corporation, an amount of stock in the surviving corporation which
14 constitutes control of such corporation.

15 For purposes of this clause, the term "control" means the
16 ownership of stock possessing at least 80% of the total combined
17 voting power of all classes of stock entitled to vote and at least 80%
18 of the total number of shares of all other classes of stock of the
19 corporation.

20 For purposes of this clause, the term "a party to a reorganization"
21 includes a corporation resulting from a reorganization, and both
22 corporations, in the case of a reorganization resulting from the
23 acquisition by one corporation of stock or properties of another. In
24 the case of a reorganization qualifying under subclause (i) by reason
25 of subclause (vii) the term "a party to a reorganization" includes the
26 controlling corporation referred to in such subclause (vii).

27 Notwithstanding any provisions hereof, upon every such
28 exchange or conversion, the taxpayer's basis for the stock or
29 securities received shall be the same as the taxpayer's actual or
30 attributed basis for the stock, securities or property surrendered in
31 exchange therefor.

32 d. Net gains or net income derived from or in the form of rents,
33 royalties, patents, and copyrights.

34 e. Interest, except interest referred to in clause (1) or (2) of
35 N.J.S.54A:6-14, or distributions paid by a qualified investment fund
36 as defined in section 2 of P.L.1987, c.310 (C.54A:6-14.1), to the
37 extent provided in that section.

38 f. Dividends. "Dividends" means any distribution in cash or
39 property made by a corporation, association or business trust that is
40 not an S corporation, (1) out of accumulated earnings and profits, or
41 (2) out of earnings and profits of the year in which such dividend is
42 paid and any distribution in cash or property made by an S
43 corporation, as specifically determined pursuant to section 16 of
44 P.L.1993, c.173 (C.54A:5-14).

45 The term "dividends" shall not include distributions paid by a
46 qualified investment fund as defined in section 2 of P.L.1987, c.310
47 (C.54A:6-14.1), to the extent provided in that section.

- 1 g. Gambling winnings.
- 2 h. Net gains or income derived through estates or trusts.
- 3 i. Income in respect of a decedent.
- 4 j. Amounts distributed or withdrawn from an employee trust
5 attributable to contributions to the trust which were excluded from
6 gross income under the provisions of chapter 6 of Title 54A of the
7 New Jersey Statutes, amounts rolled over from an IRA, as defined
8 pursuant to subsection (a) of section 408 of the federal Internal
9 Revenue Code of 1986, 26 U.S.C. s.408, that is not a Roth IRA, as
10 defined pursuant to subsection b. of section 2 of P.L.1998,c.57
11 (C.54A:6-28) to an IRA that is a Roth IRA, and pensions and
12 annuities except to the extent of exclusions in N.J.S.54A:6-10
13 hereunder, notwithstanding the provisions of N.J.S.18A:66-51,
14 P.L.1973, c.140, s.41 (C.43:6A-41), P.L.1954, c.84, s.53
15 (C.43:15A-53), P.L.1944, c.255, s.17 (C.43:16A-17), P.L.1965,
16 c.89, s.45 (C.53:5A-45), R.S.43:10-14, P.L.1943, c.160, s.22
17 (C.43:10-18.22), P.L.1948, c.310, s.22 (C.43:10-18.71), P.L.1954,
18 c.218, s.32 (C.43:13-22.34), P.L.1964, c.275, s.11 (C.43:13-22.60),
19 R.S.43:10-57, P.L.1938, c.330, s.13 (C.43:10-105), R.S.43:13-44,
20 and P.L.1943, c.189, s.5 (C.43:13-37.5).
- 21 k. Distributive share of partnership income, excluding the gain
22 or income derived from the sale or assignment of a tax credit
23 transfer certificate pursuant to section 7 of P.L.2011, c.149
24 (C.34:1B-248) **and**, section 10 of P.L.2014, c.63 (C.34:1B-251),
25 or the "New Jersey Economic Recovery Act of 2020," P.L.2020,
26 c.156 (C.34:1B-269 et al.), as amended and supplemented, from any
27 sale or assignment of a tax credit issued pursuant to an award of tax
28 credits approved by the New Jersey Economic Development
29 Authority **prior to July 1, 2018**, regardless of when such sale or
30 assignment occurs.
- 31 l. Amounts received as prizes and awards, except as provided
32 in N.J.S.54A:6-8 and N.J.S.54A:6-11 hereunder.
- 33 m. Rental value of a residence furnished by an employer or a
34 rental allowance paid by an employer to provide a home.
- 35 n. Alimony and separate maintenance payments to the extent
36 that such payments are required to be made under a decree of
37 divorce or separate maintenance but not including payments for
38 support of minor children.
- 39 o. Income, gain or profit derived from acts or omissions
40 defined as crimes or offenses under the laws of this State or any
41 other jurisdiction.
- 42 p. Net pro rata share of S corporation income, excluding the
43 gain or income derived from the sale or assignment of a tax credit
44 transfer certificate pursuant to section 7 of P.L.2011, c.149
45 (C.34:1B-248) **and**, section 10 P.L.2014, c.63 (C.34:1B-251), or
46 the "New Jersey Economic Recovery Act of 2020," P.L.2020, c.156
47 (C.34:1B-269 et al.), as amended and supplemented, from any sale

1 or assignment of a tax credit issued pursuant to an award of tax
2 credits approved by the New Jersey Economic Development
3 Authority [prior to July 1, 2018], regardless of when such sale or
4 assignment occurs.

5 (cf: P.L.2018, c.131, s.8)]³

6
7 ³[¹16. Section 1 of P.L.1979, c.303 (C.34:1B-5.1) is amended to
8 read as follows:

9 1. a. The New Jersey Economic Development Authority shall
10 adopt rules and regulations requiring that not less than the
11 prevailing wage rate be paid to workers employed in the
12 performance of any construction contract, including contracts for
13 millwork fabrication, undertaken in connection with authority
14 financial assistance or any of its projects, those projects which it
15 undertakes pursuant to P.L.2002, c.43 (C.52:27BBB-1 et al.), or
16 undertaken to fulfill any condition of receiving authority financial
17 assistance, including the performance of any contract to construct,
18 renovate or otherwise prepare a facility for operations which are
19 necessary for the receipt of authority financial assistance, unless the
20 work performed under the contract is performed on a facility owned
21 by a landlord of the entity receiving the assistance and less than 35
22 percent of the facility is leased by the entity at the time of the
23 contract and under any agreement to subsequently lease the facility.
24 The prevailing wage rate shall be the rate determined by the
25 Commissioner of Labor and Workforce Development pursuant to
26 the provisions of P.L.1963, c.150 (C.34:11-56.25 et seq.). For the
27 purposes of this section, "authority financial assistance" means any
28 loan, loan guarantee, grant, incentive, tax exemption or other
29 financial assistance that is approved, funded, authorized,
30 administered or provided by the authority to any entity and is
31 provided before, during or after completion of a project, including
32 but not limited to, all authority financial assistance received by the
33 entity pursuant to the "Business Employment Incentive Program
34 Act," P.L.1996, c.26 (C.34:1B-124 et al.) that enables the entity to
35 engage in a construction contract, but this section shall not be
36 construed as requiring the payment of the prevailing wage for
37 construction commencing more than two years after an entity has
38 executed with the authority a commitment letter regarding authority
39 financial assistance and the first payment or other provision of the
40 assistance is received.

41 b. The New Jersey Economic Development Authority shall
42 adopt rules and regulations requiring that not less than the
43 prevailing wage rate be paid to workers employed in the
44 performance of any contract, for construction, demolition,
45 remediation, removal of hazardous substances, alteration, custom
46 fabrication, repair work, or maintenance work, including painting
47 and decorating, or excavation, grading, pile driving, concrete form,

1 or other types of foundation work in connection with the "New
2 Jersey Community-Anchored Development Act," sections 43
3 through 53 of P.L.2020, c.156 (C.34:1B-311 through 34:1B-321),
4 the "New Jersey Aspire Program Act," sections 54 through 67 of
5 P.L.2020, c.156 (C.34:1B-322 through C.34:1B-335), and the
6 "²**[New Jersey]**² Emerge Program Act," sections 68 through 81 of
7 P.L.2020, c.156 (C.34:1B-336 et al.). The requirements of this
8 subsection shall apply to any site preparation work performed 24
9 months prior to and during the incentive eligibility period of any
10 project receiving tax credits under the "New Jersey Community-
11 Anchored Development Act," sections 43 through 53 of P.L.2020,
12 c.156 (C.34:1B-311 through C.34:1B-321), the "New Jersey Aspire
13 Program Act," sections 54 through 67 of P.L.2020, c.156 (C.34:1B-
14 322 through C.34:1B-335), and the "²**[New Jersey]**² Emerge
15 Program Act," sections 68 through 81 of P.L.2020, c.156 (C.34:1B-
16 336 et al.), and to projects receiving financial assistance under the
17 "Redevelopment Project Bridge Financing Program," established
18 pursuant to section 11 of P.L. , c. (C.) (pending before the
19 Legislature as this bill), in which there is a continuity of ownership
20 in the site of the redevelopment project, including work undertaken
21 to fulfill any condition of receiving tax credits under the programs.
22 Work that is subject to the requirements of this subsection shall
23 include the performance of any contract for construction,
24 demolition, remediation, removal of hazardous substances,
25 alteration, custom fabrication, repair work, or maintenance work,
26 including painting and decorating, or excavation, grading, pile
27 driving, concrete form, or other types of foundation work
28 undertaken on a facility for operations which are necessary for the
29 receipt of tax credits under the "New Jersey Community-Anchored
30 Development Act," sections 43 through 53 of P.L.2020, c.156
31 (C.34:1B-311 through C.34:1B-321), the "New Jersey Aspire
32 Program Act," sections 54 through 67 of P.L.2020, c.156 (C.34:1B-
33 322 through C.34:1B-335), and the "²**[New Jersey]**² Emerge
34 Program Act," sections 68 through 81 of P.L.2020, c.156 (C.34:1B-
35 336 et al.), or the receipt of financial assistance under the
36 "Redevelopment Project Bridge Financing Program," established
37 pursuant to section 11 of P.L. , c. (C.) (pending before the
38 Legislature as this bill), unless the work performed under the
39 contract is performed on a facility owned by a landlord of the entity
40 receiving the tax credit and less than 35 percent of the facility is
41 leased by the entity at the time of the contract and under any
42 agreement to subsequently lease the facility. The prevailing wage
43 rate shall be the rate determined by the Commissioner of Labor and
44 Workforce Development pursuant to the provisions of P.L.1963,
45 c.150 (C.34:11-56.25 et seq.), and all contractors and
46 subcontractors subject to the prevailing wage requirement set forth
47 in this section shall be registered with the Department of Labor and

1 Workforce Development pursuant to the provisions of section 5 of
 2 P.L.1999, c.238 (C.34:11-56.52). An applicant for tax credits under
 3 the "New Jersey Community-Anchored Development Act," sections
 4 43 through 53 of P.L.2020, c.156 (C.34:1B-311 through C.34:1B-
 5 321), the "New Jersey Aspire Program Act," sections 54 through 67
 6 of P.L.2020, c.156 (C.34:1B-322 through C.34:1B-335), and the
 7 "²【New Jersey】² Emerge Program Act," sections 68 through 81 of
 8 P.L.2020, c.156 (C.34:1B-336 et al.), shall certify under penalty of
 9 perjury as part of its application that all construction contracts
 10 undertaken on any project in connection with an award under the
 11 programs comply with the prevailing wage requirements of this
 12 subsection. If at any time the authority determines that the
 13 developer made a material misrepresentation regarding compliance
 14 with the provisions of this subsection on the developer's
 15 application, the developer shall forfeit 35 percent of the tax credits
 16 allowed under the programs, and pay to the affected workers back
 17 wages in an amount that compensates the workers at the prevailing
 18 wage rate for the work performed.¹
 19 (cf: P.L.2020, c.156, s.112)】³

20
 21 ³10. (New section) a. Notwithstanding any provision of
 22 P.L.2020, c.156 (C.34:1B-269 et al.), section 14 of P.L.2023, c.98
 23 (C.34:1B-335.1), or any provision of law to the contrary, any
 24 project approved by the authority after the effective date of
 25 P.L.2020, c.156 (C.34:1B-269 et al.) shall be subject to:

26 (1) the requirements of subsection f. of section 57 of P.L.2020,
 27 c.156 (C.34:1B-325), as amended by P.L. , c. (C.) (pending
 28 before the Legislature as this bill), concerning the average
 29 occupancy rate of commercial projects;

30 (2) any lower fees promulgated by the authority on or after the
 31 effective date of P.L. , c. (C.) (pending before the
 32 Legislature as this bill), except that such lower fees shall not apply
 33 to any fees already paid to the authority;

34 (3) the requirements of paragraphs (1) and (4) of subsection f. of
 35 section 60 of P.L. 2020, c.156 (C.34:1B-328), as amended by
 36 P.L. , c. (C.) (pending before the Legislature as this bill),
 37 concerning the execution of community benefits agreements;

38 (4) the requirements of subsection b. of section 62 of P.L.2020,
 39 c.156 (C.34:1B-330), as amended by P.L. , c. (C.) (pending
 40 before the Legislature as this bill);

41 (5) the requirements of subsection a. of section 63 of P.L.2020,
 42 c.156 (C.34:1B-331), as amended by P.L. , c. (C.) (pending
 43 before the Legislature as this bill);

44 (6) the provisions of subsection b. and subsection c. of section
 45 60 of P.L.2020, c.156 (C.34:1B-328), as amended by P.L. ,
 46 c. (C.) (pending before the Legislature as this bill); and

1 (7) any other provision concerning the terms and conditions of
2 an incentive award issued under the New Jersey Aspire Program
3 that the authority determines will make the administration of the
4 program consistent with the provisions of the “New Jersey Aspire
5 Program Act,” sections 54 through 67 of P.L.2020, c.156 (C.34:1B-
6 322 through C.34:1B-335), as amended and supplemented by
7 P.L. , c. (C.) (pending before the Legislature as this bill),
8 provided that such provision shall not have a materially adverse
9 impact on any projects approved by the authority before the
10 effective date of P.L. , c. (C.) (pending before the
11 Legislature as this bill).

12 b. Notwithstanding any provision of P.L.2020, c.156 (C.34:1B-
13 269 et al.), section 14 of P.L.2023, c.98 (C.34:1B-335.1), or any
14 other provision of law to the contrary, any project approved by the
15 authority after the effective date of P.L.2020, c.156 (C.34:1B-269 et
16 al.) shall not be subject to any proration of tax credits for any year
17 of the eligibility period.³

18

19 ¹~~[16.]~~ ³~~[17.]~~ ¹~~11.~~³ This act shall take effect immediately.

ASSEMBLY COMMERCE, ECONOMIC DEVELOPMENT AND AGRICULTURE COMMITTEE

STATEMENT TO

ASSEMBLY, No. 2076

with committee amendments

STATE OF NEW JERSEY

DATED: MAY 13, 2024

The Assembly Commerce, Economic Development and Agriculture Committee reports favorably and with committee amendments Assembly Bill No. 2076.

As amended, this bill amends and supplements the “New Jersey Aspire Program Act” (Aspire Program) and provides for certain related changes to the New Jersey Gross Income Tax and Corporation Business Tax. The bill also establishes the “Redevelopment Project Bridge Financing Program,” as part of the Aspire Program, to offer additional financial assistance for redevelopment projects that have an outstanding project financing gap.

Aspire Program Definitions

The bill revises the definition of a “commercial project” to include industrial space that is predominantly used for warehouse distribution or fulfillment centers and has at least \$10 million in environmental remediation costs. The bill amends the definition of an “incentive area” to include an endorsed plan and removes certain transportation connectivity requirements that exist under current law. The bill defines a “mixed-use project” as a redevelopment project that includes a residential component and a nonresidential component.

The bill defines the term “stranded asset” to mean any building previously used for commercial, retail, office space, manufacturing, or industrial purposes, which building is no longer used for such purposes, and which has been abandoned, experienced significant vacancies for at least two consecutive years, or has fallen into such disrepair as to be untenable.

The bill also clarifies that the definition of the term “project cost” also applies to the term “total project cost.” The definition for “total project cost” under current law instead applies for the term “total development cost” or “total redevelopment cost” under the bill.

The bill provides that for a redevelopment project that is located in a government restricted municipality, the calculation of “project cost” or “total project cost” also includes the costs of land and building

acquisition, professional services, environmental remediation, and infrastructure improvements.

Aspire Program Changes Concerning Residential Projects

The bill provides that the New Jersey Economic Development Authority's (authority) housing affordability controls are to be consistent with those in the "Fair Housing Act," except not including the bedroom distribution requirements for three-bedroom housing units.

The bill provides that, in addition to the exemption for certain commercial tenants, commercial subtenants, or other commercial occupants with rights in a redevelopment project, any residential tenant of a redevelopment project is also exempt from the requirement to pay the prevailing wage rate for each worker's craft or trade when that worker is employed to perform building services work at the redevelopment project.

Sale of Buildings Under the Aspire Program

A developer is permitted, under the bill, to sell one or more buildings during the eligibility period if the sale is an arms-length sale and is subject to the purchaser's assumption of all obligations under the Aspire Program.

Aspire Program Community Benefit Requirement

The bill amends current law to exempt the developers of certain projects from the requirements of a community benefits agreement once the host municipality certifies the approval letter or adopts the redevelopment agreement at a public meeting, which documents are required to state that the community benefit under a community benefits agreement has been met.

Aspire Program Occupancy Requirement

Beginning on the third year following the date of issuance of a final certificate of occupancy during the eligibility period of a commercial project and through the eligibility period, the developer and any co-applicant is required to maintain at least 60 percent occupancy or to forfeit all tax credits for the tax period in which occupancy falls below this minimum requirement. Tax credits are allowed in full upon restoration of 60 percent or greater occupancy. Occupancy is to be measured by the average occupancy rate during the relevant tax period. Residential projects are exempt from this requirement.

Eligibility for Aspire Program

Among other conditions of eligibility under current law, a developer may qualify for an incentive award if the developer has not commenced any construction at the site for the redevelopment project

prior to applying for the Aspire Program, with certain exceptions. The bill adds a condition that if demolition and site remediation activities were commenced prior to application, the developer is required to have paid all construction workers engaged in such work at the prevailing wage rate for their respective crafts or trades.

Incentive Award Agreement

Under current law, an incentive award agreement is to include a requirement that the developer confirm that each contractor or subcontractor performing work on the project has not been debarred by the Department of Labor and Workforce Development from engaging in or bidding on Public Works Contracts in the State. The bill adds to this requirement that the developer is required to confirm that each contractor or subcontractor performing work on the project is also not suspended or disqualified from the same activity. The bill further requires that a developer confirm that each contractor or subcontractor performing work on the project is not debarred, suspended, or disqualified by a federal agency from engaging in federally-funded construction projects or bidding on federal contracting opportunities.

Eligibility Period Under Aspire Program

The bill reduces the maximum duration of an eligibility period for a commercial project, mixed-use project, or residential project to 10 years. Under current law, the maximum duration of an eligibility period for a commercial or mixed-use project is 15 years, and for a residential project is 10 years. The bill adds that the authority may determine a shorter eligibility period if this reduction would enhance access to tax credit monetization or otherwise enhance the effectiveness of the program.

Total Tax Credit Eligibility Under Aspire Program

The bill increases the amount of tax credits that may be awarded to a developer in certain circumstances. Specifically, the bill provides that a developer may be allowed each of the following enhancements to the developer's total tax credit award: (1) for a redevelopment project that includes redevelopment of a stranded asset, an increase of up to 10 percent of the project cost; (2) for a residential project meeting the three-bedroom distribution requirements of the Uniform Housing Affordability Controls, an increase of up to five percent of the project cost; or (3) for a redevelopment project meeting local first source hiring requirements for residents in the municipality or county in which the project is located and in surrounding municipalities, as appropriate, an increase of up to three percent of the project cost.

However, except for any redevelopment project that is located in a government restricted municipality, the bill limits a developer's total tax credits awarded under the Aspire Program, together with any program administered by the authority for a redevelopment project, to:

90 percent of the project cost for redevelopment projects that receive tax credits under the federal Low-Income Housing Tax Credit Program; and 80 percent of the project cost for all other redevelopment projects.

Aspire Program Tax Credit Carry Forward and Transfer

Under current law, a developer is required to apply tax credits during the tax periods approved by the authority. This bill additionally authorizes a developer to apply tax credits within the three successive tax periods immediately following the tax period in which the tax credit certificate is received by the developer. Similarly, a developer is authorized under the bill to transfer the tax credits, and a transferee is authorized to use the tax credits, within the three successive tax periods immediately following the tax period in which the tax credit certificate is received by the developer.

Transformative Projects Under Aspire Program

This bill amends current requirements for certain transformative projects. Under current law, a residential project with fewer than 700 new residential units is required to include the construction of: (1) not less than 200 new residential units if the project is located in a government-restricted municipality, 300 new residential units if the project is located in an enhanced area, or 400 residential units for all other mixed-use projects; and (2) 50,000 square feet or more of commercial space to qualify as a transformative project. Under this bill, these residential projects would be required to include the construction of either: (1) not less than 200 new residential units if the project is located in a government-restricted municipality, 300 new residential units if the project is located in an enhanced area, or 400 residential units for all other mixed-use projects; or (2) 20,000 square feet or more of commercial space, which may include retail space.

Additionally, the bill permits a parking component to be included in the calculation of the total square footage of a transformative project, but only if constructed in agreement with local zoning, planning, or similar requirements, or up to the amount required by the Residential Site Improvement Standards, regardless of whether the Residential Site Improvement Standards apply to the parking component. Portions of a parking component that exceed local parking requirements or the Residential Site Improvement Standards are not to be included in these calculations. However, if the project is located within a government restricted municipality, the entire parking component is required to be included in the calculation of square footage requirements for a transformative project, regardless of agreement with local requirements or Residential Site Improvement Standards.

The bill provides that a developer may be allowed each of the following enhancements to the developer's total tax credit award: (1)

for a transformative project that includes redevelopment of a stranded asset, an increase of up to 10 percent of the project cost; (2) for a residential transformative project meeting the three-bedroom distribution requirements of the Uniform Housing Affordability Controls, an increase of up to five percent of the project cost; or (3) for a transformative project meeting local first source hiring requirements for residents in the municipality or county in which the project is located and in surrounding municipalities, as appropriate, an increase of up to three percent of the project cost.

Aspire Program Fees

The bill requires that the fees charged by the authority under the program be proportional to the tax credit amount allowed for a redevelopment project. The authority is required to promulgate a schedule of fees that are limited to coverage of actual direct costs of administering the program, coverage of reasonable indirect costs of administering the program, and maintenance of reasonable reserves for administering the program.

The bill provides that any application submitted on or after the date six months prior to the bill's effective date is subject to the new requirements provided for in the bill, except for the fees imposed on applications that precede the effective date of the bill.

Redevelopment Project Bridge Financing Program Under Aspire Program

The bill provides for the establishment of a "Redevelopment Project Bridge Financing Program" for the purpose of offering loans or loan guarantees, at the discretion of the authority, to the developers of redevelopment projects that have an outstanding project financing gap. The purpose of the Redevelopment Project Bridge Financing Program is to offer additional financing to the developer of a redevelopment project, prior to the issuance of tax credits under the Aspire Program, to ensure the completion of the project.

To apply for a loan under the program, the developer is required to submit to the authority a proposed loan and interest amount, a repayment plan, an accounting of the remaining project financing gap, and any other information the authority requires. To apply for a loan guarantee, the developer is required to submit to the authority a proposed loan guarantee amount and terms, an accounting of the remaining project gap, and any other information the authority requires. As a condition of requiring a loan or loan guarantee, the bill requires each worker employed to perform construction work on the redevelopment project to be paid not less than the prevailing wage rate for the worker's craft or trade.

The bill authorizes the authority to issue loans and loan guarantees using a "Redevelopment Project Bridge Financing Revolving Fund," into which all monies received from loan repayments are to be

deposited. All monies received in the fund are to support the program until such time as the authority determines there remains no need for bridge financing, or until December 31, 2028, whichever occurs first, at which point the monies in the Redevelopment Project Bridge Financing Revolving Fund are to be deposited into the General Fund.

The bill requires that the authority recommend to the Governor and the Legislature an amount for appropriation, which amount is necessary for the administration of the Redevelopment Project Bridge Financing Program.

Aspire Program Tax Credit Redemption

The bill requires the Department of the Treasury to redeem unused tax credits, as the department deems necessary. The bill authorizes the department to purchase such certificates at a discount of their face value, which discount may not exceed 10 percent. The tax credit redemptions are to be paid in the same manner as tax refunds, except that the proceeds of the redemption may be issued over one or more tax periods, but not to exceed the eligibility period.

Changes to Corporate Business Tax and Gross Income Tax

The bill amends current law to exclude gains from the transfer of tax credits issued pursuant to the “New Jersey Economic Recovery Act of 2020” from the calculation of “entire net income” under the New Jersey Corporate Business Tax and “gross income” under the New Jersey Gross Income Tax.

This bill was pre-filed for introduction in the 2024-2025 session pending technical review. As reported, the bill includes the changes required by technical review, which has been performed.

COMMITTEE AMENDMENTS:

The committee amended the bill to:

(1) provide that an industrial space that is predominantly used for warehouse distribution or fulfillment centers is required to have at least \$10 million in environmental remediation costs to qualify as a “commercial project”;

(2) provide that if the developer of a redevelopment project commenced demolition and site remediation activities at the project site before submitting an application for the Aspire Program, the developer is required to have paid all construction workers engaged in such work at the prevailing wage rate;

(3) require a developer to confirm that each contractor or subcontractor performing work on the project has not been debarred, suspended, or disqualified by the Department of Labor and Workforce Development from engaging in or bidding on Public Works Contracts in the State or by a federal agency from engaging in federally-funded construction projects or bidding on federal contracting opportunities;

(4) permit a developer to meet the local first source hiring requirements to obtain a tax credit enhancement by hiring residents in the municipality or county in which the project is located and in surrounding municipalities, as appropriate;

(5) require that a parking component be constructed in agreement with local zoning, planning, or similar requirements, or up to the amount required by the Residential Site Improvement Standards, regardless of whether the Residential Site Improvement Standards apply to the parking component, in order to be included in the calculation of the total square footage of the project;

(6) revise the criteria for certain residential projects, which contain fewer than 700 new residential units, to qualify as a transformative project;

(7) provide that the developer of a transformative project is eligible for the same tax credit enhancements as the bill provides for the developer of a redevelopment project;

(8) require a developer who receives financial assistance under the Redevelopment Project Bridge Financing Program to pay each worker employed to perform construction work on the redevelopment project the prevailing wage rate for the worker's craft or trade; and

(9) provide technical changes to the bill.

ASSEMBLY APPROPRIATIONS COMMITTEE

STATEMENT TO

[First Reprint]

ASSEMBLY, No. 2076

with committee amendments

STATE OF NEW JERSEY

DATED: JUNE 24, 2024

The Assembly Appropriations Committee reports favorably and with committee amendments Assembly Bill No. 2076 (1R).

As amended and reported, this bill amends and supplements the “New Jersey Aspire Program Act” (Aspire Program) and provides for certain related changes to the New Jersey Gross Income Tax and Corporation Business Tax. The bill also establishes the “Redevelopment Project Bridge Financing Program,” as part of the Aspire Program, to offer additional financial assistance for redevelopment projects that have an outstanding project financing gap.

Aspire Program Definitions

The bill revises the definition of “aviation district” to include the Trenton-Mercer Airport and the area within a one-mile radius of the outermost boundary of the airport’s terminal. The bill amends the definition of an “incentive area” to include an endorsed plan and removes certain transportation connectivity requirements that exist under current law. The bill defines a “mixed-use project” as a redevelopment project that includes a residential component and a nonresidential component.

The bill clarifies that the definition of the term “project cost” also applies to the term “eligible project cost.” The bill provides that for a redevelopment project that is located in a government restricted municipality, the calculation of “project cost” or “eligible project cost” also includes land costs, capped at no more than 20 percent of the total project cost; building acquisition costs; carrying costs and interest expenses on construction loans and other financing up to project completion; professional services; environmental remediation; and infrastructure improvements.

This bill modifies the definition of “project financing gap” to provide that all other sources of capital to have been accounted for prior to the calculation of the project financing gap includes developer contributed capital equal to 20 percent of the “project cost,” at minimum. Under current law, this provision includes developer contributed capital equal to 20 percent of the “total project cost,” at

minimum. Similarly, the bill revises the provision requiring a lower minimum, 10 percent of the “total project cost” for a project located in a government-restricted municipality, instead to require 10 percent of the “project cost.”

The bill defines the term “special mission non-profit project” to mean a project located in a government-restricted municipality or in an enhanced area that: serves a special mission, as determined by the New Jersey Economic Development Authority (authority), to accomplish the public purpose of a non-profit that is a developer of or is affiliated with the project; and includes no more than 100 units of 100 percent affordable housing units and no more than 10,000 square feet of commercial space.

The bill defines the term “stranded asset” to mean any building previously used for commercial, retail, office space, manufacturing, or industrial purposes, which building is no longer used for such purposes, and which has been abandoned, experienced significant vacancies for at least two consecutive years, or has fallen into such disrepair as to be untenable. The term includes vacant land that has been left fallow for at least two consecutive years because of environmental contamination.

The bill defines “targeted industry” to mean any industry identified from time to time by the authority, which industry shall initially include advanced transportation and logistics, advanced manufacturing, aviation, autonomous vehicle and zero-emission vehicle research or development, clean energy, life sciences, hemp processing, information and high technology, finance and insurance, professional services, film and digital media, non-retail food and beverage businesses including food innovation, and other innovative industries that disrupt current technologies or business models.

Aspire Program Changes Concerning Residential Projects

The bill provides that the authority’s housing affordability controls are to be consistent with those in the “Fair Housing Act,” except not including the bedroom distribution requirements for three-bedroom housing units.

The bill provides that, in addition to the exemption for certain commercial tenants, commercial subtenants, or other commercial occupants with rights in a redevelopment project, any residential tenant of a redevelopment project is also exempt from the requirement to pay the prevailing wage rate for each worker’s craft or trade when that worker is employed to perform building services work at the redevelopment project.

Sale of Buildings Under the Aspire Program

A developer is permitted, under the bill, to sell one or more buildings during the eligibility period if the sale is an arms-length sale, or is for an amount at least equal to fair market value, and is subject to

the purchaser's assumption of all obligations under the Aspire Program.

Aspire Program Community Benefit Requirement

The bill amends current law to exempt the developers of certain projects from the requirements of a community benefits agreement once the host municipality certifies the approval letter or adopts the redevelopment agreement at a public meeting, which documents are required to state that the community benefit under a community benefits agreement has been met.

The bill amends current law to require, retaining the exception for a residential project located in a government-restricted municipality in which 100 percent of residential units constructed are reserved for low- and moderate-income households, that a redevelopment project whose "project cost" equals or exceeds \$10 million enter a community benefits agreement in addition to the incentive award agreement. Under current law, the \$10 million threshold for this requirement refers to "total project cost."

Aspire Program Occupancy Requirement

Beginning after the third year following the date of issuance of a final certificate of occupancy for a commercial project and through the eligibility period, the developer and any co-applicant are required to maintain at least 60 percent occupancy or to forfeit all tax credits for the tax period in which occupancy falls below this minimum requirement. Tax credits are allowed in full upon restoration of 60 percent or greater occupancy. Occupancy is to be measured by the average occupancy rate during the relevant tax period. Residential projects are exempt from this requirement.

Eligibility for Aspire Program

Among other conditions of eligibility under current law, a developer may qualify for an incentive award if the developer has not commenced any construction at the site for the redevelopment project prior to applying for the Aspire Program, with certain exceptions. The bill adds a condition that if demolition and site remediation activities were commenced prior to submitting an application that includes those demolition and site remediation costs as part of the eligible project cost, the developer is required to have paid all construction workers engaged in such work at the prevailing wage rate for their respective crafts or trades.

Under the bill, a developer is required to contribute capital of at least 20 percent of the "project cost," except that this requirement is reduced to 10 percent of the "project cost" for a project located in a government-restricted municipality. The bill amends this requirement under current law, which instead requires developer capital of each respective percentage of "total project cost."

Incentive Award Agreement

Under current law, an incentive award agreement is to include a requirement that the developer confirm that each contractor or subcontractor performing work on the project has not been debarred by the Department of Labor and Workforce Development from engaging in or bidding on Public Works Contracts in the State. The bill adds to this requirement that the developer is required to confirm that each contractor or subcontractor performing work on the project is also not suspended or disqualified from the same activity. The bill further requires that a developer confirm that each contractor or subcontractor performing work on the project is not debarred, suspended, or disqualified by a federal agency from engaging in federally-funded construction projects or bidding on federal contracting opportunities.

Eligibility Period Under Aspire Program

The bill reduces the maximum duration of an eligibility period for a commercial project and mixed-use project to 10 years. Under current law, the maximum duration of an eligibility period for a commercial or mixed-use project is 15 years, and for a residential project is 10 years. The bill adds that the authority is required to reduce the eligibility period if this reduction would reduce the total value of tax credits needed to reimburse a developer for all or part of the project financing gap, enhance access to tax credit monetization, or otherwise enhance the effectiveness of the Aspire Program.

The bill provides that all conditions and requirements applicable during the eligibility period of a transformative project apply to each phase of the transformative project until the end of the eligibility period of each completed phase, rather than to the entire transformative project until the end of the eligibility period for the last phase.

Total Tax Credit Eligibility Under Aspire Program

The bill increases the amount of tax credits that may be awarded to a developer in certain circumstances. Specifically, the bill provides that a developer may be allowed each of the following enhancements to the developer's total tax credit award: (1) for a redevelopment project that includes redevelopment of a stranded asset, an increase of up to 10 percent of the project cost; (2) for a residential project meeting the three-bedroom distribution requirements of the Uniform Housing Affordability Controls, an increase of up to five percent of the project cost; or (3) for a redevelopment project meeting local first source hiring requirements for residents in the municipality or county in which the project is located and in surrounding municipalities, as appropriate, an increase of up to three percent of the project cost.

The bill provides that the maximum total tax credit allowed to a developer is to be the equivalent of a percentage of "eligible project cost," instead of "total project cost" as under current law. The

developer of a special mission non-profit project may be allowed a tax credit that is equal in value to no more than 80 percent of the eligible project cost and that is no more than \$120 million.

However, except for any redevelopment project that is located in a government restricted municipality, the bill limits a developer's total tax credits awarded under the Aspire Program, together with any program administered by the authority for a redevelopment project, to: 90 percent of the project cost for redevelopment projects that receive tax credits under the federal Low-Income Housing Tax Credit Program; and 80 percent of the project cost for all other redevelopment projects.

Aspire Program Tax Credit Carry Forward and Transfer

Under current law, a developer is required to apply tax credits during the tax periods approved by the authority. This bill authorizes a developer to apply tax credits in the tax period for which it was issued, in the tax period in which it was issued, or in any successive tax period, subject to certain conditions. The bill requires the authority to preliminarily determine whether an annual report is complete and to, within 90 days after preliminarily determining that the annual report is complete, either (1) approve the annual report, authorizing the issuance of a tax credit certificate and notifying the Director of the Division of Taxation in the Department of the Treasury (director) that a certificate is to be issued or (2) request more information from the developer. If the authority does not act within 90 days of its preliminary determination that an annual report is complete, the report is to be deemed approved and the developer is entitled to receive the tax credit certificate.

Similarly, under current law, a developer is authorized to transfer the tax credits. The bill changes when a transferee is authorized to use the tax credits. Under the bill, a transferee is authorized to use the tax credits in the tax period for which it was issued, in the tax period in which it was issued, or in any successive tax period, subject to certain conditions. The bill requires the authority to preliminarily determine whether an application for a tax credit transfer certificate is complete and to, within 90 days after preliminarily determining that an application is complete, either (1) approve the application, authorizing the issuance of a tax credit transfer certificate and notifying the director that a certificate is to be issued or (2) request more information from the developer. If the authority does not act within 90 days of its preliminary determination that an application is complete, the application is to be deemed approved and the developer is entitled to receive the tax credit transfer certificate.

Under the bill, a tax credit transfer certificate authorizes the holder of a tax credit certificate to transfer all or part of the tax credit amount at any time after the date of receipt of the tax credit certificate, subject to certain conditions.

The bill prohibits the proration of the tax credit for any year within the eligibility period of certain residential projects.

Transformative Projects Under Aspire Program

This bill amends current requirements for certain transformative projects. Under current law, a residential project with fewer than 700 new residential units is required to include the construction of: (1) not less than 200 new residential units if the project is located in a government-restricted municipality, 300 residential units if the project is located in an enhanced area, or 400 residential units for all other mixed-use projects; and (2) 50,000 square feet or more of commercial space to qualify as a transformative project. Under this bill, such residential projects are required to include the construction of at least 200 new residential units if the project is located in a government-restricted municipality, 300 new residential units if the project is located in an enhanced area, or 400 new residential units for all other mixed-use projects. However, if the residential project is not located in a government-restricted municipality or an enhanced area, construction is to include 20,000 square feet or more of commercial space, which may include retail space.

The bill provides that a developer may be allowed each of the following enhancements to the developer's total tax credit award, individually or in combination, subject to the demonstration of a project financing gap and the need for support: (1) for a transformative project that includes redevelopment of a stranded asset, an increase of up to 10 percent of the project cost; (2) for a residential transformative project meeting the three-bedroom distribution requirements of the Uniform Housing Affordability Controls, an increase of up to five percent of the project cost; or (3) for a transformative project meeting local first source hiring requirements for residents in the municipality or county in which the project is located and in surrounding municipalities, as appropriate, an increase of up to three percent of the project cost.

The bill provides that the maximum total tax credit allowed to a developer of a transformative project is to be the equivalent of a percentage of "eligible project cost," instead of "total project cost" as under current law.

Aspire Program Fees

The bill requires that the fees charged by the authority under the Aspire Program be proportional to the tax credit amount awarded for a redevelopment project. The authority is required to promulgate a schedule of fees that are limited to coverage of actual direct costs of administering the Aspire Program, coverage of reasonable indirect costs of administering the Aspire Program, and maintenance of reasonable reserves for administering the Aspire Program.

The bill provides that any application submitted or approved after January 1, 2023 is subject to the new requirements provided for in the bill, except for the fees imposed on applications that were submitted prior to the bill's effective date.

Redevelopment Project Bridge Financing Program Under Aspire Program

The bill provides for the establishment of a "Redevelopment Project Bridge Financing Program" (program) for the purpose of offering loans or loan guarantees, at the discretion of the authority, to the developers of redevelopment projects that have an outstanding project financing gap. The purpose of the program is to offer additional financing to the developer of a redevelopment project, prior to the issuance of tax credits under the Aspire Program, to ensure the completion of the project.

To apply for a loan under the program, the developer is required to submit to the authority a proposed loan and interest amount, a repayment plan, an accounting of the remaining project financing gap, and any other information the authority requires. To apply for a loan guarantee, the developer is required to submit to the authority a proposed loan guarantee amount and terms, an accounting of the remaining project gap, and any other information the authority requires. As a condition of requiring a loan or loan guarantee, the bill requires each worker employed to perform construction work on the redevelopment project to be paid not less than the prevailing wage rate for the worker's craft or trade.

The bill authorizes the authority to issue loans and loan guarantees using a "Redevelopment Project Bridge Financing Revolving Fund," into which all monies received from loan repayments are to be deposited. All monies received in the fund are to support the program until such time as the authority determines there remains no need for bridge financing, or until December 31, 2028, whichever occurs first, at which point the monies in the Redevelopment Project Bridge Financing Revolving Fund are to be deposited into the General Fund.

The bill requires that the authority recommend to the Governor and the Legislature an amount for appropriation, which amount is necessary for the administration of the program.

Aspire Program Tax Credit Redemption

The bill requires the Department of the Treasury to redeem unused tax credits surrendered for redemption for a cash payment equal to 90 percent of the amount of tax credits evidenced by the tax credit certificate or tax credit transfer certificate, provided that the issuance date of the certificate to the taxpayer surrendering the certificate occurred at least one year before the date of surrender and the certificate has not been sold or assigned previously. The tax credit redemptions are to be paid in the same manner as tax refunds.

Changes to Corporate Business Tax and Gross Income Tax

The bill amends current law to exclude gains from the transfer of tax credits issued pursuant to the “New Jersey Economic Recovery Act of 2020” from the calculation of “entire net income” under the New Jersey Corporate Business Tax and “gross income” under the New Jersey Gross Income Tax.

COMMITTEE AMENDMENTS:

The committee amended the bill to:

- (1) revise the definitions of “aviation district” and “stranded asset”;
- (2) remove a provision that would have revised the definition of a “commercial project” to include industrial space that is predominantly used for warehouse distribution or fulfillment centers and has at least \$10 million in environmental remediation costs;
- (3) revise the definition of “project cost” and provide that the definition of the term “project cost” also applies to the term “eligible project cost” and revise the definition of “project cost” for a redevelopment project located in a government restricted municipality, which costs are also to include land costs, capped at no more than 20 percent of the total project costs, and carrying costs and interest expenses on construction loans and other financing up to project completion;
- (4) change certain references to the term “project cost” to “total project cost”;
- (5) provide that beginning after the third year following the date of issuance of a final certificate of occupancy for a commercial project and through the conclusion of the eligibility period, certain tax credits may be forfeited if certain conditions are not met. As introduced, this provision applied beginning on the third year following the date of issuance of a final certificate of occupancy for a commercial project;
- (6) add definitions for the terms “special mission non-profit project” and “targeted industry”;
- (7) remove a provision that would have amended current law so that the definition for “total project cost” instead would have applied to the term “total development cost” or “total redevelopment cost”;
- (8) provide that if demolition and site remediation activities were commenced prior to submission of an application that includes those demolition and site remediation costs as part of the eligible project cost, the developer is required to have paid all construction workers engaged in such work at the prevailing wage rate for their respective crafts or trades;
- (9) amend the requirement that a developer contribute capital of at least 20 percent of the “total project cost,” except that this requirement is reduced to 10 percent of the “total project cost” for a project located in a government-restricted municipality, instead requiring each respective percentage of the “project cost” as defined in the bill;

(10) require the authority to reduce the eligibility period if this reduction would reduce the total value of tax credits needed to reimburse a developer for all or part of the project financing gap, enhance access to tax credit monetization, or otherwise enhance the effectiveness of the Aspire Program, rather than to consider reducing the eligibility period;

(11) require that certain redevelopment projects with at least a \$10 million “project cost,” instead of a “total project cost” as under current law, enter into a community benefits agreement;

(12) provide that the maximum total tax credit allowed to a developer is to be the equivalent of a percentage of “eligible project cost,” instead of “total project cost” as under current law;

(13) limit the value of tax credits awarded to the developer of a special mission non-profit project to a maximum of 80 percent of the eligible project cost, not to exceed the value of \$120 million;

(14) require the authority to preliminarily determine whether an annual report is complete and to, within 90 days after preliminarily determining that the annual report is complete, either (a) approve the report, authorizing the issuance of a tax credit certificate and notifying the director that a certificate is to be issued or (b) request more information from the developer. If the authority does not act within 90 days from its preliminary determination that an annual report is complete, the report is to be deemed approved and the developer is entitled to receive the tax credit certificate;

(15) require the authority to preliminarily determine whether an application for a tax credit transfer certificate is complete and to, within 90 days after preliminarily determining that the application is complete, either (a) approve the application, authorizing the issuance of a tax credit transfer certificate and notifying the director that a certificate is to be issued or (b) request more information from the developer. If the authority does not act within 90 days from its preliminary determination that an application is complete, the application is to be deemed approved and the developer is entitled to receive the tax credit transfer certificate;

(16) remove provisions from the bill that would have authorized the use or transfer of tax credits within the three successive tax periods immediately following that in which the tax credit certificate is received by the developer;

(17) authorize a developer to use a tax credit in the tax period for which it was issued, in the tax period in which it was issued, or in any successive tax period, subject to the carry-forward provision of current law;

(18) authorize a transferee to use a tax credit in the tax period for which it was issued, in the tax period in which it was issued, or in any successive tax period, with a carry-forward provision for the use of unused credits in any of the next five successive tax periods;

(19) provide that no more than the amount of tax credits equal to the total credit amount divided by the duration of the tax credit term, in years, may be taken in any tax period;

(20) provide that the holder of a tax credit certificate may transfer all or part of the tax credit amount at any time after the date of receipt of the tax credit certificate, subject to certain conditions;

(21) require that a residential project, not located in a government-restricted municipality or an enhanced area, that contains fewer than 700 new residential units include 20,000 square feet or more of commercial space, which may include retail space;

(22) provide that the conditions and requirements applicable during an eligibility period are to apply to each phase of a transformative project until the end of the eligibility period of each completed phase, rather than to the entire transformative project until the end of the eligibility period for the last phase;

(23) remove a provision that would have provided for a parking component of a transformative project to be included in the calculation of total square footage of a project, under certain conditions;

(24) provide that applications submitted to or approved by the authority after January 1, 2023 are subject to the bill's provisions, except that applications submitted prior to the bill's effective date are subject to the same fees as were in effect immediately prior to the bill's effective date;

(25) prohibit proration of tax credit for any year within an eligibility period for certain residential projects;

(26) require the Department of the Treasury to redeem credits surrendered by a developer, rather than require the department to redeem such tax credits at such times as the department deems necessary;

(27) remove a provision that would have required tax credit redemption at such discounts as the State Treasurer deems appropriate but not to exceed 10 percent of the face value of tax credits. Instead, the bill requires that redemption be for a cash payment equal to 90 percent of the amount of tax credits evidenced by the certificate, provided that the issuance date of the certificate to the taxpayer surrendering the certificate occurred at least one year before the date of surrender and the certificate has not been sold or assigned previously;

(28) provide for a process by which a developer may surrender tax credits for redemption;

(29) remove a provision that allows the proceeds of the tax credit redemption to be issued over one or more tax periods, but not to exceed the applicable eligibility period;

(30) provide that the developer of a transformative project is eligible for certain enhancements to the total tax credit award,

individually or in combination, subject to the demonstration of a project financing gap and need for support; and

(31) make technical changes to the bill.

FISCAL IMPACT:

The Office of Legislative Services (OLS) concludes that the bill could result in annual increases in State expenditures and revenues associated with the authorization for the Department of the Treasury to purchase unused tax credits issued under the New Jersey Aspire Program at a discount.

The OLS also anticipates a reduction in State revenue collected under the New Jersey Gross Income Tax and the New Jersey Corporation Business Tax due to the income exclusion provided in the bill for any gain or income derived from the transfer of tax credits issued pursuant to the New Jersey Economic Recovery Act of 2020.

Additionally, the OLS concludes that the bill would result in annual expenditure and revenue increases for the New Jersey Economic Development Authority to create and administer the Redevelopment Project Bridge Financing Program.

ASSEMBLY APPROPRIATIONS COMMITTEE

STATEMENT TO

[Second Reprint]

ASSEMBLY, No. 2076

with committee amendments

STATE OF NEW JERSEY

DATED: DECEMBER 16, 2024

The Assembly Appropriations Committee reports favorably and with committee amendments Assembly Bill No. 2076 (2R).

As amended and reported, this bill amends and supplements the “New Jersey Aspire Program Act” (Aspire Program) and revises certain provisions concerning the surrender of tax credits issued under the “New Jersey Economic Recovery Act of 2020.”

Aspire Program Definitions

The bill revises the definition of “aviation district” to include the Trenton-Mercer Airport and the area within a one-mile radius of the outermost boundary of the airport’s terminal. The bill provides that the term “commercial project” includes any industrial space that is predominantly used for warehouse distribution or fulfillment centers if the eligible project cost includes at least \$10,000,000 in environmental remediation costs.

The bill reduces the maximum eligibility period for all redevelopment projects to 10 years, as specified in an incentive award agreement, provided that a developer may elect a period not to exceed five years for a project in a government-restricted municipality or for a special mission non-profit project. The bill also allows the New Jersey Economic Development Authority (authority) to approve, in its discretion, an eligibility period that is shorter than the applicable maximum period.

The bill amends the term “government-restricted municipality” to include any municipality that: has a population greater than 50,000 and less than 60,000 according to the latest federal decennial census, is designated as the county seat of a county of the second class with a population greater than 800,000 according to the latest federal decennial census, and has a Municipal Revitalization Index (MRI) distress score of 62.1 (e.g., New Brunswick); has a population greater than 70,000 and less than 100,000 according to the latest federal decennial census, is designated as the county seat of a county of the second class with a population greater than 515,000 and less than 525,000 according to the latest federal decennial census, and has an

MRI distress score of 100 (e.g., Camden); or contains the intersection of Interstate 280 and the Garden State Parkway, and corresponding land areas occupied by such highways under the ownership or control of the federal government of the United States or of this State within its municipal boundary, and has an MRI distress score of 55.5 (e.g., East Orange).

The bill defines “MRI distress score” to mean a municipal revitalization index distress score, as documented in the 2023 Municipal Revitalization Index developed by the Department of Community Affairs.

The bill clarifies that the definition of the term “project cost” also applies to the term “eligible project cost.” The bill provides that for a redevelopment project that is located in a government-restricted municipality, the calculation of “project cost” or “eligible project cost” also includes land costs, capped at no more than 20 percent of the eligible project cost.

The bill defines the term “special mission non-profit project” to mean a project located in a government-restricted municipality or in an enhanced area that: serves a special mission, as determined by the authority, to accomplish the public purpose of a non-profit that is a developer of or is affiliated with the project; and includes no more than 100 units of 100 percent supportive housing units for tenants requiring special needs or supportive services, and no more than 25,000 square feet of commercial space for the provision of on-site social service programs that require a license from the Department of Children and Families as a licensed child care center. The bill exempts special mission non-profit projects from the net benefit test requirement, affordable housing requirements, and the requirement to provide a market study as part of an application to the authority. The bill also provides that a special mission non-profit project is not required to be located in an incentive area in order to qualify for an incentive award.

Exemption from Prevailing Wage Requirements

The bill provides that the residential tenants or residential subtenants of a redevelopment project are exempt from the prevailing wage requirements for building service workers. This requirement applies to developers, commercial tenants, commercial subtenants, and other commercial occupants who hold certain leasehold interests or other occupancy rights in a redevelopment project.

Occupancy Requirements for Commercial Projects

The bill provides that, beginning on the fourth year of the eligibility period for a commercial project, and through the conclusion of the eligibility period, if the average occupancy rate of a commercial project is less than 60 percent during any applicable tax period, the developer and any co-applicant is required to forfeit all tax credits until the average occupant rate has reached or surpassed 60 percent.

Under the bill, occupancy is required to be measured by the average of the monthly occupancy during the relevant tax period. Residential projects are exempt from this requirement.

Sale of Buildings Under the Aspire Program

Under the bill, a developer is permitted to sell one or more buildings during the eligibility period, subject to such rules and regulations as may be adopted by the authority.

Aspire Program Community Benefit Agreements

Current law provides that the developers of certain redevelopment projects with project costs not less than \$10 million are required to enter a community benefits agreement. However, there is an exception to this requirement for a residential project located in a government-restricted municipality in which 100 percent of residential units constructed are reserved for low- and moderate-income households. The bill provides that special mission non-profit projects are also exempt from this requirement.

Additionally, the bill provides that the county or municipality in which a development project is located is required to hold at least one previously advertised public hearing at which testimony from residents, community groups, and other stakeholders is required to have an opportunity to be heard on the needs of the community that a community benefits agreement should address. Furthermore, the bill requires the inclusion of the minutes of the meeting in the resolution of the governing body of the municipality or county adopting the community benefits agreement. The bill also requires the developer and the municipality or county to submit the executed community benefits agreement, redevelopment agreement, or approved resolution to the authority within the same time as all other conditions subsequent required in the approval letter.

Incentive Award Agreement

Under current law, an incentive award agreement is required to include a requirement that the developer confirm that each contractor or subcontractor performing work at the redevelopment project has not been debarred by the Department of Labor and Workforce Development from engaging in or bidding on Public Works Contracts in the State. The bill adds to this requirement that the developer is required to confirm that each contractor or subcontractor performing work on the project is also not suspended or disqualified from the same activity. The bill further requires that a developer confirm that each contractor or subcontractor performing work at the project is not debarred, suspended, or disqualified by a federal agency from engaging in federally-funded construction projects or bidding on federal contracting opportunities.

Transformative Projects Under Aspire Program

This bill amends current requirements for certain transformative projects. Under current law, a residential project with fewer than 700 new residential units is required to include the construction of not less than: (1) 200 new residential units if the project is located in a government-restricted municipality, 300 residential units if the project is located in an enhanced area, or 400 residential units for all other mixed-use projects; and (2) 50,000 square feet of commercial space to qualify as a transformative project.

Under this bill, a residential project is required to include 700 or more new residential units to qualify as a transformative project. Additionally, a mixed-use residential project with fewer than 700 residential units is required to include the following elements to qualify as a transformative project: (1) the construction of at least 200 new residential units if the project is located in a government-restricted municipality, at least 300 new residential units if the project is located in an enhanced area, or at least 400 new residential units for all other mixed-use projects; and (2) the construction of 30,000 square feet or more of commercial space, which may include retail space.

Calculation of Tax Credit Amount

The bill increases the amount of tax credits that may be awarded to redevelopment projects, including transformative projects, that are located in certain government-restricted municipalities. Under current law, a project located in a government-restricted municipality is allowed a total tax credit award not to exceed 80 percent of the total project costs. Under the bill, any project that is located in a municipality, which qualified as government-restricted municipality before the enactment of this bill, is allowed a total tax credit award not to exceed 85 percent of the eligible project costs. Any project that is located in a municipality, which newly qualifies as government-restricted municipality under this bill, is allowed a total tax credit award not to exceed 80 percent of the eligible project costs.

The bill provides that a special mission non-profit project is allowed a total tax credit award not to exceed 85 percent of the eligible project costs, up to \$120 million. The bill also specifies that all tax credit awards are to be based on a designated percentage of the eligible project costs of the project.

The bill also prohibits the authority from resizing or reducing the tax credit at project completion based on the executed financing commitments or the updated projected cash flow. However, the authority is required to use the commitments and cash flow to calculate the return on investment required under the program.

Evaluation of Rate of Return on Investment

The bill requires the authority to evaluate the developer's rate of return on investment and compare that rate of return on investment

to the reasonable and appropriate rate of return at the time of board approval both at project certification and at the end of the seventh year of the eligibility period. However, when the eligibility period of a project is less than 10 years, the bill allows the authority to adjust the time in which this evaluation is made. The bill also prohibits the authority from reducing or recapturing any tax credits at project certification or at the end of the seventh year of the eligibility period solely due to an increase to the return on investment.

Under current law, if the actual rate of return on investment exceeds the reasonable and appropriate rate of return on investment at the time of board approval by more than 15 percent, the authority is to require the developer to pay up to 20 percent of the amount in excess of the reasonable and appropriate rate of return on investment. However, under the bill, a developer is required to pay 50 percent of the amount in excess of the reasonable and appropriate rate of return on investment if a tax credit certificate or tax credit transfer certificate is surrendered for redemption, as provided in the bill, after the sixth year of the eligibility period. For any year during the eligibility period in which the director purchases a tax credit certificate or tax credit transfer certificate issued for a redevelopment project, the bill provides that the developer is instead required to make a payment if the actual rate of return on investment exceeds the reasonable and appropriate rate of return on investment at the time of board approval by more than 10 percent.

The bill provides that for any payment amount calculated at project certification, the developer is required to make equal annual payments, which in aggregate equal the calculated payment amount, with each annual report for the first seven years of the eligibility period. At the end of the seventh year of the eligibility period, the developer is required to pay the authority any additional amount required. When the eligibility period of a project is less than 10 years, the bill allows the authority to adjust the time in which these contributions may be required.

Condition for Receiving Tax Credits

Under current law, the developer of a redevelopment project may not apply tax credits during any year of the eligibility period until after the authority has reviewed a report submitted by the developer and issued a certificate of compliance to the developer. The bill provides that the authority is not permitted to require a developer to include a permanent certificate of occupancy in the first annual report submitted by the developer. Instead, the bill provides that the developer is required to include the permanent certificate of occupancy in the next annual report after it is received.

Additionally, the bill provides that, subject to forfeiture, reduction, or other action for failure to comply with a program requirement, within 120 days after the authority preliminarily determines whether

the annual report submitted by the developer is complete, the authority is required to either: (1) approve the annual report, authorizing the issuance of a tax credit certificate or tax credit transfer certificate and notifying the Director of the Division of Taxation in the Department of the Treasury (director) that a tax credit certificate is to be issued; or (2) request more information from the developer. If the authority does not act within 120 days of its preliminary determination that an annual report is complete, the report is to be deemed approved and the developer is entitled to receive the tax credit certificate.

Application of Tax Credits

Under current law, a developer is required to apply tax credits during the tax periods approved by the authority. This bill authorizes a developer to apply tax credits in the tax period for which it was issued, in the tax period in which it was issued, or in any successive tax period in the eligibility period, without the need to amend the tax return for the tax period for which the credit was issued. The bill also limits the amount of tax credits that may be claimed in any tax period to the total tax credit amount, divided by the duration of the tax credit term, in years.

Under the bill, the holder of a tax credit certificate may transfer all or part of the tax credit amount on or after the date of issuance of the tax credit transfer certificate, for use by the transferee in the tax period for which it was issued, in the tax period in which it was issued, or in any of the next three successive tax periods. The tax certificate holder or transferee may first use the credit against tax liabilities in the tax period in which it was issued or in a succeeding tax period without the need to amend the tax return for the tax period for which the credit was issued.

State Purchase of Tax Credits

Under current law, the director is permitted to purchase unused tax credits awarded under the Aspire Program, including tax credit transfer certificates, in an amount not to exceed 75 percent of the tax credit amount. This bill authorizes the director to purchase tax credit certificates and tax credit transfer certificates issued under the Aspire Program for an amount equal to 85 percent of the credit amount, provided that: (1) the issuance date of the certificate occurred at least one year prior to the date of application to the director; and (2) if the application is submitted after the sixth year of the eligibility period, the amount in excess of the reasonable and appropriate rate of return on investment that the developer is required to is increased to 50 percent.

In addition, the bill authorizes the director to purchase unused tax credits, including tax credit transfer certificates, awarded under the “Cultural Arts Incentives Program Act” for an amount equal to 85 percent of the credit amount, provided that the issuance date of the tax credit certificate or tax credit transfer certificate to the developer or

holder occurred at least one year prior to the date of application to the director.

Previously Approved Projects

Under the bill, any redevelopment project approved under the Aspire Program after the effective date of P.L.2020, c.156 (i.e., January 7, 2021) is subject to the following provisions of the bill: (1) the average occupancy rate requirements of commercial projects; (2) any lower fees promulgated by the authority on or after this bill's effective date, except that such lower fees do not apply to any fees already paid to the authority; (3) the requirements concerning the execution of community benefits agreements; (4) the requirements concerning the authority's review of annual reports submitted by developers; (5) the requirements related to the entrance and review of incentive award agreements; and (6) any other terms and conditions of an incentive award that the authority determines will make the administration of the program consistent with the provisions of the program, as amended and supplemented this bill, provided that terms and conditions may not have a materially adverse impact on a project approved before the enactment of this bill.

The bill also provides that any project approved by the authority after the effective date of P.L.2020, c.156 may not be subject to any proration of tax credits for any year of the eligibility period.

COMMITTEE AMENDMENTS:

The committee amended the bill to:

(1) remove "an Endorsed Plan" from the list of areas that may qualify as an "incentive area" under the bill. The bill would have added this term to the list of areas in the definition of "incentive area";

(2) remove the definitions of "mixed-use project," "stranded asset," and "targeted industry" that the bill would have added to current law;

(3) provide that the term "commercial project" also includes any industrial space that is predominantly used for warehouse distribution or fulfillment centers if the eligible project cost includes at least \$10,000,000 in environmental remediation costs;

(4) reduce the maximum eligibility period for all redevelopment projects to 10 years, as specified in an incentive award agreement, provided that a developer may elect a period not to exceed five years for a project in a government-restricted municipality or for a special mission non-profit project. The amendments also allow the authority to approve, in its discretion, an eligibility period that is shorter than the applicable maximum period, rather than require the authority to reduce the eligibility period under certain circumstances, as previously provided in the bill;

(5) expand the definition of the term "government-restricted municipality" to include any municipality that: (i) has a population

greater than 50,000 and less than 60,000 according to the latest federal decennial census, is designated as the county seat of a county of the second class with a population greater than 800,000 according to the latest federal decennial census, and has an MRI distress score of 62.1; (ii) has a population greater than 70,000 and less than 100,000 according to the latest federal decennial census, is designated as the county seat of a county of the second class with a population greater than 515,000 and less than 525,000 according to the latest federal decennial census, and has an MRI distress score of 100; or (iii) contains the intersection of Interstate 280 and the Garden State Parkway, and corresponding land areas occupied by such highways under the ownership or control of the federal government of the United States or of this State within its municipal boundary, and has an MRI distress score of 55.5;

(6) add a definition for “MRI distress score”;

(7) provide that for a development project located in a government-restricted municipality, “eligible project cost” also includes land costs in an amount up to 20 percent of the eligible project cost. Previously, the bill would have allowed various other costs to be included for these projects;

(8) change the definition of a “special mission non-profit project” to require the inclusion of up to 100 units of 100 percent supportive housing units for tenants requiring special needs or social services, which social services may include licensed social workers, and no more than 25,000 square feet of commercial space within the project for the provision of on-site social service programs that require a license from the Department of Children and Families as a licensed child care center. Previously, the bill would have required these types of projects to include 100 units of 100 percent affordable housing and would have limited commercial space to 10,000 square feet within the project;

(9) exempt special mission non-profit projects from the net benefit test requirement, affordable housing requirements, and the requirement to provide a market study as part of an application to the authority;

(10) provide that a special mission non-profit project is not required to be located in an incentive area in order to qualify for an incentive award;

(11) clarify references to “project cost,” “eligible project cost,” and “total project cost” throughout the bill;

(12) remove an exception from bedroom distribution requirements, which the bill would have provided with respect to affordability controls on residential units constructed for occupancy by low- and moderate-income households under the program;

(13) remove certain provisions of the bill related to the requirement to pay prevailing wage for certain construction workers. The amendments also clarify that the residential tenants or residential subtenants of a redevelopment project are not subject to the prevailing

wage requirements applied to commercial tenants, commercial subtenants, or other commercial occupants who hold certain leasehold interests or other occupancy rights in a redevelopment project;

(14) clarify that the average occupancy rate requirements apply beginning on the fourth year of the eligibility period, rather than beginning after the third year following the date of issuance of a final certificate of occupancy for a commercial project;

(15) permit a developer to sell one or more buildings during the eligibility period, subject to such rules and regulations as may be adopted by the authority, rather than subject to additional provisions previously included in the bill;

(16) prohibit the authority from resizing or reducing the tax credit at project completion based on the executed financing commitments or the updated projected cash flow, except that the authority is required to use the commitments and cash flow to calculate the return on investment required under the program;

(17) require the authority to evaluate the developer's rate of return on investment and compare that rate of return on investment to the reasonable and appropriate rate of return at the time of board approval at project certification, in addition to at the end of the seventh year of the eligibility period, as required under current law;

(18) provide that, for any year during the eligibility period in which the director purchases a tax credit certificate or tax credit transfer pursuant to the provisions of the bill, the developer is required to make a payment to the authority, if the actual rate of return on investment exceeds the reasonable and appropriate rate of return on investment at the time of board approval by more than 10 percent. The required payment is to equal 20 percent of the excess rate of return if the application is submitted to the director before the seventh year of the eligibility period, or 50 percent of the excess rate of return if the application is submitted after the sixth year of the eligibility period;

(19) require a developer, for any payment amount calculated at project certification, to make equal annual payments, which in aggregate equal the calculated payment amount, with each annual report for the first seven years of the eligibility period. At the end of the seventh year of the eligibility period, the developer is required to pay the authority any additional amount required;

(20) revise the requirements of law concerning the execution of community benefits agreements. The amendments exempt the developers of a special mission non-profit project from this requirement. The amendments also provide that the county or municipality in which a development project is located is required to hold at least one previously advertised public hearing at which testimony is taken from residents, community groups, and other stakeholders that are required to have an opportunity to be heard concerning the needs of the community that a community benefits agreement should address. Under current law, these public hearings

are not required to have been previously advertised. Furthermore, the amendments require the inclusion of the minutes of the meeting in the resolution of the governing body of the municipality or county adopting the community benefits agreement. The amendments also require the developer and the municipality or county to submit the executed community benefits agreement, redevelopment agreement, or approved resolution to the authority within the same time as all other conditions subsequent required in the approval letter. Lastly, the amendments restore certain requirements of existing law concerning the certification of an approval letter by a municipality, which requirements would have changed under the bill;

(21) remove the allowance for enhancements to certain developers' total tax credit awards based on a project meeting certain conditions;

(22) remove a provision of the bill that would have limited the total tax credits awarded for certain redevelopment projects, other than those located in government-restricted municipalities, to 90 percent of the project costs for projects receiving federal low-income housing tax credits or 80 percent of the project costs for all other projects;

(23) provide that a mixed-use residential project containing fewer than 700 new residential units is required to contain the following elements to qualify as a transformative project: (i) the construction of 30,000 square feet or more of commercial space, which commercial space may include retail space; and (ii) certain minimum amounts of new residential units, based on the location of the project;

(24) remove a provision of the bill that would have revised current law concerning the applicability of terms and conditions during the entire transformative project until the end of the eligibility period for each completed phase;

(25) remove the provisions of the bill that would have established the "Redevelopment Project Bridge Financing Program";

(26) remove provisions that would have limited the fees that may be charged by the authority to the coverage of certain actual direct costs under Aspire Program. The amendments also remove a requirement for any fees charged by the authority under the program to be proportional to the tax credit amount awarded for a redevelopment project;

(27) provide that the authority may not require a developer to include a permanent certificate of occupancy in the first annual report submitted during the eligibility period. The amendments require the developer to include the certificate in the next annual report after it is received;

(28) extend the period of time, from 90 days to 120 days after preliminarily determining that a developer's annual report is complete, in which the authority is required, subject to forfeiture, reduction, or other action for failure to comply with a program requirement, to either approve the annual report and notify the director to issue the tax

credit certificate or request more information from the developer to finalize approval. The amendments also provide that the report is to be deemed approved if no action is taken within 120 days of the submission, rather than 90 days as previously provided in the bill;

(29) remove provisions of that bill that would have amended current law to exclude gains from the transfer of tax credits issued pursuant to the “New Jersey Economic Recovery Act of 2020” from taxable income under the New Jersey Corporate Business Tax and New Jersey Gross Income Tax;

(30) specify that the holder of tax credit certificate issued under the Aspire Program may apply the credit in the tax period for which it was issued, in the tax period in which it was issued, or in any tax period during the eligibility period, but not in any successive tax period after the credit was issued;

(31) clarify that the holder of a tax credit certificate may transfer all or part of the tax credit amount on or after the date of issuance of the tax credit transfer certificate, for use by the transferee in the tax period for which it was issued, in the tax period in which it was issued, or in any of the next three successive tax periods. The amendments also limit the tax periods in which the transferee may first use the credit to include the tax period in which it was issued, or any of the next three succeeding tax periods, rather than any successive tax period;

(32) revise the provisions of the bill concerning the surrender of unused tax credits under the Aspire Program with an authorization for the director to purchase such credits for an amount equal to 85 percent of the credit amount, provided that the issuance date of the credits occurred at least one year prior to the date of application to the director, and further provided that, if the application to the director is submitted after the sixth year of the eligibility period, the amount in excess of the reasonable and appropriate rate of return on investment that the developer is required to is increased to 50 percent;

(33) authorize the director to purchase unused tax credits awarded under the “Cultural Arts Incentives Program Act” for an amount equal to 85 percent of the credit amount, provided that the issuance date of the credits occurred at least one year prior to the date of application to the director;

(34) provide that any project approved by the authority after the effective date of P.L.2020, c.156 (i.e., January 7, 2021) are subject to the following provisions of the bill: (i) the average occupancy rate requirements of commercial projects; (ii) any lower fees promulgated by the authority on or after this bill’s effective date, except that such lower fees do not apply to any fees already paid to the authority; (iii) certain requirements concerning the execution of community benefits agreements; (iv) certain requirements concerning the authority’s review of annual reports submitted by developers; (v) certain requirements related to the entrance and review of incentive award

agreements; and (vi) any other terms and conditions that the authority determines will make the administration of the program consistent with the provisions of the program, as amended and supplemented this bill, provided that terms and conditions may not have a materially adverse impact on a project approved before the enactment of this bill;

(35) prohibit the proration of Aspire Program tax credits; and

(36) make technical corrections to the bill, including updating the title and synopsis to reflect changes to the bill.

FISCAL IMPACT:

Fiscal information is currently unavailable for this bill.

LEGISLATIVE FISCAL ESTIMATE

[First Reprint]

ASSEMBLY, No. 2076

STATE OF NEW JERSEY

221st LEGISLATURE

DATED: JUNE 26, 2024

SUMMARY

Synopsis:	Revises various requirements of New Jersey Aspire Program and establishes Redevelopment Project Bridge Financing Program.
Type of Impact:	Annual increase in State expenditures, annual State revenue impact.
Agencies Affected:	New Jersey Economic Development Authority; Department of the Treasury

Office of Legislative Services Estimate

Fiscal Impact	<u>Annual</u>
State Expenditure Increase	Indeterminate
State Revenue Impact	Indeterminate

- The Office of Legislative Services (OLS) concludes that the bill could result in annual increases in State expenditures and revenues associated with the authorization for the Department of the Treasury to purchase unused tax credits issued under the New Jersey Aspire Program at a discount.
- The OLS also anticipates a reduction in State revenue collected under the New Jersey Gross Income Tax and the New Jersey Corporation Business Tax due to the income exclusion provided in the bill for any gain or income derived from the transfer of tax credits issued pursuant to the New Jersey Economic Recovery Act of 2020.
- Additionally, the OLS concludes that the bill would result in annual expenditure and revenue increases for the New Jersey Economic Development Authority to create and administer the Redevelopment Project Bridge Financing Program.

BILL DESCRIPTION

This bill revises various provisions of the Aspire Program, including changes to program definitions, changes concerning residential projects under the program, the eligibility period for a project, the sale of buildings under the program, and additional eligibility and occupancy requirements. Notably, the bill requires the authority to promulgate a schedule of fees that are limited to coverage of actual direct costs of administering the program, coverage of reasonable indirect costs of administering the program, and maintenance of reasonable reserves for administering the program.

Additionally, the bill authorizes the department to purchase unused tax credits at a discount of their face value, which discount may not exceed 10 percent. Furthermore, the bill amends current law to exclude gains from the transfer of tax credits issued pursuant to the New Jersey Economic Recovery Act of 2020 from the calculation of “entire net income” under the New Jersey Corporation Business Tax and “gross income” under the New Jersey Gross Income Tax.

This bill establishes the Redevelopment Project Bridge Financing Program under the Aspire Program for the purpose of offering loans or loan guarantees, at the discretion of the authority, to the developers of redevelopment projects that have an outstanding project financing gap. The additional financing would be issued to the developer of a redevelopment project, prior to the issuance of tax credits under the Aspire Program, to ensure the completion of the project. The bill sets forth application requirements to receive financing. The bill authorizes the authority to issue loans and loan guarantees using a Redevelopment Project Bridge Financing Revolving Fund, into which all monies received from loan repayments are to be deposited. All monies received in the fund are to support the Redevelopment Project Bridge Financing Program until such time as the authority determines there remains no need for bridge financing, or until December 31, 2028, whichever occurs first. At that time monies from the Redevelopment Project Bridge Financing Revolving Fund will be deposited into the General Fund. Notably, the bill requires that the authority recommend to the Governor and the Legislature an amount for appropriation, which amount is necessary for the administration of the Redevelopment Project Bridge Financing Program.

FISCAL ANALYSIS

EXECUTIVE BRANCH

None received.

OFFICE OF LEGISLATIVE SERVICES

The OLS concludes that the bill could result in annual increases in State expenditures and revenues associated with the authorization for the Department of the Treasury to purchase unused tax credits under the Aspire Program at a discount from face value not to exceed 10 percent. For example, if the department were to purchase an unused \$1 million tax credit at 90 percent of face value, the department would expend \$900,000 and would avoid the \$1 million tax revenue loss that would have occurred if the prior tax credit holder had redeemed the full amount of the tax credit.

Additionally, the OLS concludes that the bill would result in annual expenditure increases for the authority associated with the creation and administration of the Redevelopment Project Bridge Financing Program, the issuance of program loans, and the repayment of any loan which the

authority guarantees and for which the borrower defaults. The authority is also expected to experience annual revenue increases from application fees, loan issuance fees, and loan repayments from borrowers. Depending on the interest rates approved by the authority and the rates of default on program loans, these loan repayments may partially or wholly offset any expenses incurred by the authority in the operation of the Redevelopment Project Bridge Financing Program. Notably, the fiscal impact of the Redevelopment Project Bridge Financing Program will depend on the amount of funding appropriated for it. Because the bill requires that the authority provide a recommendation to the Governor and the Legislature concerning the amount of funding necessary to support the Redevelopment Project Bridge Financing Program, the OLS is unable to quantify the magnitude of the anticipated cost and revenue increases associated with this program.

The OLS also anticipates a reduction in State revenues collected under the Gross Income Tax and the Corporation Business Tax associated with the income exclusion provided in the bill for any gain or income derived from the transfer of tax credits issued pursuant to the New Jersey Economic Recovery Act of 2020.

Section: Authorities, Utilities, Transportation and Communications

*Analyst: Michael D. Walker
Assistant 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.).

LEGISLATIVE FISCAL ESTIMATE

[Second Reprint]

ASSEMBLY, No. 2076

STATE OF NEW JERSEY

221st LEGISLATURE

DATED: JULY 3, 2024

SUMMARY

- Synopsis:** Revises various requirements of New Jersey Aspire Program and establishes Redevelopment Project Bridge Financing Program.
- Type of Impact:** Annual increase in State expenditures, annual State revenue impact.
- Agencies Affected:** New Jersey Economic Development Authority; Department of the Treasury.

Office of Legislative Services Estimate

Fiscal Impact	<u>Annual</u>
State Expenditure Increase	Indeterminate
State Revenue Impact	Indeterminate

- The Office of Legislative Services (OLS) concludes that the bill could result in annual increases in State expenditures and revenues associated with the provision that requires the Department of the Treasury to purchase unused tax credits issued under the New Jersey Aspire Program at a discount.
- The OLS also anticipates a reduction in State revenue collected under the New Jersey Gross Income Tax and the New Jersey Corporation Business Tax due to the income exclusion provided in the bill for any gain or income derived from the transfer of tax credits issued pursuant to the New Jersey Economic Recovery Act of 2020.
- Additionally, the OLS concludes that the bill would result in annual expenditure and revenue increases for the New Jersey Economic Development Authority to create and administer the Redevelopment Project Bridge Financing Program.

BILL DESCRIPTION

This bill revises various provisions of the Aspire Program, including changes to program definitions, changes concerning residential projects under the program, the eligibility period for a project, the sale of buildings under the program, and additional eligibility and occupancy

requirements. Notably, the bill requires the authority to promulgate a schedule of fees that are limited to coverage of actual direct costs of administering the program, coverage of reasonable indirect costs of administering the program, and maintenance of reasonable reserves for administering the program.

Additionally, the bill requires the Department of the Treasury to purchase unused tax credits at a discount of their face value, for a cash payment equal to 90 percent of the amount of tax credits evidenced by the tax certificates. However, the bill requires the issuance date of the tax credit certificate or tax credit transfer certificate to have occurred at least one year before the date of surrender and requires that the certificate was not sold or reassigned. Furthermore, the bill amends current law to exclude gains from the transfer of tax credits issued pursuant to the New Jersey Economic Recovery Act of 2020 from the calculation of “entire net income” under the New Jersey Corporation Business Tax and “gross income” under the New Jersey Gross Income Tax.

This bill establishes the Redevelopment Project Bridge Financing Program under the Aspire Program for the purpose of offering loans or loan guarantees, at the discretion of the authority, to the developers of redevelopment projects that have an outstanding project financing gap. The additional financing would be issued to the developer of a redevelopment project, prior to the issuance of tax credits under the Aspire Program, to ensure the completion of the project. The bill sets forth application requirements to receive financing. The bill authorizes the authority to issue loans and loan guarantees using a Redevelopment Project Bridge Financing Revolving Fund, into which all monies received from loan repayments are to be deposited. All monies received in the fund are to support the Redevelopment Project Bridge Financing Program until such time as the authority determines there remains no need for bridge financing, or until December 31, 2028, whichever occurs first. At that time monies from the Redevelopment Project Bridge Financing Revolving Fund will be deposited into the General Fund. Notably, the bill requires that the authority recommend to the Governor and the Legislature an amount for appropriation, which amount is necessary for the administration of the Redevelopment Project Bridge Financing Program.

FISCAL ANALYSIS

EXECUTIVE BRANCH

None received.

OFFICE OF LEGISLATIVE SERVICES

The OLS concludes that the bill could result in annual increases in State expenditures and revenues associated with the provision that requires the Department of the Treasury to purchase unused tax credits under the Aspire Program at a discount, for cash payments equal to 90 percent of the amount of tax credits. For example, if the department were to purchase an unused \$1 million tax credit at 90 percent of face value, the department would expend \$900,000 and would avoid the \$1 million tax revenue loss that would have occurred if the prior tax credit holder had redeemed the full amount of the tax credit.

Additionally, the OLS concludes that the bill would result in annual expenditure increases for the authority associated with the creation and administration of the Redevelopment Project Bridge Financing Program, the issuance of program loans, and the repayment of any loan which the authority guarantees and for which the borrower defaults. The authority is also expected to experience annual revenue increases from application fees, loan issuance fees, and loan

repayments from borrowers. Depending on the interest rates approved by the authority and the rates of default on program loans, these loan repayments may partially or wholly offset any expenses incurred by the authority in the operation of the Redevelopment Project Bridge Financing Program. Notably, the fiscal impact of the Redevelopment Project Bridge Financing Program will depend on the amount of funding appropriated for it. Because the bill requires that the authority provide a recommendation to the Governor and the Legislature concerning the amount of funding necessary to support the Redevelopment Project Bridge Financing Program, the OLS is unable to quantify the magnitude of the anticipated cost and revenue increases associated with this program.

The OLS also anticipates a reduction in State revenues collected under the Gross Income Tax and the Corporation Business Tax associated with the income exclusion provided in the bill for any gain or income derived from the transfer of tax credits issued pursuant to the New Jersey Economic Recovery Act of 2020.

Section: Authorities, Utilities, Transportation and Communications

*Analyst: Michael D. Walker
Assistant 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.).

LEGISLATIVE FISCAL ESTIMATE

[Third Reprint]

ASSEMBLY, No. 2076

STATE OF NEW JERSEY

221st LEGISLATURE

DATED: DECEMBER 26, 2024

SUMMARY

- Synopsis:** Revises various provisions concerning New Jersey Aspire Program and surrender of tax credits issued under New Jersey Economic Recovery Act of 2020.
- Type of Impact:** Multi-year loss of State revenues and multi-year increase in State expenditures.
- Agencies Affected:** New Jersey Economic Development Authority; Department of the Treasury.

Office of Legislative Services Estimate

Fiscal Impact	<u>Multi-Year Lifespan of Tax Credit Awards</u>
State Revenue Loss	Indeterminate
State Expenditure Increase	Indeterminate

- The Office of Legislative Services (OLS) concludes that the changes to the New Jersey Aspire Program will result in indeterminate multi-year State revenue losses, possibly through FY 2036. The additional State revenue losses will be attributable to extending the tax credit program to new redevelopment projects and other program modifications that increase tax credit awards.
- In addition, the bill’s tax credit purchase provision could result in annual increases in State expenditures and revenues associated with the increase in the minimum purchase price by the State of unused tax credits under the Aspire Program and extending the authority to purchase unused tax credits to the Cultural Arts Incentive Program.
- Projects that absent this bill will not be undertaken will generate indeterminate indirect fiscal benefits to the State.
- The OLS is unable to project the fiscal impacts of this bill due to imperfect information on the number and attributes of projects that will receive new or enhanced tax credits as a result of the bill’s enactment.

BILL DESCRIPTION

The bill makes various changes to the New Jersey Aspire Program, under which the New Jersey Economic Development Authority awards tax credits to the developers of certain redevelopment projects. There is a \$6.6 billion cap on tax credit awards through the Aspire Program and the Emerge Program combined through FY 2029 with no tax credits authorized beyond FY 2029. A developer may carry forward unused tax credits for seven years from when they are first authorized for use. As of November 2024, about \$3.38 billion in tax credits remain available for awards.

Specifically, the bill would make the following changes to the New Jersey Aspire Program.

Reduce Tax Credit Eligibility Period: The bill reduces from 15 years to 10 years the maximum eligibility period for developers of mixed use and commercial redevelopment projects to use a tax credit following credit approval by the authority.

Expand Tax Credit Eligibility to Trenton-Mercer Airport: The bill expands tax credit eligibility to the Trenton-Mercer Airport and the area within a one-mile radius of the outermost boundary of the airport's terminal.

Expand List of Municipalities Where Special Rules Apply to Redevelopment Projects: The bill expands the definition of government-restricted municipalities, which currently applies to Atlantic City, Paterson City, and Trenton City to Camden City, East Orange City, and New Brunswick City. This designation makes redevelopment projects eligible for less stringent eligibility requirements than under the general program. The bill also increases from 80 percent to 85 percent the total tax credit award for projects located in municipalities that qualified as a government-restricted municipality before the enactment of the bill. The tax credit will be 80 percent for any project located in a municipality that newly qualifies as a government-restricted municipality.

Extend Eligibility to Special Mission Non-Profit Projects: The bill makes certain non-profit affordable housing projects newly eligible for New Jersey Aspire Program tax credits. These projects are undertaken by a non-profit and include the development of no more than 100 units of 100 percent supportive housing for tenants requiring special needs or social services and commercial space for the provision of on-site social service programs, subject to certain conditions.

Eliminate Tax Credit Award Reduction as a Result of Project Finance True Up: The bill removes the requirement that the authority reduce the tax credit award to a redevelopment project if the authority determines at the time of tax credit award finalization that certain financial elements of the project are more favorable to the developer than projected at the time of the initial tax credit award.

Extend Period for Claiming Finalized Tax Credit Awards: The bill extends the period for developers to claim tax credits on their tax returns following approval by the authority of the final tax credit award.

Increase Minimum Price of Tax Credits Purchased by the State: The bill increases from 75 percent of the face value of the tax credit to 85 percent the minimum price of tax credits purchased by the Department of the Treasury from developers wishing to sell unused portions of their tax credit awards. The bill also authorizes the Department of the Treasury to purchase unused tax credits awarded under the existing Cultural Arts Incentives Program at 85 percent of face value.

FISCAL ANALYSIS

EXECUTIVE BRANCH

None received.

OFFICE OF LEGISLATIVE SERVICES

The OLS concludes that the bill will reduce State revenues annually by an indeterminate amount until the end of the New Jersey Aspire Program authorization in FY 2029 to the extent that enactment of this bill will increase the use of tax credits by developers. The overall revenue loss continues to be capped at \$1.1 billion per year through FY 2026 under both the Aspire Program and the Emerge Program combined although tax credits that are not awarded under these programs by the end of FY 2026 may be awarded through FY 2029. A developer may carry forward unused tax credits for seven years from when they are first authorized for use, so the State revenue loss may continue through FY 2036. As of November 2024, about \$3.38 billion in tax credits remain available for awards.

The revenue loss would result from all of the provisions listed in the bill description section above with the exception of the provision increasing the minimum purchase price of tax credits purchased by the State. The OLS lacks the informational basis for determining the projects that will newly qualify for tax credits or be eligible for higher tax credit amounts under the bill.

The tax credit purchase provision could result in annual increases in State expenditures and revenues associated with the increase in the minimum purchase price by the State from 75 percent to 85 percent of face value of unused tax credits under the Aspire Program and extending the authority to purchase unused tax credits under the existing Cultural Arts Incentive Program at 85 percent of face value. To date, the Department of the Treasury has not used its authority to purchase tax credits under the Aspire Program. The OLS cannot anticipate how the department will use this authority in the future.

For purposes of illustration, if the department were to purchase an unused \$1 million tax credit at 85 percent of face value, the department would expend \$850,000 and would avoid the \$1 million tax revenue loss that would have occurred if the tax credit had been redeemed at the full amount.

Section: Revenue, Finance, and Appropriations
Analyst: Scott A. Brodsky
Staff Fiscal & Budget Analyst
Approved: Thomas Koenig
Legislative Budget and Finance Officer

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

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

Governor Murphy Takes Action on Legislation

01/23/2025

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

S1323/A2076 (Pou/Sarlo, Pintor Marin/Park/Wimberly) - Revises various provisions concerning New Jersey Aspire Program and surrender of tax credits issued under New Jersey Economic Recovery Act of 2020.