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CL/JA

P.L. 2023, CHAPTER 143, *approved August 16, 2023*  
Assembly, No. 5286 (*First Reprint*)

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

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

6  
7 1. Section 2 of P.L.1996, c.25 (C.34:1B-113) is amended to  
8 read as follows:

9 2. As used in this act:

10 "Affiliate" means an entity that directly or indirectly controls, is  
11 under common control with, or is controlled by the business.  
12 Control exists in all cases in which the entity is a member of a  
13 controlled group of corporations as defined pursuant to section 1563  
14 of the Internal Revenue Code of 1986 (26 U.S.C. s.1563) or the  
15 entity is an organization in a group of organizations under common  
16 control as defined pursuant to subsection (b) or (c) of section 414 of  
17 the Internal Revenue Code of 1986 (26 U.S.C. s.414). An entity  
18 may establish by clear and convincing evidence, as determined by  
19 the Director of the Division of Taxation in the Department of the  
20 Treasury, that control exists in situations involving lesser  
21 percentages of ownership than required by those statutes;

22 "Authority" means the New Jersey Economic Development  
23 Authority created pursuant to P.L.1974, c.80 (C.34:1B-1 et seq.);

24 "Business retention or relocation grant of tax credits" or "grant of  
25 tax credits" means a grant which consists of the value of  
26 corporation business tax credits against the liability imposed  
27 pursuant to section 5 of P.L.1945, c.162 (C.54:10A-5) or credits  
28 against the taxes imposed on insurers pursuant to P.L.1945, c.132  
29 (C.54:18A-1 et al.), section 1 of P.L.1950, c.231 (C.17:32-15), and  
30 N.J.S.17B:23-5, provided to fund a portion of retention and  
31 relocation costs pursuant to P.L.1996, c.25 (C.34:1B-112 et seq.);

32 "Business" means an employer located in this State that has  
33 operated continuously in the State, in whole or in part, in its current  
34 form or as a predecessor entity for at least 10 years prior to filing an  
35 application pursuant to P.L.1996, c.25 (C.34:1B-112 et seq.) and  
36 which is subject to the provisions of R.S.43:21-1 et seq. and may  
37 include a sole proprietorship, a partnership, or a corporation that  
38 has made an election under Subchapter S of Chapter One of Subtitle  
39 A of the Internal Revenue Code of 1986, or any other business  
40 entity through which income flows as a distributive share to its  
41 owners, limited liability company, nonprofit corporation, or any

**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:**

**<sup>1</sup>Assembly AAP committee amendments adopted March 23, 2023.**

1 other form of business organization located either within or outside  
2 the State. A business shall include an affiliate of the business if that  
3 business applies for a credit based upon any capital investment  
4 made by an affiliate or based upon retained full-time jobs of an  
5 affiliate;

6 "Capital investment" means expenses that the business incurs  
7 following its submission of an application to the authority pursuant  
8 to section 5 of P.L.1996, c.25 (C.34:1B-116), but prior to the  
9 Capital Investment Completion Date, as shall be defined in the  
10 project agreement, for: (1) the site preparation and construction,  
11 renovation, improvement, equipping of, or obtaining and installing  
12 fixtures and machinery, apparatus or equipment in, a newly  
13 constructed, renovated or improved building, structure, facility, or  
14 improvement to real property in this State; and (2) obtaining and  
15 installing fixtures and machinery, apparatus or equipment in a  
16 building, structure, or facility in this State. Provided however, that  
17 "capital investment" shall not include soft costs such as financing  
18 and design, furniture or decorative items such as artwork or plants,  
19 or office equipment if the office equipment is property with a  
20 recovery period of less than five years. The recovery period of any  
21 property, for purposes of this section, shall be determined as of the  
22 date such property is first placed in service or use in this State by  
23 the business, determined in accordance with section 168 of the  
24 federal Internal Revenue Code of 1986 (26 U.S.C. s.168). A  
25 business that acquires or leases a qualified business facility shall  
26 also be deemed to have acquired the capital investment made or  
27 acquired by the seller or landlord, as the case may be;

28 "Certificate of compliance" means a certificate issued by the  
29 authority pursuant to section 9 of P.L.1996, c.25 (C.34:1B-120);

30 "Chief executive officer" means the chief executive officer of the  
31 New Jersey Economic Development Authority;

32 "Commitment duration" means the tax credit term and five years  
33 from the end of the tax credit term specified in the project  
34 agreement entered into pursuant to section 5 of P.L.1996, c.25  
35 (C.34:1B-116);

36 "Designated industry" means an industry identified by the  
37 authority as desirable for the State to maintain, which may be  
38 designated and amended via the promulgation of rules by the  
39 authority to reflect changing market conditions;

40 "Designated urban center" means an urban center designated in  
41 the State Development and Redevelopment Plan adopted by the  
42 State Planning Commission;

43 "Eligible position" means a full-time position retained by a  
44 business in this State for which a business provides employee health  
45 benefits under a group health plan as defined under section 14 of  
46 P.L.1997, c.146 (C.17B:27-54), a health benefits plan as defined  
47 under section 1 of P.L.1992, c.162 (C.17B:27A-17), or a policy or  
48 contract of health insurance covering more than one person issued

1 pursuant to Article 2 of Chapter 27 of Title 17B of the New Jersey  
2 Statutes. For an eligible business that <sup>1</sup>[(1) submits] submitted<sup>1</sup> a  
3 certificate of compliance on or after <sup>1</sup>[the effective date of P.L. \_\_, c.  
4 c. (C. \_\_\_\_), or (2) submitted a certificate of compliance but did  
5 not receive, with respect to that application, an annual tax  
6 certificate from the authority by the effective date of P.L. \_\_, c.  
7 (C. \_\_\_\_)] January 1, 2020<sup>1</sup>, the requirement that employee health  
8 benefits are to be provided shall be deemed to be satisfied if the  
9 benefits are provided by the business or pursuant to a collective  
10 bargaining agreement, no later than 90 days of employee start date,  
11 under a health benefits plan authorized pursuant to State or federal  
12 law;

13 "Full-time employee" means a person employed by the business  
14 for consideration for at least 35 hours a week, or who renders any  
15 other standard of service generally accepted by custom or practice,  
16 as determined by the authority, as full-time employment, or a  
17 person who is employed by a professional employer organization  
18 pursuant to an employee leasing agreement between the business  
19 and the professional employer organization, in accordance with  
20 P.L.2001, c.260 (C.34:8-67 et seq.) for at least 35 hours a week, or  
21 who renders any other standard of service generally accepted by  
22 custom or practice, as determined by the authority, as full-time  
23 employment, and whose wages are subject to withholding as  
24 provided in the "New Jersey Gross Income Tax Act," N.J.S.54A:1-1  
25 et seq. or an employee who is a resident of another State but whose  
26 income is not subject to the "New Jersey Gross Income Tax Act,"  
27 N.J.S.54A:1-1 et seq. or who is a partner of a business who works  
28 for the partnership for at least 35 hours a week, or who renders any  
29 other standard of service generally accepted by custom or practice,  
30 as determined by the authority, as full-time employment, and whose  
31 distributive share of income, gain, loss, or deduction, or whose  
32 guaranteed payments, or any combination thereof, is subject to the  
33 payment of estimated taxes, as provided in the "New Jersey Gross  
34 Income Tax Act," N.J.S.54A:1-1 et seq. "Full-time employee" shall  
35 not include any person who works as an independent contractor or  
36 on a consulting basis for the business;

37 "Full-time employee at the qualified business facility" means a  
38 full-time position in a business in this State, which position the  
39 business has filled with a full-time employee, who shall have their  
40 primary office at the qualified business facility and spend at least 60  
41 percent of their time at the qualified business facility. This  
42 requirement shall supersede any law, regulation, or incentive  
43 agreement that imposes a requirement that the employee be present  
44 at the qualified business facility for a specified percentage of time  
45 greater than 60 percent. This amendment shall not alter or terminate  
46 any waiver of the requirement that an employee spend time at the  
47 qualified business facility implemented by the authority due to  
48 COVID-19 public health emergency and state of emergency.

1 "New business location" means the premises to which a business  
2 will relocate that the business has either purchased or built or for  
3 which the business has entered into a purchase agreement or a  
4 written lease for a period of no less than the commitment duration  
5 or eight years, whichever is greater, from the date of relocation. A  
6 "new business location" also means the business's current location  
7 or locations if the business makes a capital investment equal to the  
8 total value of the business retention or relocation grant of tax credits  
9 to the business at that location or locations;

10 "Program" means the Business Retention and Relocation  
11 Assistance Grant Program created pursuant to P.L.1996, c.25  
12 (C.34:1B-112 et seq.);

13 "Project agreement" means an agreement between a business and  
14 the authority that sets the forecasted schedule for completion and  
15 occupancy of the project, the date the commitment duration shall  
16 commence, the amount and tax credit term of the applicable grant of  
17 tax credits, and other such provisions which further the purposes of  
18 P.L.1996, c.25 (C.34:1B-112 et seq.);

19 "Retained full-time job" means an eligible position that currently  
20 exists in New Jersey and is filled by a full-time employee but  
21 which, because of a potential relocation by the business, is at risk of  
22 being lost to another state or country. For the purposes of  
23 determining a number of retained full-time jobs, the eligible  
24 positions of an affiliate shall be considered the eligible positions of  
25 the business;

26 "Tax credit term" means the period of time commencing with the  
27 first issuance of tax credits and continuing during the period in  
28 which the recipient of a grant of tax credits is eligible to apply the  
29 tax credits pursuant to section 7 of P.L.2004, c.65 (C.34:1B-115.3);  
30 and

31 "Yearly tax credit amount" means \$1,500 times the number of  
32 retained full-time jobs. "Yearly tax credit amount" does not include  
33 the amount of any bonus award authorized pursuant to section 5 of  
34 P.L.2004, c.65 (C.34:1B-115.1).

35 (cf: P.L.2021, c.160, s.64)

36

37 2. Section 2 of P.L.1996, c.26 (C.34:1B-125) is amended to  
38 read as follows:

39 2. As used in sections 1 through 17 of P.L.1996, c.26  
40 (C.34:1B-124 et seq.) and in sections 9 through 11 of P.L.2003,  
41 c.166 (C.34:1B-139.1 through C.34:1B-139.3), unless a different  
42 meaning clearly appears from the context:

43 "Advanced computing" means a technology used in the  
44 designing and developing of computing hardware and software,  
45 including innovations in designing the full spectrum of hardware  
46 from hand-held calculators to super computers, and peripheral  
47 equipment.

1 "Advanced computing company" means a person, whose  
2 headquarters or base of operations is located in New Jersey,  
3 engaged in the research, development, production, or provision of  
4 advanced computing for the purpose of developing or providing  
5 products or processes for specific commercial or public purposes.

6 "Advanced materials" means materials with engineered  
7 properties created through the development of specialized  
8 processing and synthesis technology, including ceramics, high  
9 value-added metals, electronic materials, composites, polymers, and  
10 biomaterials.

11 "Advanced materials company" means a person, whose  
12 headquarters or base of operations is located in New Jersey,  
13 engaged in the research, development, production, or provision of  
14 advanced materials for the purpose of developing or providing  
15 products or processes for specific commercial or public purposes.

16 "Application year" means the grant year for which an eligible  
17 partnership submits the information required under section 8 of  
18 P.L.1996, c.26 (C.34:1B-131).

19 "Authority" means the New Jersey Economic Development  
20 Authority created pursuant to section 4 of P.L.1974, c.80 (C.34:1B-  
21 4).

22 "Base years" means the first two complete calendar years  
23 following the effective date of an agreement.

24 "Biotechnology" means the continually expanding body of  
25 fundamental knowledge about the functioning of biological systems  
26 from the macro level to the molecular and sub-atomic levels, as  
27 well as novel products, services, technologies, and sub-technologies  
28 developed as a result of insights gained from research advances  
29 which add to that body of fundamental knowledge.

30 "Biotechnology company" means a person, whose headquarters  
31 or base of operations is located in New Jersey, engaged in the  
32 research, development, production, or provision of biotechnology  
33 for the purpose of developing or providing products or processes for  
34 specific commercial or public purposes, including but not limited  
35 to, medical, pharmaceutical, nutritional, and other health-related  
36 purposes, agricultural purposes, and environmental purposes, or a  
37 person, whose headquarters or base of operations is located in New  
38 Jersey, engaged in providing services or products necessary for  
39 such research, development, production, or provision.

40 "Bonds" means bonds, notes, or other obligations issued by the  
41 authority pursuant to P.L.1996, c.26 (C.34:1B-124 et seq.).

42 "Business" means a corporation; sole proprietorship; partnership;  
43 corporation that has made an election under Subchapter S of  
44 Chapter One of Subtitle A of the Internal Revenue Code of 1986, or  
45 any other business entity through which income flows as a  
46 distributive share to its owners; limited liability company; nonprofit  
47 corporation; or any other form of business organization located  
48 either within or outside this State. A grant received under P.L.1996,

1 c.26 (C.34:1B-124 et seq.) by a partnership, Subchapter S-  
2 Corporation, or other business entity shall be apportioned among  
3 the persons to whom the income or profit of the partnership,  
4 Subchapter S-Corporation, or other entity is distributed, in the same  
5 proportions as those in which the income or profit is distributed.

6 "Business employment incentive agreement" or "agreement"  
7 means the written agreement between the authority and a business  
8 proposing a project in this State in accordance with the provisions  
9 of P.L.1996, c.26 (C.34:1B-124 et seq.) which establishes the terms  
10 and conditions of a grant to be awarded pursuant to P.L.1996, c.26  
11 (C.34:1B-124 et seq.).

12 "Designated industry" means a business engaged in the field of  
13 biotechnology, pharmaceuticals, financial services, transportation  
14 and logistics, advanced computing, advanced materials, electronic  
15 device technology, environmental technology, or medical device  
16 technology.

17 "Director" means the Director of the Division of Taxation.

18 "Division" means the Division of Taxation in the Department of  
19 the Treasury.

20 "Electronic device technology" means a technology involving  
21 microelectronics, semiconductors, electronic equipment, and  
22 instrumentation, radio frequency, microwave, and millimeter  
23 electronics, and optical and optic-electrical devices, or data and  
24 digital communications and imaging devices.

25 "Electronic device technology company" means a person, whose  
26 headquarters or base of operations is located in New Jersey,  
27 engaged in the research, development, production, or provision of  
28 electronic device technology for the purpose of developing or  
29 providing products or processes for specific commercial or public  
30 purposes.

31 "Eligible partnership" means a partnership or limited liability  
32 company that is qualified to receive a grant as established in  
33 P.L.1996, c.26 (C.34:1B-124 et seq.).

34 "Eligible position" is a new full-time position created by a  
35 business in New Jersey or transferred from another state by the  
36 business under the terms and conditions set forth in P.L.1996, c.26  
37 (C.34:1B-124 et seq.) during the base years or in subsequent years  
38 of a grant. In determining if positions are eligible positions, the  
39 authority shall give greater consideration to positions that average  
40 at least 1.5 times the minimum hourly wage during the term of an  
41 agreement authorized pursuant to P.L.1996, c.26 (C.34:1B-124 et  
42 seq.). For grants awarded on or after July 1, 2003, eligible position  
43 includes only a position for which a business provides employee  
44 health benefits under a group health plan as defined under section  
45 14 of P.L.1997, c.146 (C.17B:27-54), a health benefits plan as  
46 defined under section 1 of P.L.1992, c.162 (C.17B:27A-17), or a  
47 policy or contract of health insurance covering more than one  
48 person issued pursuant to Article 2 of Title 17B of the New Jersey

1 Statutes. For an eligible business that <sup>1</sup>[(1) submits] submitted<sup>1</sup> its  
2 applicable New Jersey tax return and annual payroll report required  
3 pursuant to section 8 of P.L.1996, c.26 (C.34:1B-131) to the  
4 authority on or after <sup>1</sup>[the effective date of P.L. , c. (C. )], or  
5 (2) submitted its applicable New Jersey tax return and annual  
6 payroll report required pursuant to section 8 of P.L.1996, c.26  
7 (C.34:1B-131) to the authority, but did not receive, with respect to  
8 that application, an annual tax certificate from the authority by the  
9 effective date of P.L. , c. (C. )] January 1, 2020<sup>1</sup> , the  
10 requirement that employee health benefits are to be provided shall  
11 be deemed to be satisfied if the benefits are provided by the  
12 business or pursuant to a collective bargaining agreement, no later  
13 than 90 days of employee start date, under a health benefits plan  
14 authorized pursuant to State or federal law. An "eligible position"  
15 shall also include all current and future partners or members of a  
16 partnership or limited liability company created by a business in  
17 New Jersey or transferred from another state by the business  
18 pursuant to the conditions set forth in P.L.1996, c.26 (C.34:1B-124  
19 et seq.) during the base years or in subsequent years of a grant. An  
20 "eligible position" shall also include a position occupied by a  
21 resident of this State whose position is relocated to this State from  
22 another state but who does not qualify as a "new employee" because  
23 prior to relocation the resident's wages or the resident's distributive  
24 share of income from a gain, from a loss or deduction, or the  
25 resident's guaranteed payments or any combination thereof, prior to  
26 the relocation, were not subject to income taxes imposed by the  
27 state or municipality in which the position was previously located.  
28 An "eligible position" shall also include a position occupied by a  
29 resident of another State whose position is relocated to this State  
30 but whose income is not subject to the New Jersey gross income tax  
31 pursuant to the "New Jersey Gross Income Tax Act," N.J.S.54A:1-1  
32 et seq. An "eligible position" shall not include any position located  
33 within New Jersey, which, within a period either three months prior  
34 to the business' application for a grant under P.L.1996, c.26  
35 (C.34:1B-124 et seq.) or six months after the date of application,  
36 ceases to exist or be located within New Jersey.

37 "Employment incentive" means the amount of a grant, either in  
38 cash or in tax credits, determined pursuant to subsection a. of  
39 section 6 of P.L.1996, c.26 (C.34:1B-129 ).

40 "Environmental technology" means assessment and prevention of  
41 threats or damage to human health or the environment,  
42 environmental cleanup, or the development of alternative energy  
43 sources.

44 "Environmental technology company" means a person, whose  
45 headquarters or base of operations is located in New Jersey,  
46 engaged in the research, development, production, or provision of  
47 environmental technology for the purpose of developing or

1 providing products or processes for specific commercial or public  
2 purposes.

3 "Estimated tax" means an amount calculated for a partner in an  
4 eligible position equal to 6.37 percent of the lesser of: a. the amount  
5 of the partner's net income from the eligible partnership that is  
6 sourced to New Jersey as reflected in Column B of the partner's  
7 Schedule NJK-1 of the application year less the amount of the  
8 partner's net income from the eligible partnership that is sourced to  
9 New Jersey as reflected in column B of the partner's Schedule NJK-  
10 1 in the foundation year; or b. the net of all items of partnership  
11 income upon which tax has been paid as reflected on the partner's  
12 New Jersey Gross Income Tax return in the application year.

13 "Foundation year" means the year immediately prior to the  
14 creation of the eligible position.

15 "Full-time employee" means a person who is employed for  
16 consideration for at least 35 hours a week, or who renders any other  
17 standard of service generally accepted by custom or practice as full-  
18 time employment, whose wages are subject to withholding as  
19 provided in the "New Jersey Gross Income Tax Act," N.J.S.54A:1-1  
20 et seq., and who is determined by the authority to be employed in a  
21 permanent position according to criteria it develops, or who is a  
22 partner of an eligible partnership, who works for the partnership for  
23 at least 35 hours a week, or who renders any other standard of  
24 service generally accepted by custom or practice as full-time  
25 employment, and whose distributive share of income, gain, loss, or  
26 deduction, or whose guaranteed payments, or any combination  
27 thereof, is subject to the payment of estimated taxes, as provided in  
28 the "New Jersey Gross Income Tax Act," N.J.S.54A:1-1 et seq.  
29 "Full-time employee" shall not include any person who works as an  
30 independent contractor or on a consulting basis for the business.

31 "Full-time employee at the qualified business facility" means a  
32 full-time position in a business in this State, which position the  
33 business has filled with a full-time employee, who shall have their  
34 primary office at the qualified business facility and spend at least 60  
35 percent of their time at the qualified business facility. This  
36 requirement shall supersede any law, regulation, or incentive  
37 agreement that imposes a requirement that the employee be present  
38 at the qualified business facility for a specified percentage of time  
39 greater than 60 percent. This amendment shall not alter or terminate  
40 any waiver of the requirement that an employee spend time at the  
41 qualified business facility implemented by the authority due to  
42 COVID-19 public health emergency and state of emergency.

43 "Grant" means a business employment incentive grant as  
44 established in P.L.1996, c.26 (C.34:1B-124 et seq.).

45 "Medical device technology" means a technology involving any  
46 medical equipment or product, other than a pharmaceutical product,  
47 that has therapeutic value, diagnostic value, or both, and is  
48 regulated by the federal Food and Drug Administration.

1 "Medical device technology company" means a person, whose  
2 headquarters or base of operations is located in New Jersey,  
3 engaged in the research, development, production, or provision of  
4 medical device technology for the purpose of developing or  
5 providing products or processes for specific commercial or public  
6 purposes.

7 "Net income from the eligible partnership" means the net  
8 combination of a partner's distributive share of the eligible  
9 partnership's income, gain, loss, deduction, or guaranteed payments.

10 "New employee" means a full-time employee first employed in  
11 an eligible position on the project which is the subject of an  
12 agreement or who is a partner of an eligible partnership, who works  
13 for the partnership for at least 35 hours a week, or who renders any  
14 other standard of service generally accepted by custom or practice  
15 as full-time employment, and whose distributive share of income,  
16 gain, loss or deduction, or whose guaranteed payments, or any  
17 combination thereof, is subject to the payment of estimated taxes, as  
18 provided in the "New Jersey Gross Income Tax Act," N.J.S.54A:1-1  
19 et seq.; except that a New Jersey resident whose position is  
20 relocated to this State shall not be classified as a "new employee"  
21 unless the employee's wages, or the employee's distributive share of  
22 income from a gain, from a loss or deduction, or the employee's  
23 guaranteed payments or any combination thereof, prior to the  
24 relocation, were subject to income taxes imposed by the state or  
25 municipality in which the position was previously located. "New  
26 employee" may also include an employee rehired or called back  
27 from a layoff during or following the base years to a vacant position  
28 previously held by that employee or to a new position established  
29 during or following the base years. "New employee" shall not  
30 include any employee who was previously employed in New Jersey  
31 by the business or by a related person as defined in section 2 of  
32 P.L.1993, c.170 (C.54:10A-5.5) if the employee is transferred to the  
33 business, which is the subject of an agreement, unless the  
34 employee's position at the employee's previous employer is filled by  
35 a new employee. "New employee" also shall not include a child,  
36 grandchild, parent, or spouse of an individual associated with the  
37 business who has direct or indirect ownership of at least 15 percent  
38 of the profits, capital, or value of the business. New employee shall  
39 also include an employee whose position is relocated to this State  
40 but whose income is not subject to the New Jersey gross income tax  
41 pursuant to the "New Jersey Gross Income Tax Act," N.J.S.54A:1-1  
42 et seq.

43 "Partner" means a person who is entitled to either a distributive  
44 share of a partnership's income, gain, loss, or deduction, or  
45 guaranteed payments, or any combination thereof, by virtue of  
46 holding an interest in the partnership. "Partner" also includes a  
47 person who is a member of a limited liability company which is

1 treated as a partnership, as provided in the "New Jersey Gross  
2 Income Tax Act," N.J.S.54A:1-1 et seq.

3 "Refunding Bonds" means bonds, notes or other obligations  
4 issued to refinance bonds, notes or other obligations previously  
5 issued by the authority pursuant to the provisions of P.L.1996, c.26  
6 (C.34:1B-124 et seq.).

7 "Residual withholdings" means for any period of time, the excess  
8 of the estimated cumulative withholdings for all executed  
9 agreements eligible for payments under P.L.1996, c.26 (C.34:1B-  
10 124 et seq.) over the cumulative anticipated grant amounts.

11 "Schedule NJK-1" means Schedule NJK-1 as the form existed for  
12 taxable year 1997.

13 "Withholdings" means the amount withheld by a business from  
14 the wages of new employees or estimated taxes paid by, or on  
15 behalf of, partners that are new employees, or any combination  
16 thereof, pursuant to the "New Jersey Gross Income Tax Act,"  
17 N.J.S.54A:1-1 et seq., and, if the new employee is an employee  
18 whose position has moved to New Jersey but whose income is not  
19 subject to the New Jersey gross income tax pursuant to  
20 N.J.S.54A:1-1 et seq., the amount of withholding that would occur  
21 if the employee were to move to New Jersey.

22 (cf: P.L.2021, c.160, s.63)

23

24 3. Section 2 of P.L.2011, c.149 (C.34:1B-243) is amended to  
25 read as follows:

26 2. As used in P.L.2011, c.149 (C.34:1B-242 et seq.):

27 "Affiliate" means an entity that directly or indirectly controls, is  
28 under common control with, or is controlled by the business.  
29 Control exists in all cases in which the entity is a member of a  
30 controlled group of corporations as defined pursuant to section 1563  
31 of the Internal Revenue Code of 1986 (26 U.S.C. s.1563) or the  
32 entity is an organization in a group of organizations under common  
33 control as defined pursuant to subsection (b) or (c) of section 414 of  
34 the Internal Revenue Code of 1986 (26 U.S.C. s.414). A taxpayer  
35 may establish by clear and convincing evidence, as determined by  
36 the Director of the Division of Taxation in the Department of the  
37 Treasury, that control exists in situations involving lesser  
38 percentages of ownership than required by those statutes. An  
39 affiliate of a business may contribute to meeting either the qualified  
40 investment or full-time employee requirements of a business that  
41 applies for a credit under section 3 of P.L.2007, c.346 (C.34:1B-  
42 209).

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

45 "Aviation district" means all areas within the boundaries of the  
46 "Atlantic City International Airport," established pursuant to section  
47 24 of P.L.1991, c.252 (C.27:25A-24), and the Federal Aviation  
48 Administration William J. Hughes Technical Center and the area

1 within a one-mile radius of the outermost boundary of the "Atlantic  
2 City International Airport" and the Federal Aviation Administration  
3 William J. Hughes Technical Center.

4 "Business" means an applicant proposing to own or lease  
5 premises in a qualified business facility that is:

6 a corporation that is subject to the tax imposed pursuant to  
7 section 5 of P.L.1945, c.162 (C.54:10A-5);

8 a corporation that is subject to the tax imposed pursuant to  
9 sections 2 and 3 of P.L.1945, c.132 (C.54:18A-2 and C.54:18A-3),  
10 section 1 of P.L.1950, c.231 (C.17:32-15) or N.J.S.17B:23-5;

11 a partnership;

12 an S corporation;

13 a limited liability company; or

14 a non-profit corporation.

15 If the business or tenant is a cooperative or part of a cooperative,  
16 then the cooperative may qualify for credits by counting the full-  
17 time employees and capital investments of its member  
18 organizations, and the cooperative may distribute credits to its  
19 member organizations. If the business or tenant is a cooperative that  
20 leases to its member organizations, the lease shall be treated as a  
21 lease to an affiliate or affiliates.

22 A business shall include an affiliate of the business if that  
23 business applies for a credit based upon any capital investment  
24 made by or full-time employees of an affiliate.

25 "Capital investment" in a qualified business facility means  
26 expenses by a business or any affiliate of the business incurred after  
27 application for:

28 a. site preparation and construction, repair, renovation,  
29 improvement, equipping, or furnishing on real property or of a  
30 building, structure, facility, or improvement to real property;

31 b. obtaining and installing furnishings and machinery,  
32 apparatus, or equipment, including but not limited to material goods  
33 subject to bonus depreciation under sections 168 and 179 of the  
34 federal Internal Revenue Code (26 U.S.C. s.168 and s.179), for the  
35 operation of a business on real property or in a building, structure,  
36 facility, or improvement to real property;

37 c. receiving Highlands Development Credits under the  
38 Highlands Transfer Development Rights Program authorized  
39 pursuant to section 13 of P.L.2004, c.120 (C.13:20-13); or

40 d. any of the foregoing.

41 In addition to the foregoing, in a Garden State Growth Zone, the  
42 following qualify as a capital investment: any development,  
43 redevelopment, and relocation costs, including, but not limited to,  
44 site acquisition if made within 24 months of application to the  
45 authority, engineering, legal, accounting, and other professional  
46 services required; and relocation, environmental remediation, and  
47 infrastructure improvements for the project area, including, but not

1 limited to, on- and off-site utility, road, pier, wharf, bulkhead, or  
2 sidewalk construction or repair.

3 In addition to the foregoing, if a business acquires or leases a  
4 qualified business facility, the capital investment made or acquired  
5 by the seller or owner, as the case may be, if pertaining primarily to  
6 the premises of the qualified business facility, shall be considered a  
7 capital investment by the business and, if pertaining generally to the  
8 qualified business facility being acquired or leased, shall be  
9 allocated to the premises of the qualified business facility on the  
10 basis of the gross leasable area of the premises in relation to the  
11 total gross leasable area in the qualified business facility. The  
12 capital investment described herein may include any capital  
13 investment made or acquired within 24 months prior to the date of  
14 application so long as the amount of capital investment made or  
15 acquired by the business, any affiliate of the business, or any owner  
16 after the date of application equals at least 50 percent of the amount  
17 of capital investment, allocated to the premises of the qualified  
18 business facility being acquired or leased on the basis of the gross  
19 leasable area of the premises in relation to the total gross leasable  
20 area in the qualified business facility made or acquired prior to the  
21 date of application.

22 "College or university" means a county college, an independent  
23 institution of higher education, a public research university, or a  
24 State college.

25 "Commitment period" means the period of time that is 1.5 times  
26 the eligibility period.

27 "County college" means an educational institution established by  
28 one or more counties, pursuant to chapter 64A of Title 18A of the  
29 New Jersey Statutes.

30 "Deep poverty pocket" means a population census tract having a  
31 poverty level of 20 percent or more, and which is located within the  
32 qualified incentive area and has been determined by the authority to  
33 be an area appropriate for development and in need of economic  
34 development incentive assistance.

35 "Disaster recovery project" means a project located on property  
36 that has been wholly or substantially damaged or destroyed as a  
37 result of a federally-declared disaster which, after utilizing all  
38 disaster funds available from federal, State, county, and local  
39 funding sources, demonstrates to the satisfaction of the authority  
40 that access to additional funding authorized pursuant to the "New  
41 Jersey Economic Opportunity Act of 2013," P.L.2013, c.161  
42 (C.52:27D-489p et al.), is necessary to complete the redevelopment  
43 project, and which is located within the qualified incentive area and  
44 has been determined by the authority to be in an area appropriate  
45 for development and in need of economic development incentive  
46 assistance.

47 "Distressed municipality" means a municipality that is qualified  
48 to receive assistance under P.L.1978, c.14 (C.52:27D-178 et seq.), a

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

8 "Doctoral university" means a university located within New  
9 Jersey that is classified as a doctoral university under the Carnegie  
10 Classification of Institutions of Higher Education's Basic  
11 Classification methodology on the effective date of P.L.2017, c.221.

12 "Eligibility period" means the period in which a business may  
13 claim a tax credit under the Grow New Jersey Assistance Program,  
14 beginning with the tax period in which the authority accepts  
15 certification of the business that it has met the capital investment  
16 and employment requirements of the Grow New Jersey Assistance  
17 Program and extending thereafter for a term of not more than 10  
18 years, with the term to be determined solely at the discretion of the  
19 applicant.

20 "Eligible position" or "full-time job" means a full-time position  
21 in a business in this State, which position the business has filled  
22 with a full-time employee, who shall have their primary office at  
23 the qualified business facility and spend at least 60 percent of their  
24 time at the qualified business facility. This requirement shall  
25 supersede any law, regulation, or incentive agreement that imposes  
26 a requirement that the employee be present at the qualified business  
27 facility for a specified percentage of time greater than 60 percent.  
28 This amendment shall not alter or terminate any waiver of the  
29 requirement that an employee spend time at the qualified business  
30 facility implemented by the authority due to COVID-19 public  
31 health emergency and state of emergency.

32 "Full-time employee" means a person:

33 a. who is employed by a business for consideration for at least  
34 35 hours a week, or who renders any other standard of service  
35 generally accepted by custom or practice as full-time employment;  
36 or

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

45 c. who is a resident of another State but whose income is not  
46 subject to the "New Jersey Gross Income Tax Act," N.J.S.54A:1-1  
47 et seq. or who is a partner of a business who works for the  
48 partnership for at least 35 hours a week, or who renders any other

1 standard of service generally accepted by custom or practice as full-  
2 time employment, and whose distributive share of income, gain,  
3 loss, or deduction, or whose guaranteed payments, or any  
4 combination thereof, is subject to the payment of estimated taxes, as  
5 provided in the "New Jersey Gross Income Tax Act," N.J.S.54A:1-1  
6 et seq.; and

7 d. who, except for purposes of the Statewide workforce, is  
8 provided, by the business, with employee health benefits under a  
9 health benefits plan authorized pursuant to State or federal law. For  
10 an eligible business that <sup>1</sup>[(1) submits] submitted<sup>1</sup> certifications  
11 and annual reports required in an incentive agreement pursuant to  
12 subsection e. of section 4 of P.L.2011, c.149 (C.34:1B-245) on or  
13 after <sup>1</sup>[the effective date of P.L. , c. (C. )], or (2) submitted  
14 certifications and annual reports required in an incentive agreement  
15 pursuant to subsection e. of section 4 of P.L.2011, c.149 (C.34:1B-  
16 245) on or after January 1, 2022, but did not receive, with respect to  
17 that application , an annual tax certificate from the authority by the  
18 effective date of P.L. , c. (C. )] January 1, 2020<sup>1</sup> , the  
19 requirement that employee health benefits are to be provided shall  
20 be deemed to be satisfied if the benefits are provided by the  
21 business or pursuant to a collective bargaining agreement, no later  
22 than 90 days of employee start date, under a health benefits plan  
23 authorized pursuant to State or federal law.

24 With respect to a logistics, manufacturing, energy, defense,  
25 aviation, or maritime business, excluding primarily warehouse or  
26 distribution operations, located in a port district having a container  
27 terminal:

28 the requirement that employee health benefits are to be provided  
29 shall be deemed to be satisfied if the benefits are provided in  
30 accordance with industry practice by a third party obligated to  
31 provide such benefits pursuant to a collective bargaining agreement;  
32 full-time employment shall include, but not be limited to,  
33 employees that have been hired by way of a labor union hiring hall  
34 or its equivalent;

35 35 hours of employment per week at a qualified business facility  
36 shall constitute one "full-time employee," regardless of whether or  
37 not the hours of work were performed by one or more persons.

38 For any project located in a Garden State Growth Zone which  
39 qualifies under the "Municipal Rehabilitation and Economic  
40 Recovery Act," P.L.2002, c.43 (C.52:27BBB-1 et al.), or any  
41 project located in the Atlantic City Tourism District as established  
42 pursuant to section 5 of P.L.2011, c.18 (C.5:12-219) and regulated  
43 by the Casino Reinvestment Development Authority, and which  
44 will include a retail facility of at least 150,000 square feet, of which  
45 at least 50 percent will be occupied by either a full-service  
46 supermarket or grocery store, 30 hours of employment per week at a  
47 qualified business facility shall constitute one "full-time employee,"  
48 regardless of whether the hours of work were performed by one or

1 more persons, and the requirement that employee health benefits are  
2 to be provided shall be deemed to be satisfied if the employees of  
3 the business are covered by a collective bargaining agreement.

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

6 Full-time employee shall also not include any person who at the  
7 time of project application works in New Jersey for consideration  
8 for at least 35 hours per week, or who renders any other standard of  
9 service generally accepted by custom or practice as full-time  
10 employment but who prior to project application was not provided,  
11 by the business, with employee health benefits under a health  
12 benefits plan authorized pursuant to State or federal law.

13 "Garden State Create Zone" means the campus of a doctoral  
14 university, and the area within a three-mile radius of the outermost  
15 boundary of the campus of a doctoral university, according to a map  
16 appearing in the doctoral university's official catalog or other  
17 official publication on the effective date of P.L.2017, c.221.

18 "Garden State Growth Zone" or "growth zone" means the four  
19 New Jersey cities with the lowest median family income based on  
20 the 2009 American Community Survey from the US Census, (Table  
21 708. Household, Family, and Per Capita Income and Individuals,  
22 and Families Below Poverty Level by City: 2009); a municipality  
23 which contains a Tourism District as established pursuant to section  
24 5 of P.L.2011, c.18 (C.5:12-219) and regulated by the Casino  
25 Reinvestment Development Authority; or an aviation district.

26 "Highlands development credit receiving area or redevelopment  
27 area" means an area located within a qualified incentive area and  
28 designated by the Highlands Water Protection and Planning Council  
29 for the receipt of Highlands Development Credits under the  
30 Highlands Transfer Development Rights Program authorized  
31 pursuant to section 13 of P.L.2004, c.120 (C.13:20-13).

32 "Incentive agreement" means the contract between the business  
33 and the authority, which sets forth the terms and conditions under  
34 which the business shall be eligible to receive the incentives  
35 authorized pursuant to the program.

36 "Incentive effective date" means the date a business submits the  
37 documentation required pursuant to paragraph (1) of subsection b.  
38 of section 6 of P.L.2011, c.149 (C.34:1B-247 ) in a form  
39 satisfactory to the authority.

40 "Independent institution of higher education" means a college or  
41 university incorporated and located in New Jersey, which by virtue  
42 of law or character or license is a nonprofit educational institution  
43 authorized to grant academic degrees and which provides a level of  
44 education which is equivalent to the education provided by the  
45 State's public institutions of higher education, as attested by the  
46 receipt of and continuation of regional accreditation by the Middle  
47 States Association of Colleges and Schools, and which is eligible to  
48 receive State aid under the provisions of the Constitution of the

1 United States and the Constitution of the State of New Jersey, but  
2 does not include any educational institution dedicated primarily to  
3 the education or training of ministers, priests, rabbis or other  
4 professional persons in the field of religion.

5 "Major rail station" means a railroad station located within a  
6 qualified incentive area which provides access to the public to a  
7 minimum of six rail passenger service lines operated by the New  
8 Jersey Transit Corporation.

9 "Mega project" means:

10 a. a qualified business facility located in a port district housing  
11 a business in the logistics, manufacturing, energy, defense, or  
12 maritime industries, either:

13 (1) having a capital investment in excess of \$20,000,000, and at  
14 which more than 250 full-time employees of the business are  
15 created or retained; or

16 (2) at which more than 1,000 full-time employees of the  
17 business are created or retained;

18 b. a qualified business facility located in an aviation district  
19 housing a business in the aviation industry, in a Garden State  
20 Growth Zone, or in a priority area housing the United States  
21 headquarters and related facilities of an automobile manufacturer,  
22 either:

23 (1) having a capital investment in excess of \$20,000,000, and at  
24 which more than 250 full-time employees of the business are  
25 created or retained, or

26 (2) at which more than 1,000 full-time employees of the  
27 business are created or retained;

28 c. a qualified business facility located in an urban transit hub  
29 housing a business of any kind, having a capital investment in  
30 excess of \$50,000,000, and at which more than 250 full-time  
31 employees of the business are created or retained;

32 d. a project located in an area designated in need of  
33 redevelopment, pursuant to P.L.1992, c.79 (C.40A:12A-1 et al.)  
34 prior to the enactment of P.L.2014, c.63 (C.34:1B-251 et al.) within  
35 Atlantic, Burlington, Camden, Cape May, Cumberland, Gloucester,  
36 Ocean, or Salem counties having a capital investment in excess of  
37 \$20,000,000, and at which more than 150 full-time employees of  
38 the business are created or retained; or

39 e. a qualified business facility primarily used by a business  
40 principally engaged in research, development, or manufacture of a  
41 drug or device, as defined in R.S.24:1-1, or primarily used by a  
42 business licensed to conduct a clinical laboratory and business  
43 facility pursuant to the "New Jersey Clinical Laboratory  
44 Improvement Act," P.L.1975, c.166 (C.45:9-42.26 et seq.), either:

45 (1) having a capital investment in excess of \$20,000,000, and at  
46 which more than 250 full-time employees of the business are  
47 created or retained, or

1 (2) at which more than 1,000 full-time employees of the  
2 business are created or retained.

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

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

18 "Municipal Revitalization Index" means the 2007 index by the  
19 Office for Planning Advocacy within the Department of State  
20 measuring or ranking municipal distress.

21 "New full-time job" means an eligible position created by the  
22 business at the qualified business facility that did not previously  
23 exist in this State. For the purposes of determining a number of new  
24 full-time jobs, the eligible positions of an affiliate shall be  
25 considered eligible positions of the business.

26 "Other eligible area" means the portions of the qualified  
27 incentive area that are not located within a distressed municipality,  
28 or the priority area.

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

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 "Priority area" means the portions of the qualified incentive area  
42 that are not located within a distressed municipality and which:

43 a. are designated pursuant to the "State Planning Act,"  
44 P.L.1985, c.398 (C.52:18A-196 et seq.), as Planning Area 1  
45 (Metropolitan), Planning Area 2 (Suburban), a designated center  
46 under the State Development and Redevelopment Plan, or a  
47 designated growth center in an endorsed plan until June 30, 2013, or  
48 until the State Planning Commission revises and readopts New

1 Jersey's State Strategic Plan and adopts regulations to revise this  
2 definition;

3 b. intersect with portions of: a deep poverty pocket, a port  
4 district, or federally-owned land approved for closure under a  
5 federal Commission on Base Realignment and Closure action;

6 c. are the proposed site of a disaster recovery project, a  
7 qualified incubator facility, a highlands development credit  
8 receiving area or redevelopment area, a tourism destination project,  
9 or transit oriented development; or

10 d. contain: a vacant commercial building having over 400,000  
11 square feet of office, laboratory, or industrial space available for  
12 occupancy for a period of over one year; or a site that has been  
13 negatively impacted by the approval of a "qualified business  
14 facility," as defined pursuant to section 2 of P.L.2007, c.346  
15 (C.34:1B-208).

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

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

21 "Public research university" means a public research university  
22 as defined in section 3 of P.L.1994, c.48 (C.18A:3B-3).

23 "Qualified business facility" means any building, complex of  
24 buildings or structural components of buildings, and all machinery  
25 and equipment located within a qualified incentive area, used in  
26 connection with the operation of a business that is not engaged in  
27 final point of sale retail business at that location unless the building,  
28 complex of buildings or structural components of buildings, and all  
29 machinery and equipment located within a qualified incentive area,  
30 are used in connection with the operation of:

31 a. a final point of sale retail business located in a Garden State  
32 Growth Zone that will include a retail facility of at least 150,000  
33 square feet, of which at least 50 percent is occupied by either a full-  
34 service supermarket or grocery store; or

35 b. a tourism destination project located in the Atlantic City  
36 Tourism District as established pursuant to section 5 of P.L.2011,  
37 c.18 (C.5:12-219).

38 "Qualified incentive area" means:

39 a. an aviation district;

40 b. a port district;

41 c. a distressed municipality or urban transit hub municipality;

42 d. an area (1) designated pursuant to the "State Planning Act,"  
43 P.L.1985, c.398 (C.52:18A-196 et seq.), as:

44 (a) Planning Area 1 (Metropolitan);

45 (b) Planning Area 2 (Suburban); or

46 (c) Planning Area 3 (Fringe Planning Area);

47 (2) located within a smart growth area and planning area  
48 designated in a master plan adopted by the New Jersey

- 1 Meadowlands Commission pursuant to subsection (i) of section 6 of  
2 P.L.1968, c.404 (C.13:17-6) or subject to a redevelopment plan  
3 adopted by the New Jersey Meadowlands Commission pursuant to  
4 section 20 of P.L.1968, c.404 (C.13:17-21);
- 5 (3) located within any land owned by the New Jersey Sports and  
6 Exposition Authority, established pursuant to P.L.1971, c.137  
7 (C.5:10-1 et seq.), within the boundaries of the Hackensack  
8 Meadowlands District as delineated in section 4 of P.L.1968, c.404  
9 (C.13:17-4);
- 10 (4) located within a regional growth area, rural development  
11 area zoned for industrial use as of the effective date of  
12 P.L.2016, c.75, town, village, or a military and federal installation  
13 area designated in the comprehensive management plan prepared  
14 and adopted by the Pinelands Commission pursuant to the  
15 "Pinelands Protection Act," P.L.1979, c.111 (C.13:18A-1 et seq.);
- 16 (5) located within the planning area of the Highlands Region as  
17 defined in section 3 of P.L.2004, c.120 (C.13:20-3) or a highlands  
18 development credit receiving area or redevelopment area;
- 19 (6) located within a Garden State Growth Zone;
- 20 (7) located within land approved for closure under any federal  
21 Commission on Base Realignment and Closure action; or
- 22 (8) located only within the following portions of the areas  
23 designated pursuant to the "State Planning Act," P.L.1985, c.398  
24 (C.52:18A-196 et seq.), as Planning Area 4A (Rural Planning  
25 Area), Planning Area 4B (Rural/Environmentally Sensitive) or  
26 Planning Area 5 (Environmentally Sensitive) if Planning Area 4A  
27 (Rural Planning Area), Planning Area 4B (Rural/Environmentally  
28 Sensitive) or Planning Area 5 (Environmentally Sensitive) is  
29 located within:
- 30 (a) a designated center under the State Development and  
31 Redevelopment Plan;
- 32 (b) a designated growth center in an endorsed plan until the  
33 State Planning Commission revises and readopts New Jersey's State  
34 Strategic Plan and adopts regulations to revise this definition as it  
35 pertains to Statewide planning areas;
- 36 (c) any area determined to be in need of redevelopment pursuant  
37 to sections 5 and 6 of P.L.1992, c.79 (C.40A:12A-5 and  
38 C.40A:12A-6) or in need of rehabilitation pursuant to section 14 of  
39 P.L.1992, c.79 (C.40A:12A-14);
- 40 (d) any area on which a structure exists or previously existed  
41 including any desired expansion of the footprint of the existing or  
42 previously existing structure provided the expansion otherwise  
43 complies with all applicable federal, State, county, and local  
44 permits and approvals;
- 45 (e) the planning area of the Highlands Region as defined in  
46 section 3 of P.L.2004, c.120 (C.13:20-3) or a highlands  
47 development credit receiving area or redevelopment area; or

1 (f) any area on which an existing tourism destination project is  
2 located.

3 "Qualified incentive area" shall not include any property located  
4 within the preservation area of the Highlands Region as defined in  
5 section 3 of P.L.2004, c.120 (C.13:20-3).

6 "Qualified incubator facility" means a commercial building  
7 located within a qualified incentive area: which contains 50,000 or  
8 more square feet of office, laboratory, or industrial space; which is  
9 located near, and presents opportunities for collaboration with, a  
10 research institution, teaching hospital, college, or university; and  
11 within which, at least 50 percent of the gross leasable area is  
12 restricted for use by one or more technology startup companies  
13 during the commitment period.

14 "Retained full-time job" means an eligible position that currently  
15 exists in New Jersey and is filled by a full-time employee but  
16 which, because of a potential relocation by the business, is at risk of  
17 being lost to another state or country, or eliminated. For the  
18 purposes of determining a number of retained full-time jobs, the  
19 eligible positions of an affiliate shall be considered eligible  
20 positions of the business. For the purposes of the certifications and  
21 annual reports required in the incentive agreement pursuant to  
22 subsection e. of section 4 of P.L.2011, c.149 (C.34:1B-245), to the  
23 extent an eligible position that was the basis of the award no longer  
24 exists, a business shall include as a retained full-time job a new  
25 eligible position that is filled by a full-time employee provided that  
26 the position is included in the order of date of hire and is not the  
27 basis for any other incentive award. For a project located in a  
28 Garden State Growth Zone which qualified for the "Municipal  
29 Rehabilitation and Economic Recovery Act," P.L.2002, c.43  
30 (C.52:27BBB-1 et al.), retained full-time job shall include any  
31 employee previously employed in New Jersey and transferred to the  
32 new location in the Garden State Growth Zone which qualified for  
33 the "Municipal Rehabilitation and Economic Recovery Act,"  
34 P.L.2002, c.43 (C.52:27BBB-1 et al.).

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 situate.

39 "State college" means a State college or university established  
40 pursuant to chapter 64 of Title 18A of the New Jersey Statutes.

41 "Targeted industry" means any industry identified from time to  
42 time by the authority which shall initially include advanced  
43 transportation and logistics, advanced manufacturing, aviation,  
44 autonomous vehicle and zero-emission vehicle research or  
45 development, clean energy, life sciences, hemp processing,  
46 information and high technology, finance and insurance,  
47 professional services, film and digital media, non-retail food and  
48 beverage businesses including food innovation, and other

1 innovative industries that disrupt current technologies or business  
2 models.

3 "Technology startup company" means a for profit business that  
4 has been in operation fewer than five years and is developing or  
5 possesses a proprietary technology or business method of a high-  
6 technology or life science-related product, process, or service which  
7 the business intends to move to commercialization.

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

17 "Transit oriented development" means a qualified business  
18 facility located within a 1/2-mile radius, or one-mile radius for  
19 projects located in a Garden State Growth Zone, surrounding the  
20 mid-point of a New Jersey Transit Corporation, Port Authority  
21 Transit Corporation, or Port Authority Trans-Hudson Corporation  
22 rail, bus, or ferry station platform area, including all light rail  
23 stations.

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

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

37 (cf: P.L.2021, c.160, s.61)

38

39 4. This act shall take effect immediately.

40

41

42

43

44 \_\_\_\_\_  
45 Modifies employee health benefits requirements under certain  
economic development programs.

# ASSEMBLY, No. 5286

## STATE OF NEW JERSEY 220th LEGISLATURE

INTRODUCED MARCH 9, 2023

**Sponsored by:**

**Assemblyman LOUIS D. GREENWALD**

**District 6 (Burlington and Camden)**

**Assemblywoman ELIANA PINTOR MARIN**

**District 29 (Essex)**

**SYNOPSIS**

Modifies employee health benefits requirements under certain economic development programs.

**CURRENT VERSION OF TEXT**

As introduced.



(Sponsorship Updated As Of: 3/9/2023)

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

3

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

6

7 1. Section 2 of P.L.1996, c.25 (C.34:1B-113) is amended to  
8 read as follows:

9 2. As used in this act:

10 "Affiliate" means an entity that directly or indirectly controls, is  
11 under common control with, or is controlled by the business.  
12 Control exists in all cases in which the entity is a member of a  
13 controlled group of corporations as defined pursuant to section 1563  
14 of the Internal Revenue Code of 1986 (26 U.S.C. s.1563) or the  
15 entity is an organization in a group of organizations under common  
16 control as defined pursuant to subsection (b) or (c) of section 414 of  
17 the Internal Revenue Code of 1986 (26 U.S.C. s.414). An entity  
18 may establish by clear and convincing evidence, as determined by  
19 the Director of the Division of Taxation in the Department of the  
20 Treasury, that control exists in situations involving lesser  
21 percentages of ownership than required by those statutes;

22 "Authority" means the New Jersey Economic Development  
23 Authority created pursuant to P.L.1974, c.80 (C.34:1B-1 et seq.);

24 "Business retention or relocation grant of tax credits" or "grant of  
25 tax credits" means a grant which consists of the value of  
26 corporation business tax credits against the liability imposed  
27 pursuant to section 5 of P.L.1945, c.162 (C.54:10A-5) or credits  
28 against the taxes imposed on insurers pursuant to P.L.1945, c.132  
29 (C.54:18A-1 et al.), section 1 of P.L.1950, c.231 (C.17:32-15), and  
30 N.J.S.17B:23-5, provided to fund a portion of retention and  
31 relocation costs pursuant to P.L.1996, c.25 (C.34:1B-112 et seq.);

32 "Business" means an employer located in this State that has  
33 operated continuously in the State, in whole or in part, in its current  
34 form or as a predecessor entity for at least 10 years prior to filing an  
35 application pursuant to P.L.1996, c.25 (C.34:1B-112 et seq.) and  
36 which is subject to the provisions of R.S.43:21-1 et seq. and may  
37 include a sole proprietorship, a partnership, or a corporation that  
38 has made an election under Subchapter S of Chapter One of Subtitle  
39 A of the Internal Revenue Code of 1986, or any other business  
40 entity through which income flows as a distributive share to its  
41 owners, limited liability company, nonprofit corporation, or any  
42 other form of business organization located either within or outside  
43 the State. A business shall include an affiliate of the business if that  
44 business applies for a credit based upon any capital investment  
45 made by an affiliate or based upon retained full-time jobs of an  
46 affiliate;

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

Matter underlined thus is new matter.

1 "Capital investment" means expenses that the business incurs  
2 following its submission of an application to the authority pursuant  
3 to section 5 of P.L.1996, c.25 (C.34:1B-116), but prior to the  
4 Capital Investment Completion Date, as shall be defined in the  
5 project agreement, for: (1) the site preparation and construction,  
6 renovation, improvement, equipping of, or obtaining and installing  
7 fixtures and machinery, apparatus or equipment in, a newly  
8 constructed, renovated or improved building, structure, facility, or  
9 improvement to real property in this State; and (2) obtaining and  
10 installing fixtures and machinery, apparatus or equipment in a  
11 building, structure, or facility in this State. Provided however, that  
12 "capital investment" shall not include soft costs such as financing  
13 and design, furniture or decorative items such as artwork or plants,  
14 or office equipment if the office equipment is property with a  
15 recovery period of less than five years. The recovery period of any  
16 property, for purposes of this section, shall be determined as of the  
17 date such property is first placed in service or use in this State by  
18 the business, determined in accordance with section 168 of the  
19 federal Internal Revenue Code of 1986 (26 U.S.C. s.168). A  
20 business that acquires or leases a qualified business facility shall  
21 also be deemed to have acquired the capital investment made or  
22 acquired by the seller or landlord, as the case may be;

23 "Certificate of compliance" means a certificate issued by the  
24 authority pursuant to section 9 of P.L.1996, c.25 (C.34:1B-120);

25 "Chief executive officer" means the chief executive officer of the  
26 New Jersey Economic Development Authority;

27 "Commitment duration" means the tax credit term and five years  
28 from the end of the tax credit term specified in the project  
29 agreement entered into pursuant to section 5 of P.L.1996, c.25  
30 (C.34:1B-116);

31 "Designated industry" means an industry identified by the  
32 authority as desirable for the State to maintain, which may be  
33 designated and amended via the promulgation of rules by the  
34 authority to reflect changing market conditions;

35 "Designated urban center" means an urban center designated in  
36 the State Development and Redevelopment Plan adopted by the  
37 State Planning Commission;

38 "Eligible position" means a full-time position retained by a  
39 business in this State for which a business provides employee health  
40 benefits under a group health plan as defined under section 14 of  
41 P.L.1997, c.146 (C.17B:27-54), a health benefits plan as defined  
42 under section 1 of P.L.1992, c.162 (C.17B:27A-17), or a policy or  
43 contract of health insurance covering more than one person issued  
44 pursuant to Article 2 of Chapter 27 of Title 17B of the New Jersey  
45 Statutes. For an eligible business that (1) submits a certificate of  
46 compliance on or after the effective date of P.L. , c. (C. ),  
47 or (2) submitted a certificate of compliance but did not receive, with  
48 respect to that application, an annual tax certificate from the

1 authority by the effective date of P.L. , c. (C. ), the  
2 requirement that employee health benefits are to be provided shall  
3 be deemed to be satisfied if the benefits are provided by the  
4 business or pursuant to a collective bargaining agreement, no later  
5 than 90 days of employee start date, under a health benefits plan  
6 authorized pursuant to State or federal law;

7 "Full-time employee" means a person employed by the business  
8 for consideration for at least 35 hours a week, or who renders any  
9 other standard of service generally accepted by custom or practice,  
10 as determined by the authority, as full-time employment, or a  
11 person who is employed by a professional employer organization  
12 pursuant to an employee leasing agreement between the business  
13 and the professional employer organization, in accordance with  
14 P.L.2001, c.260 (C.34:8-67 et seq.) for at least 35 hours a week, or  
15 who renders any other standard of service generally accepted by  
16 custom or practice, as determined by the authority, as full-time  
17 employment, and whose wages are subject to withholding as  
18 provided in the "New Jersey Gross Income Tax Act," N.J.S.54A:1-1  
19 et seq. or an employee who is a resident of another State but whose  
20 income is not subject to the "New Jersey Gross Income Tax Act,"  
21 N.J.S.54A:1-1 et seq. or who is a partner of a business who works  
22 for the partnership for at least 35 hours a week, or who renders any  
23 other standard of service generally accepted by custom or practice,  
24 as determined by the authority, as full-time employment, and whose  
25 distributive share of income, gain, loss, or deduction, or whose  
26 guaranteed payments, or any combination thereof, is subject to the  
27 payment of estimated taxes, as provided in the "New Jersey Gross  
28 Income Tax Act," N.J.S.54A:1-1 et seq. "Full-time employee" shall  
29 not include any person who works as an independent contractor or  
30 on a consulting basis for the business;

31 "Full-time employee at the qualified business facility" means a  
32 full-time position in a business in this State, which position the  
33 business has filled with a full-time employee, who shall have their  
34 primary office at the qualified business facility and spend at least 60  
35 percent of their time at the qualified business facility. This  
36 requirement shall supersede any law, regulation, or incentive  
37 agreement that imposes a requirement that the employee be present  
38 at the qualified business facility for a specified percentage of time  
39 greater than 60 percent. This amendment shall not alter or terminate  
40 any waiver of the requirement that an employee spend time at the  
41 qualified business facility implemented by the authority due to  
42 COVID-19 public health emergency and state of emergency.

43 "New business location" means the premises to which a business  
44 will relocate that the business has either purchased or built or for  
45 which the business has entered into a purchase agreement or a  
46 written lease for a period of no less than the commitment duration  
47 or eight years, whichever is greater, from the date of relocation. A  
48 "new business location" also means the business's current location

1 or locations if the business makes a capital investment equal to the  
2 total value of the business retention or relocation grant of tax credits  
3 to the business at that location or locations;

4 "Program" means the Business Retention and Relocation  
5 Assistance Grant Program created pursuant to P.L.1996, c.25  
6 (C.34:1B-112 et seq.);

7 "Project agreement" means an agreement between a business and  
8 the authority that sets the forecasted schedule for completion and  
9 occupancy of the project, the date the commitment duration shall  
10 commence, the amount and tax credit term of the applicable grant of  
11 tax credits, and other such provisions which further the purposes of  
12 P.L.1996, c.25 (C.34:1B-112 et seq.);

13 "Retained full-time job" means an eligible position that currently  
14 exists in New Jersey and is filled by a full-time employee but  
15 which, because of a potential relocation by the business, is at risk of  
16 being lost to another state or country. For the purposes of  
17 determining a number of retained full-time jobs, the eligible  
18 positions of an affiliate shall be considered the eligible positions of  
19 the business;

20 "Tax credit term" means the period of time commencing with the  
21 first issuance of tax credits and continuing during the period in  
22 which the recipient of a grant of tax credits is eligible to apply the  
23 tax credits pursuant to section 7 of P.L.2004, c.65 (C.34:1B-115.3);  
24 and

25 "Yearly tax credit amount" means \$1,500 times the number of  
26 retained full-time jobs. "Yearly tax credit amount" does not include  
27 the amount of any bonus award authorized pursuant to section 5 of  
28 P.L.2004, c.65 (C.34:1B-115.1).  
29 (cf: P.L.2021, c.160, s.64)

30

31 2. Section 2 of P.L.1996, c.26 (C.34:1B-125) is amended to  
32 read as follows:

33 2. As used in sections 1 through 17 of P.L.1996, c.26  
34 (C.34:1B-124 et seq.) and in sections 9 through 11 of P.L.2003,  
35 c.166 (C.34:1B-139.1 through C.34:1B-139.3), unless a different  
36 meaning clearly appears from the context:

37 "Advanced computing" means a technology used in the  
38 designing and developing of computing hardware and software,  
39 including innovations in designing the full spectrum of hardware  
40 from hand-held calculators to super computers, and peripheral  
41 equipment.

42 "Advanced computing company" means a person, whose  
43 headquarters or base of operations is located in New Jersey,  
44 engaged in the research, development, production, or provision of  
45 advanced computing for the purpose of developing or providing  
46 products or processes for specific commercial or public purposes.

47 "Advanced materials" means materials with engineered  
48 properties created through the development of specialized

1 processing and synthesis technology, including ceramics, high  
2 value-added metals, electronic materials, composites, polymers, and  
3 biomaterials.

4 "Advanced materials company" means a person, whose  
5 headquarters or base of operations is located in New Jersey,  
6 engaged in the research, development, production, or provision of  
7 advanced materials for the purpose of developing or providing  
8 products or processes for specific commercial or public purposes.

9 "Application year" means the grant year for which an eligible  
10 partnership submits the information required under section 8 of  
11 P.L.1996, c.26 (C.34:1B-131).

12 "Authority" means the New Jersey Economic Development  
13 Authority created pursuant to section 4 of P.L.1974, c.80 (C.34:1B-  
14 4).

15 "Base years" means the first two complete calendar years  
16 following the effective date of an agreement.

17 "Biotechnology" means the continually expanding body of  
18 fundamental knowledge about the functioning of biological systems  
19 from the macro level to the molecular and sub-atomic levels, as  
20 well as novel products, services, technologies, and sub-technologies  
21 developed as a result of insights gained from research advances  
22 which add to that body of fundamental knowledge.

23 "Biotechnology company" means a person, whose headquarters  
24 or base of operations is located in New Jersey, engaged in the  
25 research, development, production, or provision of biotechnology  
26 for the purpose of developing or providing products or processes for  
27 specific commercial or public purposes, including but not limited  
28 to, medical, pharmaceutical, nutritional, and other health-related  
29 purposes, agricultural purposes, and environmental purposes, or a  
30 person, whose headquarters or base of operations is located in New  
31 Jersey, engaged in providing services or products necessary for  
32 such research, development, production, or provision.

33 "Bonds" means bonds, notes, or other obligations issued by the  
34 authority pursuant to P.L.1996, c.26 (C.34:1B-124 et seq.).

35 "Business" means a corporation; sole proprietorship; partnership;  
36 corporation that has made an election under Subchapter S of  
37 Chapter One of Subtitle A of the Internal Revenue Code of 1986, or  
38 any other business entity through which income flows as a  
39 distributive share to its owners; limited liability company; nonprofit  
40 corporation; or any other form of business organization located  
41 either within or outside this State. A grant received under P.L.1996,  
42 c.26 (C.34:1B-124 et seq.) by a partnership, Subchapter S-  
43 Corporation, or other business entity shall be apportioned among  
44 the persons to whom the income or profit of the partnership,  
45 Subchapter S-Corporation, or other entity is distributed, in the same  
46 proportions as those in which the income or profit is distributed.

47 "Business employment incentive agreement" or "agreement"  
48 means the written agreement between the authority and a business

1 proposing a project in this State in accordance with the provisions  
2 of P.L.1996, c.26 (C.34:1B-124 et seq.) which establishes the terms  
3 and conditions of a grant to be awarded pursuant to P.L.1996, c.26  
4 (C.34:1B-124 et seq.).

5 "Designated industry" means a business engaged in the field of  
6 biotechnology, pharmaceuticals, financial services, transportation  
7 and logistics, advanced computing, advanced materials, electronic  
8 device technology, environmental technology, or medical device  
9 technology.

10 "Director" means the Director of the Division of Taxation.

11 "Division" means the Division of Taxation in the Department of  
12 the Treasury.

13 "Electronic device technology" means a technology involving  
14 microelectronics, semiconductors, electronic equipment, and  
15 instrumentation, radio frequency, microwave, and millimeter  
16 electronics, and optical and optic-electrical devices, or data and  
17 digital communications and imaging devices.

18 "Electronic device technology company" means a person, whose  
19 headquarters or base of operations is located in New Jersey,  
20 engaged in the research, development, production, or provision of  
21 electronic device technology for the purpose of developing or  
22 providing products or processes for specific commercial or public  
23 purposes.

24 "Eligible partnership" means a partnership or limited liability  
25 company that is qualified to receive a grant as established in  
26 P.L.1996, c.26 (C.34:1B-124 et seq.).

27 "Eligible position" is a new full-time position created by a  
28 business in New Jersey or transferred from another state by the  
29 business under the terms and conditions set forth in P.L.1996, c.26  
30 (C.34:1B-124 et seq.) during the base years or in subsequent years  
31 of a grant. In determining if positions are eligible positions, the  
32 authority shall give greater consideration to positions that average  
33 at least 1.5 times the minimum hourly wage during the term of an  
34 agreement authorized pursuant to P.L.1996, c.26 (C.34:1B-124 et  
35 seq.). For grants awarded on or after July 1, 2003, eligible position  
36 includes only a position for which a business provides employee  
37 health benefits under a group health plan as defined under section  
38 14 of P.L.1997, c.146 (C.17B:27-54), a health benefits plan as  
39 defined under section 1 of P.L.1992, c.162 (C.17B:27A-17), or a  
40 policy or contract of health insurance covering more than one  
41 person issued pursuant to Article 2 of Title 17B of the New Jersey  
42 Statutes. For an eligible business that (1) submits its applicable  
43 New Jersey tax return and annual payroll report required pursuant  
44 to section 8 of P.L.1996, c.26 (C.34:1B-131) to the authority on or  
45 after the effective date of P.L. , c. (C. ), or (2) submitted its  
46 applicable New Jersey tax return and annual payroll report required  
47 pursuant to section 8 of P.L.1996, c.26 (C.34:1B-131) to the  
48 authority , but did not receive, with respect to that application, an

1 annual tax certificate from the authority by the effective date of  
2 P.L. , c. (C. ), the requirement that employee health benefits  
3 are to be provided shall be deemed to be satisfied if the benefits are  
4 provided by the business or pursuant to a collective bargaining  
5 agreement, no later than 90 days of employee start date, under a  
6 health benefits plan authorized pursuant to State or federal law. An  
7 "eligible position" shall also include all current and future partners  
8 or members of a partnership or limited liability company created by  
9 a business in New Jersey or transferred from another state by the  
10 business pursuant to the conditions set forth in P.L.1996, c.26  
11 (C.34:1B-124 et seq.) during the base years or in subsequent years  
12 of a grant. An "eligible position" shall also include a position  
13 occupied by a resident of this State whose position is relocated to  
14 this State from another state but who does not qualify as a "new  
15 employee" because prior to relocation the resident's wages or the  
16 resident's distributive share of income from a gain, from a loss or  
17 deduction, or the resident's guaranteed payments or any  
18 combination thereof, prior to the relocation, were not subject to  
19 income taxes imposed by the state or municipality in which the  
20 position was previously located. An "eligible position" shall also  
21 include a position occupied by a resident of another State whose  
22 position is relocated to this State but whose income is not subject to  
23 the New Jersey gross income tax pursuant to the "New Jersey Gross  
24 Income Tax Act," N.J.S.54A:1-1 et seq. An "eligible position" shall  
25 not include any position located within New Jersey, which, within a  
26 period either three months prior to the business' application for a  
27 grant under P.L.1996, c.26 (C.34:1B-124 et seq.) or six months  
28 after the date of application, ceases to exist or be located within  
29 New Jersey.

30 "Employment incentive" means the amount of a grant, either in  
31 cash or in tax credits, determined pursuant to subsection a. of  
32 section 6 of P.L.1996, c.26 (C.34:1B-129 ).

33 "Environmental technology" means assessment and prevention of  
34 threats or damage to human health or the environment,  
35 environmental cleanup, or the development of alternative energy  
36 sources.

37 "Environmental technology company" means a person, whose  
38 headquarters or base of operations is located in New Jersey,  
39 engaged in the research, development, production, or provision of  
40 environmental technology for the purpose of developing or  
41 providing products or processes for specific commercial or public  
42 purposes.

43 "Estimated tax" means an amount calculated for a partner in an  
44 eligible position equal to 6.37 percent of the lesser of: a. the amount  
45 of the partner's net income from the eligible partnership that is  
46 sourced to New Jersey as reflected in Column B of the partner's  
47 Schedule NJK-1 of the application year less the amount of the  
48 partner's net income from the eligible partnership that is sourced to

1 New Jersey as reflected in column B of the partner's Schedule NJK-  
2 1 in the foundation year; or b. the net of all items of partnership  
3 income upon which tax has been paid as reflected on the partner's  
4 New Jersey Gross Income Tax return in the application year.

5 "Foundation year" means the year immediately prior to the  
6 creation of the eligible position.

7 "Full-time employee" means a person who is employed for  
8 consideration for at least 35 hours a week, or who renders any other  
9 standard of service generally accepted by custom or practice as full-  
10 time employment, whose wages are subject to withholding as  
11 provided in the "New Jersey Gross Income Tax Act," N.J.S.54A:1-1  
12 et seq., and who is determined by the authority to be employed in a  
13 permanent position according to criteria it develops, or who is a  
14 partner of an eligible partnership, who works for the partnership for  
15 at least 35 hours a week, or who renders any other standard of  
16 service generally accepted by custom or practice as full-time  
17 employment, and whose distributive share of income, gain, loss, or  
18 deduction, or whose guaranteed payments, or any combination  
19 thereof, is subject to the payment of estimated taxes, as provided in  
20 the "New Jersey Gross Income Tax Act," N.J.S.54A:1-1 et seq.  
21 "Full-time employee" shall not include any person who works as an  
22 independent contractor or on a consulting basis for the business.

23 "Full-time employee at the qualified business facility" means a  
24 full-time position in a business in this State, which position the  
25 business has filled with a full-time employee, who shall have their  
26 primary office at the qualified business facility and spend at least 60  
27 percent of their time at the qualified business facility. This  
28 requirement shall supersede any law, regulation, or incentive  
29 agreement that imposes a requirement that the employee be present  
30 at the qualified business facility for a specified percentage of time  
31 greater than 60 percent. This amendment shall not alter or terminate  
32 any waiver of the requirement that an employee spend time at the  
33 qualified business facility implemented by the authority due to  
34 COVID-19 public health emergency and state of emergency.

35 "Grant" means a business employment incentive grant as  
36 established in P.L.1996, c.26 (C.34:1B-124 et seq.).

37 "Medical device technology" means a technology involving any  
38 medical equipment or product, other than a pharmaceutical product,  
39 that has therapeutic value, diagnostic value, or both, and is  
40 regulated by the federal Food and Drug Administration.

41 "Medical device technology company" means a person, whose  
42 headquarters or base of operations is located in New Jersey,  
43 engaged in the research, development, production, or provision of  
44 medical device technology for the purpose of developing or  
45 providing products or processes for specific commercial or public  
46 purposes.

1 "Net income from the eligible partnership" means the net  
2 combination of a partner's distributive share of the eligible  
3 partnership's income, gain, loss, deduction, or guaranteed payments.

4 "New employee" means a full-time employee first employed in  
5 an eligible position on the project which is the subject of an  
6 agreement or who is a partner of an eligible partnership, who works  
7 for the partnership for at least 35 hours a week, or who renders any  
8 other standard of service generally accepted by custom or practice  
9 as full-time employment, and whose distributive share of income,  
10 gain, loss or deduction, or whose guaranteed payments, or any  
11 combination thereof, is subject to the payment of estimated taxes, as  
12 provided in the "New Jersey Gross Income Tax Act," N.J.S.54A:1-1  
13 et seq.; except that a New Jersey resident whose position is  
14 relocated to this State shall not be classified as a "new employee"  
15 unless the employee's wages, or the employee's distributive share of  
16 income from a gain, from a loss or deduction, or the employee's  
17 guaranteed payments or any combination thereof, prior to the  
18 relocation, were subject to income taxes imposed by the state or  
19 municipality in which the position was previously located. "New  
20 employee" may also include an employee rehired or called back  
21 from a layoff during or following the base years to a vacant position  
22 previously held by that employee or to a new position established  
23 during or following the base years. "New employee" shall not  
24 include any employee who was previously employed in New Jersey  
25 by the business or by a related person as defined in section 2 of  
26 P.L.1993, c.170 (C.54:10A-5.5) if the employee is transferred to the  
27 business, which is the subject of an agreement, unless the  
28 employee's position at the employee's previous employer is filled by  
29 a new employee. "New employee" also shall not include a child,  
30 grandchild, parent, or spouse of an individual associated with the  
31 business who has direct or indirect ownership of at least 15 percent  
32 of the profits, capital, or value of the business. New employee shall  
33 also include an employee whose position is relocated to this State  
34 but whose income is not subject to the New Jersey gross income tax  
35 pursuant to the "New Jersey Gross Income Tax Act," N.J.S.54A:1-1  
36 et seq.

37 "Partner" means a person who is entitled to either a distributive  
38 share of a partnership's income, gain, loss, or deduction, or  
39 guaranteed payments, or any combination thereof, by virtue of  
40 holding an interest in the partnership. "Partner" also includes a  
41 person who is a member of a limited liability company which is  
42 treated as a partnership, as provided in the "New Jersey Gross  
43 Income Tax Act," N.J.S.54A:1-1 et seq.

44 "Refunding Bonds" means bonds, notes or other obligations  
45 issued to refinance bonds, notes or other obligations previously  
46 issued by the authority pursuant to the provisions of P.L.1996, c.26  
47 (C.34:1B-124 et seq.).

1 "Residual withholdings" means for any period of time, the excess  
2 of the estimated cumulative withholdings for all executed  
3 agreements eligible for payments under P.L.1996, c.26 (C.34:1B-  
4 124 et seq.) over the cumulative anticipated grant amounts.

5 "Schedule NJK-1" means Schedule NJK-1 as the form existed for  
6 taxable year 1997.

7 "Withholdings" means the amount withheld by a business from  
8 the wages of new employees or estimated taxes paid by, or on  
9 behalf of, partners that are new employees, or any combination  
10 thereof, pursuant to the "New Jersey Gross Income Tax Act,"  
11 N.J.S.54A:1-1 et seq., and, if the new employee is an employee  
12 whose position has moved to New Jersey but whose income is not  
13 subject to the New Jersey gross income tax pursuant to  
14 N.J.S.54A:1-1 et seq., the amount of withholding that would occur  
15 if the employee were to move to New Jersey.

16 (cf: P.L.2021, c.160, s.63)

17

18 3. Section 2 of P.L.2011, c.149 (C.34:1B-243) is amended to  
19 read as follows:

20 2. As used in P.L.2011, c.149 (C.34:1B-242 et seq.):

21 "Affiliate" means an entity that directly or indirectly controls, is  
22 under common control with, or is controlled by the business.  
23 Control exists in all cases in which the entity is a member of a  
24 controlled group of corporations as defined pursuant to section 1563  
25 of the Internal Revenue Code of 1986 (26 U.S.C. s.1563) or the  
26 entity is an organization in a group of organizations under common  
27 control as defined pursuant to subsection (b) or (c) of section 414 of  
28 the Internal Revenue Code of 1986 (26 U.S.C. s.414). A taxpayer  
29 may establish by clear and convincing evidence, as determined by  
30 the Director of the Division of Taxation in the Department of the  
31 Treasury, that control exists in situations involving lesser  
32 percentages of ownership than required by those statutes. An  
33 affiliate of a business may contribute to meeting either the qualified  
34 investment or full-time employee requirements of a business that  
35 applies for a credit under section 3 of P.L.2007, c.346 (C.34:1B-  
36 209).

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

39 "Aviation district" means all areas within the boundaries of the  
40 "Atlantic City International Airport," established pursuant to section  
41 24 of P.L.1991, c.252 (C.27:25A-24), and the Federal Aviation  
42 Administration William J. Hughes Technical Center and the area  
43 within a one-mile radius of the outermost boundary of the "Atlantic  
44 City International Airport" and the Federal Aviation Administration  
45 William J. Hughes Technical Center.

46 "Business" means an applicant proposing to own or lease  
47 premises in a qualified business facility that is:

1 a corporation that is subject to the tax imposed pursuant to  
2 section 5 of P.L.1945, c.162 (C.54:10A-5);

3 a corporation that is subject to the tax imposed pursuant to  
4 sections 2 and 3 of P.L.1945, c.132 (C.54:18A-2 and C.54:18A-3),  
5 section 1 of P.L.1950, c.231 (C.17:32-15) or N.J.S.17B:23-5;

6 a partnership;

7 an S corporation;

8 a limited liability company; or

9 a non-profit corporation.

10 If the business or tenant is a cooperative or part of a cooperative,  
11 then the cooperative may qualify for credits by counting the full-  
12 time employees and capital investments of its member  
13 organizations, and the cooperative may distribute credits to its  
14 member organizations. If the business or tenant is a cooperative that  
15 leases to its member organizations, the lease shall be treated as a  
16 lease to an affiliate or affiliates.

17 A business shall include an affiliate of the business if that  
18 business applies for a credit based upon any capital investment  
19 made by or full-time employees of an affiliate.

20 "Capital investment" in a qualified business facility means  
21 expenses by a business or any affiliate of the business incurred after  
22 application for:

23 a. site preparation and construction, repair, renovation,  
24 improvement, equipping, or furnishing on real property or of a  
25 building, structure, facility, or improvement to real property;

26 b. obtaining and installing furnishings and machinery,  
27 apparatus, or equipment, including but not limited to material goods  
28 subject to bonus depreciation under sections 168 and 179 of the  
29 federal Internal Revenue Code (26 U.S.C. s.168 and s.179), for the  
30 operation of a business on real property or in a building, structure,  
31 facility, or improvement to real property;

32 c. receiving Highlands Development Credits under the  
33 Highlands Transfer Development Rights Program authorized  
34 pursuant to section 13 of P.L.2004, c.120 (C.13:20-13); or

35 d. any of the foregoing.

36 In addition to the foregoing, in a Garden State Growth Zone, the  
37 following qualify as a capital investment: any development,  
38 redevelopment, and relocation costs, including, but not limited to,  
39 site acquisition if made within 24 months of application to the  
40 authority, engineering, legal, accounting, and other professional  
41 services required; and relocation, environmental remediation, and  
42 infrastructure improvements for the project area, including, but not  
43 limited to, on- and off-site utility, road, pier, wharf, bulkhead, or  
44 sidewalk construction or repair.

45 In addition to the foregoing, if a business acquires or leases a  
46 qualified business facility, the capital investment made or acquired  
47 by the seller or owner, as the case may be, if pertaining primarily to  
48 the premises of the qualified business facility, shall be considered a

1 capital investment by the business and, if pertaining generally to the  
2 qualified business facility being acquired or leased, shall be  
3 allocated to the premises of the qualified business facility on the  
4 basis of the gross leasable area of the premises in relation to the  
5 total gross leasable area in the qualified business facility. The  
6 capital investment described herein may include any capital  
7 investment made or acquired within 24 months prior to the date of  
8 application so long as the amount of capital investment made or  
9 acquired by the business, any affiliate of the business, or any owner  
10 after the date of application equals at least 50 percent of the amount  
11 of capital investment, allocated to the premises of the qualified  
12 business facility being acquired or leased on the basis of the gross  
13 leasable area of the premises in relation to the total gross leasable  
14 area in the qualified business facility made or acquired prior to the  
15 date of application.

16 "College or university" means a county college, an independent  
17 institution of higher education, a public research university, or a  
18 State college.

19 "Commitment period" means the period of time that is 1.5 times  
20 the eligibility period.

21 "County college" means an educational institution established by  
22 one or more counties, pursuant to chapter 64A of Title 18A of the  
23 New Jersey Statutes.

24 "Deep poverty pocket" means a population census tract having a  
25 poverty level of 20 percent or more, and which is located within the  
26 qualified incentive area and has been determined by the authority to  
27 be an area appropriate for development and in need of economic  
28 development incentive assistance.

29 "Disaster recovery project" means a project located on property  
30 that has been wholly or substantially damaged or destroyed as a  
31 result of a federally-declared disaster which, after utilizing all  
32 disaster funds available from federal, State, county, and local  
33 funding sources, demonstrates to the satisfaction of the authority  
34 that access to additional funding authorized pursuant to the "New  
35 Jersey Economic Opportunity Act of 2013," P.L.2013, c.161  
36 (C.52:27D-489p et al.), is necessary to complete the redevelopment  
37 project, and which is located within the qualified incentive area and  
38 has been determined by the authority to be in an area appropriate  
39 for development and in need of economic development incentive  
40 assistance.

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 "Doctoral university" means a university located within New  
4 Jersey that is classified as a doctoral university under the Carnegie  
5 Classification of Institutions of Higher Education's Basic  
6 Classification methodology on the effective date of P.L.2017, c.221.

7 "Eligibility period" means the period in which a business may  
8 claim a tax credit under the Grow New Jersey Assistance Program,  
9 beginning with the tax period in which the authority accepts  
10 certification of the business that it has met the capital investment  
11 and employment requirements of the Grow New Jersey Assistance  
12 Program and extending thereafter for a term of not more than 10  
13 years, with the term to be determined solely at the discretion of the  
14 applicant.

15 "Eligible position" or "full-time job" means a full-time position  
16 in a business in this State, which position the business has filled  
17 with a full-time employee, who shall have their primary office at  
18 the qualified business facility and spend at least 60 percent of their  
19 time at the qualified business facility. This requirement shall  
20 supersede any law, regulation, or incentive agreement that imposes  
21 a requirement that the employee be present at the qualified business  
22 facility for a specified percentage of time greater than 60 percent.  
23 This amendment shall not alter or terminate any waiver of the  
24 requirement that an employee spend time at the qualified business  
25 facility implemented by the authority due to COVID-19 public  
26 health emergency and state of emergency.

27 "Full-time employee" means a person:

28 a. who is employed by a business for consideration for at least  
29 35 hours a week, or who renders any other standard of service  
30 generally accepted by custom or practice as full-time employment;  
31 or

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

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

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

3 d. who, except for purposes of the Statewide workforce, is  
4 provided, by the business, with employee health benefits under a  
5 health benefits plan authorized pursuant to State or federal law. For  
6 an eligible business that (1) submits certifications and annual  
7 reports required in an incentive agreement pursuant to subsection e.  
8 of section 4 of P.L.2011, c.149 (C.34:1B-245) on or after the  
9 effective date of P.L. , c. (C. ), or (2) submitted  
10 certifications and annual reports required in an incentive agreement  
11 pursuant to subsection e. of section 4 of P.L.2011, c.149 (C.34:1B-  
12 245) on or after January 1, 2022, but did not receive, with respect  
13 to that application, an annual tax certificate from the authority by  
14 the effective date of P.L. , c. (C. ), the requirement that  
15 employee health benefits are to be provided shall be deemed to be  
16 satisfied if the benefits are provided by the business or pursuant to a  
17 collective bargaining agreement, no later than 90 days of employee  
18 start date, under a health benefits plan authorized pursuant to State  
19 or federal law.

20 With respect to a logistics, manufacturing, energy, defense,  
21 aviation, or maritime business, excluding primarily warehouse or  
22 distribution operations, located in a port district having a container  
23 terminal:

24 the requirement that employee health benefits are to be provided  
25 shall be deemed to be satisfied if the benefits are provided in  
26 accordance with industry practice by a third party obligated to  
27 provide such benefits pursuant to a collective bargaining agreement;

28 full-time employment shall include, but not be limited to,  
29 employees that have been hired by way of a labor union hiring hall  
30 or its equivalent;

31 35 hours of employment per week at a qualified business facility  
32 shall constitute one "full-time employee," regardless of whether or  
33 not the hours of work were performed by one or more persons.

34 For any project located in a Garden State Growth Zone which  
35 qualifies under the "Municipal Rehabilitation and Economic  
36 Recovery Act," P.L.2002, c.43 (C.52:27BBB-1 et al.), or any  
37 project located in the Atlantic City Tourism District as established  
38 pursuant to section 5 of P.L.2011, c.18 (C.5:12-219) and regulated  
39 by the Casino Reinvestment Development Authority, and which  
40 will include a retail facility of at least 150,000 square feet, of which  
41 at least 50 percent will be occupied by either a full-service  
42 supermarket or grocery store, 30 hours of employment per week at a  
43 qualified business facility shall constitute one "full-time employee,"  
44 regardless of whether the hours of work were performed by one or  
45 more persons, and the requirement that employee health benefits are  
46 to be provided shall be deemed to be satisfied if the employees of  
47 the business are covered by a collective bargaining agreement.

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

3 Full-time employee shall also not include any person who at the  
4 time of project application works in New Jersey for consideration  
5 for at least 35 hours per week, or who renders any other standard of  
6 service generally accepted by custom or practice as full-time  
7 employment but who prior to project application was not provided,  
8 by the business, with employee health benefits under a health  
9 benefits plan authorized pursuant to State or federal law.

10 "Garden State Create Zone" means the campus of a doctoral  
11 university, and the area within a three-mile radius of the outermost  
12 boundary of the campus of a doctoral university, according to a map  
13 appearing in the doctoral university's official catalog or other  
14 official publication on the effective date of P.L.2017, c.221.

15 "Garden State Growth Zone" or "growth zone" means the four  
16 New Jersey cities with the lowest median family income based on  
17 the 2009 American Community Survey from the US Census, (Table  
18 708. Household, Family, and Per Capita Income and Individuals,  
19 and Families Below Poverty Level by City: 2009); a municipality  
20 which contains a Tourism District as established pursuant to section  
21 5 of P.L.2011, c.18 (C.5:12-219) and regulated by the Casino  
22 Reinvestment Development Authority; or an aviation district.

23 "Highlands development credit receiving area or redevelopment  
24 area" means an area located within a qualified incentive area and  
25 designated by the Highlands Water Protection and Planning Council  
26 for the receipt of Highlands Development Credits under the  
27 Highlands Transfer Development Rights Program authorized  
28 pursuant to section 13 of P.L.2004, c.120 (C.13:20-13).

29 "Incentive agreement" means the contract between the business  
30 and the authority, which sets forth the terms and conditions under  
31 which the business shall be eligible to receive the incentives  
32 authorized pursuant to the program.

33 "Incentive effective date" means the date a business submits the  
34 documentation required pursuant to paragraph (1) of subsection b.  
35 of section 6 of P.L.2011, c.149 (C.34:1B-247 ) in a form  
36 satisfactory to the authority.

37 "Independent institution of higher education" means a college or  
38 university incorporated and located in New Jersey, which by virtue  
39 of law or character or license is a nonprofit educational institution  
40 authorized to grant academic degrees and which provides a level of  
41 education which is equivalent to the education provided by the  
42 State's public institutions of higher education, as attested by the  
43 receipt of and continuation of regional accreditation by the Middle  
44 States Association of Colleges and Schools, and which is eligible to  
45 receive State aid under the provisions of the Constitution of the  
46 United States and the Constitution of the State of New Jersey, but  
47 does not include any educational institution dedicated primarily to

1 the education or training of ministers, priests, rabbis or other  
2 professional persons in the field of religion.

3 "Major rail station" means a railroad station located within a  
4 qualified incentive area which provides access to the public to a  
5 minimum of six rail passenger service lines operated by the New  
6 Jersey Transit Corporation.

7 "Mega project" means:

8 a. a qualified business facility located in a port district housing  
9 a business in the logistics, manufacturing, energy, defense, or  
10 maritime industries, either:

11 (1) having a capital investment in excess of \$20,000,000, and at  
12 which more than 250 full-time employees of the business are  
13 created or retained; or

14 (2) at which more than 1,000 full-time employees of the  
15 business are created or retained;

16 b. a qualified business facility located in an aviation district  
17 housing a business in the aviation industry, in a Garden State  
18 Growth Zone, or in a priority area housing the United States  
19 headquarters and related facilities of an automobile manufacturer,  
20 either:

21 (1) having a capital investment in excess of \$20,000,000, and at  
22 which more than 250 full-time employees of the business are  
23 created or retained, or

24 (2) at which more than 1,000 full-time employees of the  
25 business are created or retained;

26 c. a qualified business facility located in an urban transit hub  
27 housing a business of any kind, having a capital investment in  
28 excess of \$50,000,000, and at which more than 250 full-time  
29 employees of the business are created or retained;

30 d. a project located in an area designated in need of  
31 redevelopment, pursuant to P.L.1992, c.79 (C.40A:12A-1 et al.)  
32 prior to the enactment of P.L.2014, c.63 (C.34:1B-251 et al.) within  
33 Atlantic, Burlington, Camden, Cape May, Cumberland, Gloucester,  
34 Ocean, or Salem counties having a capital investment in excess of  
35 \$20,000,000, and at which more than 150 full-time employees of  
36 the business are created or retained; or

37 e. a qualified business facility primarily used by a business  
38 principally engaged in research, development, or manufacture of a  
39 drug or device, as defined in R.S.24:1-1, or primarily used by a  
40 business licensed to conduct a clinical laboratory and business  
41 facility pursuant to the "New Jersey Clinical Laboratory  
42 Improvement Act," P.L.1975, c.166 (C.45:9-42.26 et seq.), either:

43 (1) having a capital investment in excess of \$20,000,000, and at  
44 which more than 250 full-time employees of the business are  
45 created or retained, or

46 (2) at which more than 1,000 full-time employees of the  
47 business are created or retained.

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

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

16 "Municipal Revitalization Index" means the 2007 index by the  
17 Office for Planning Advocacy within the Department of State  
18 measuring or ranking municipal distress.

19 "New full-time job" means an eligible position created by the  
20 business at the qualified business facility that did not previously  
21 exist in this State. For the purposes of determining a number of new  
22 full-time jobs, the eligible positions of an affiliate shall be  
23 considered eligible positions of the business.

24 "Other eligible area" means the portions of the qualified  
25 incentive area that are not located within a distressed municipality,  
26 or the priority area.

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

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

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

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

39 "Priority area" means the portions of the qualified incentive area  
40 that are not located within a distressed municipality and which:

41 a. are designated pursuant to the "State Planning Act,"  
42 P.L.1985, c.398 (C.52:18A-196 et seq.), as Planning Area 1  
43 (Metropolitan), Planning Area 2 (Suburban), a designated center  
44 under the State Development and Redevelopment Plan, or a  
45 designated growth center in an endorsed plan until June 30, 2013, or  
46 until the State Planning Commission revises and readopts New  
47 Jersey's State Strategic Plan and adopts regulations to revise this  
48 definition;

1 b. intersect with portions of: a deep poverty pocket, a port  
2 district, or federally-owned land approved for closure under a  
3 federal Commission on Base Realignment and Closure action;

4 c. are the proposed site of a disaster recovery project, a  
5 qualified incubator facility, a highlands development credit  
6 receiving area or redevelopment area, a tourism destination project,  
7 or transit oriented development; or

8 d. contain: a vacant commercial building having over 400,000  
9 square feet of office, laboratory, or industrial space available for  
10 occupancy for a period of over one year; or a site that has been  
11 negatively impacted by the approval of a "qualified business  
12 facility," as defined pursuant to section 2 of P.L.2007, c.346  
13 (C.34:1B-208).

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

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

19 "Public research university" means a public research university  
20 as defined in section 3 of P.L.1994, c.48 (C.18A:3B-3).

21 "Qualified business facility" means any building, complex of  
22 buildings or structural components of buildings, and all machinery  
23 and equipment located within a qualified incentive area, used in  
24 connection with the operation of a business that is not engaged in  
25 final point of sale retail business at that location unless the building,  
26 complex of buildings or structural components of buildings, and all  
27 machinery and equipment located within a qualified incentive area,  
28 are used in connection with the operation of:

29 a. a final point of sale retail business located in a Garden State  
30 Growth Zone that will include a retail facility of at least 150,000  
31 square feet, of which at least 50 percent is occupied by either a full-  
32 service supermarket or grocery store; or

33 b. a tourism destination project located in the Atlantic City  
34 Tourism District as established pursuant to section 5 of P.L.2011,  
35 c.18 (C.5:12-219).

36 "Qualified incentive area" means:

37 a. an aviation district;

38 b. a port district;

39 c. a distressed municipality or urban transit hub municipality;

40 d. an area (1) designated pursuant to the "State Planning Act,"  
41 P.L.1985, c.398 (C.52:18A-196 et seq.), as:

42 (a) Planning Area 1 (Metropolitan);

43 (b) Planning Area 2 (Suburban); or

44 (c) Planning Area 3 (Fringe Planning Area);

45 (2) located within a smart growth area and planning area  
46 designated in a master plan adopted by the New Jersey  
47 Meadowlands Commission pursuant to subsection (i) of section 6 of  
48 P.L.1968, c.404 (C.13:17-6) or subject to a redevelopment plan

- 1 adopted by the New Jersey Meadowlands Commission pursuant to  
2 section 20 of P.L.1968, c.404 (C.13:17-21);
- 3 (3) located within any land owned by the New Jersey Sports and  
4 Exposition Authority, established pursuant to P.L.1971, c.137  
5 (C.5:10-1 et seq.), within the boundaries of the Hackensack  
6 Meadowlands District as delineated in section 4 of P.L.1968, c.404  
7 (C.13:17-4);
- 8 (4) located within a regional growth area, rural development  
9 area zoned for industrial use as of the effective date of  
10 P.L.2016, c.75, town, village, or a military and federal installation  
11 area designated in the comprehensive management plan prepared  
12 and adopted by the Pinelands Commission pursuant to the  
13 "Pinelands Protection Act," P.L.1979, c.111 (C.13:18A-1 et seq.);
- 14 (5) located within the planning area of the Highlands Region as  
15 defined in section 3 of P.L.2004, c.120 (C.13:20-3) or a highlands  
16 development credit receiving area or redevelopment area;
- 17 (6) located within a Garden State Growth Zone;
- 18 (7) located within land approved for closure under any federal  
19 Commission on Base Realignment and Closure action; or
- 20 (8) located only within the following portions of the areas  
21 designated pursuant to the "State Planning Act," P.L.1985, c.398  
22 (C.52:18A-196 et seq.), as Planning Area 4A (Rural Planning  
23 Area), Planning Area 4B (Rural/Environmentally Sensitive) or  
24 Planning Area 5 (Environmentally Sensitive) if Planning Area 4A  
25 (Rural Planning Area), Planning Area 4B (Rural/Environmentally  
26 Sensitive) or Planning Area 5 (Environmentally Sensitive) is  
27 located within:
- 28 (a) a designated center under the State Development and  
29 Redevelopment Plan;
- 30 (b) a designated growth center in an endorsed plan until the  
31 State Planning Commission revises and readopts New Jersey's State  
32 Strategic Plan and adopts regulations to revise this definition as it  
33 pertains to Statewide planning areas;
- 34 (c) any area determined to be in need of redevelopment pursuant  
35 to sections 5 and 6 of P.L.1992, c.79 (C.40A:12A-5 and  
36 C.40A:12A-6) or in need of rehabilitation pursuant to section 14 of  
37 P.L.1992, c.79 (C.40A:12A-14);
- 38 (d) any area on which a structure exists or previously existed  
39 including any desired expansion of the footprint of the existing or  
40 previously existing structure provided the expansion otherwise  
41 complies with all applicable federal, State, county, and local  
42 permits and approvals;
- 43 (e) the planning area of the Highlands Region as defined in  
44 section 3 of P.L.2004, c.120 (C.13:20-3) or a highlands  
45 development credit receiving area or redevelopment area; or
- 46 (f) any area on which an existing tourism destination project is  
47 located.

1 "Qualified incentive area" shall not include any property located  
2 within the preservation area of the Highlands Region as defined in  
3 section 3 of P.L.2004, c.120 (C.13:20-3).

4 "Qualified incubator facility" means a commercial building  
5 located within a qualified incentive area: which contains 50,000 or  
6 more square feet of office, laboratory, or industrial space; which is  
7 located near, and presents opportunities for collaboration with, a  
8 research institution, teaching hospital, college, or university; and  
9 within which, at least 50 percent of the gross leasable area is  
10 restricted for use by one or more technology startup companies  
11 during the commitment period.

12 "Retained full-time job" means an eligible position that currently  
13 exists in New Jersey and is filled by a full-time employee but  
14 which, because of a potential relocation by the business, is at risk of  
15 being lost to another state or country, or eliminated. For the  
16 purposes of determining a number of retained full-time jobs, the  
17 eligible positions of an affiliate shall be considered eligible  
18 positions of the business. For the purposes of the certifications and  
19 annual reports required in the incentive agreement pursuant to  
20 subsection e. of section 4 of P.L.2011, c.149 (C.34:1B-245), to the  
21 extent an eligible position that was the basis of the award no longer  
22 exists, a business shall include as a retained full-time job a new  
23 eligible position that is filled by a full-time employee provided that  
24 the position is included in the order of date of hire and is not the  
25 basis for any other incentive award. For a project located in a  
26 Garden State Growth Zone which qualified for the "Municipal  
27 Rehabilitation and Economic Recovery Act," P.L.2002, c.43  
28 (C.52:27BBB-1 et al.), retained full-time job shall include any  
29 employee previously employed in New Jersey and transferred to the  
30 new location in the Garden State Growth Zone which qualified for  
31 the "Municipal Rehabilitation and Economic Recovery Act,"  
32 P.L.2002, c.43 (C.52:27BBB-1 et al.).

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

35 "SDA municipality" means a municipality in which an SDA  
36 district is situate.

37 "State college" means a State college or university established  
38 pursuant to chapter 64 of Title 18A of the New Jersey Statutes.

39 "Targeted industry" means any industry identified from time to  
40 time by the authority which shall initially include advanced  
41 transportation and logistics, advanced manufacturing, aviation,  
42 autonomous vehicle and zero-emission vehicle research or  
43 development, clean energy, life sciences, hemp processing,  
44 information and high technology, finance and insurance,  
45 professional services, film and digital media, non-retail food and  
46 beverage businesses including food innovation, and other  
47 innovative industries that disrupt current technologies or business  
48 models.

1 "Technology startup company" means a for profit business that  
2 has been in operation fewer than five years and is developing or  
3 possesses a proprietary technology or business method of a high-  
4 technology or life science-related product, process, or service which  
5 the business intends to move to commercialization.

6 "Tourism destination project" means a qualified non-gaming  
7 business facility that will be among the most visited privately  
8 owned or operated tourism or recreation sites in the State, and  
9 which is located within the qualified incentive area and 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 oriented development" means a qualified business  
16 facility located within a 1/2-mile radius, or one-mile radius for  
17 projects located in a Garden State Growth Zone, surrounding the  
18 mid-point of a New Jersey Transit Corporation, Port Authority  
19 Transit Corporation, or Port Authority Trans-Hudson Corporation  
20 rail, bus, or ferry station platform area, including all light rail  
21 stations.

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

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

35 (cf: P.L.2021, c.160, s.61)

36

37 4. This act shall take effect immediately.

38

39

40

#### STATEMENT

41

42 This bill modifies the employee health benefits requirements  
43 under the Business Retention and Relocation Assistance Grant  
44 Program, the Business Employment Incentive Program, and the  
45 Grow New Jersey Assistance Program. These programs require  
46 participating businesses to create a certain number of positions with

1 full-time employees, and to provide those full-time employees with  
2 employee health benefits. The bill would allow certain businesses  
3 participating in these programs to satisfy this requirement if the  
4 employee health benefits are provided by the business or pursuant  
5 to a collective bargaining agreement, no later than 90 days of  
6 employee start date, under a health benefits plan authorized  
7 pursuant to State or federal law.

ASSEMBLY COMMERCE AND ECONOMIC DEVELOPMENT  
COMMITTEE

STATEMENT TO

**ASSEMBLY, No. 5286**

**STATE OF NEW JERSEY**

DATED: MARCH 20, 2023

The Assembly Commerce and Economic Development Committee reports favorably Assembly Bill No. 5286.

This bill modifies the employee health benefits requirements under the Business Retention and Relocation Assistance Grant Program, the Business Employment Incentive Program, and the Grow New Jersey Assistance Program. These programs require participating businesses to create a certain number of positions with full-time employees, and to provide those full-time employees with employee health benefits. The bill would allow certain businesses participating in these programs to satisfy this requirement if the employee health benefits are provided by the business or pursuant to a collective bargaining agreement, no later than 90 days of employee start date, under a health benefits plan authorized pursuant to State or federal law.

# ASSEMBLY APPROPRIATIONS COMMITTEE

## STATEMENT TO

### **ASSEMBLY, No. 5286**

with committee amendments

# **STATE OF NEW JERSEY**

DATED: MARCH 23, 2023

The Assembly Appropriations Committee reports favorably and with committee amendments Assembly Bill No. 5286.

As amended and reported by the committee, this bill modifies the employee health benefits requirements under the Business Retention and Relocation Assistance Grant Program (BRRAG), the Business Employment Incentive Program (BEIP), and the Grow New Jersey Assistance Program (Grow NJ). These programs require participating businesses to create a certain number of positions with full-time employees, and to provide those full-time employees with employee health benefits. The bill, as amended, would allow businesses participating in these programs that submitted any certifications or documentation, as annually required, on or after January 1, 2020, to satisfy this requirement if the employee health benefits are provided by the business or pursuant to a collective bargaining agreement, no later than 90 days of employee start date, under a health benefits plan authorized pursuant to State or federal law.

#### COMMITTEE AMENDMENTS:

The committee amendments make the provisions of the bill apply retroactively to businesses participating in BRRAG, BEIP, or Grow NJ that submit any certifications or documentation, as required annually under those programs, to the authority on or after January 1, 2020.

#### FISCAL IMPACT:

This bill is not certified as requiring a fiscal note.

# SENATE BUDGET AND APPROPRIATIONS COMMITTEE

## STATEMENT TO

[First Reprint]

**ASSEMBLY, No. 5286**

# **STATE OF NEW JERSEY**

DATED: MAY 11, 2023

The Senate Budget and Appropriations Committee reports favorably Assembly Bill No. 5286 (1R).

This bill modifies the employee health benefits requirements under the Business Retention and Relocation Assistance Grant Program (BRRAG), the Business Employment Incentive Program (BEIP), and the Grow New Jersey Assistance Program (Grow NJ). These programs require participating businesses to create a certain number of positions with full-time employees, and to provide those full-time employees with employee health benefits. The bill allows businesses participating in these programs that submitted any certifications or documentation, as annually required, on or after January 1, 2020, to satisfy this requirement if the employee health benefits are provided by the business or pursuant to a collective bargaining agreement, no later than 90 days of employee start date, under a health benefits plan authorized pursuant to State or federal law

As reported by the committee, Assembly Bill No. 5286 (1R) is identical to Senate Bill No. 3718 (1R), as amended and reported by the committee on this date.

FISCAL IMPACT:

This bill is not certified as requiring a fiscal note.

**SENATE, No. 3718**

**STATE OF NEW JERSEY**  
**220th LEGISLATURE**

INTRODUCED MARCH 13, 2023

**Sponsored by:**

**Senator M. TERESA RUIZ**

**District 29 (Essex)**

**Senator PAUL A. SARLO**

**District 36 (Bergen and Passaic)**

**SYNOPSIS**

Modifies employee health benefits requirements under certain economic development programs.

**CURRENT VERSION OF TEXT**

As introduced.



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

3

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

6

7 1. Section 2 of P.L.1996, c.25 (C.34:1B-113) is amended to  
8 read as follows:

9 2. As used in this act:

10 "Affiliate" means an entity that directly or indirectly controls, is  
11 under common control with, or is controlled by the business.  
12 Control exists in all cases in which the entity is a member of a  
13 controlled group of corporations as defined pursuant to section 1563  
14 of the Internal Revenue Code of 1986 (26 U.S.C. s.1563) or the  
15 entity is an organization in a group of organizations under common  
16 control as defined pursuant to subsection (b) or (c) of section 414 of  
17 the Internal Revenue Code of 1986 (26 U.S.C. s.414). An entity  
18 may establish by clear and convincing evidence, as determined by  
19 the Director of the Division of Taxation in the Department of the  
20 Treasury, that control exists in situations involving lesser  
21 percentages of ownership than required by those statutes;

22 "Authority" means the New Jersey Economic Development  
23 Authority created pursuant to P.L.1974, c.80 (C.34:1B-1 et seq.);

24 "Business retention or relocation grant of tax credits" or "grant of  
25 tax credits" means a grant which consists of the value of  
26 corporation business tax credits against the liability imposed  
27 pursuant to section 5 of P.L.1945, c.162 (C.54:10A-5) or credits  
28 against the taxes imposed on insurers pursuant to P.L.1945, c.132  
29 (C.54:18A-1 et al.), section 1 of P.L.1950, c.231 (C.17:32-15), and  
30 N.J.S.17B:23-5, provided to fund a portion of retention and  
31 relocation costs pursuant to P.L.1996, c.25 (C.34:1B-112 et seq.);

32 "Business" means an employer located in this State that has  
33 operated continuously in the State, in whole or in part, in its current  
34 form or as a predecessor entity for at least 10 years prior to filing an  
35 application pursuant to P.L.1996, c.25 (C.34:1B-112 et seq.) and  
36 which is subject to the provisions of R.S.43:21-1 et seq. and may  
37 include a sole proprietorship, a partnership, or a corporation that  
38 has made an election under Subchapter S of Chapter One of Subtitle  
39 A of the Internal Revenue Code of 1986, or any other business  
40 entity through which income flows as a distributive share to its  
41 owners, limited liability company, nonprofit corporation, or any  
42 other form of business organization located either within or outside  
43 the State. A business shall include an affiliate of the business if that  
44 business applies for a credit based upon any capital investment

**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 made by an affiliate or based upon retained full-time jobs of an  
2 affiliate;

3 "Capital investment" means expenses that the business incurs  
4 following its submission of an application to the authority pursuant  
5 to section 5 of P.L.1996, c.25 (C.34:1B-116), but prior to the  
6 Capital Investment Completion Date, as shall be defined in the  
7 project agreement, for: (1) the site preparation and construction,  
8 renovation, improvement, equipping of, or obtaining and installing  
9 fixtures and machinery, apparatus or equipment in, a newly  
10 constructed, renovated or improved building, structure, facility, or  
11 improvement to real property in this State; and (2) obtaining and  
12 installing fixtures and machinery, apparatus or equipment in a  
13 building, structure, or facility in this State. Provided however, that  
14 "capital investment" shall not include soft costs such as financing  
15 and design, furniture or decorative items such as artwork or plants,  
16 or office equipment if the office equipment is property with a  
17 recovery period of less than five years. The recovery period of any  
18 property, for purposes of this section, shall be determined as of the  
19 date such property is first placed in service or use in this State by  
20 the business, determined in accordance with section 168 of the  
21 federal Internal Revenue Code of 1986 (26 U.S.C. s.168). A  
22 business that acquires or leases a qualified business facility shall  
23 also be deemed to have acquired the capital investment made or  
24 acquired by the seller or landlord, as the case may be;

25 "Certificate of compliance" means a certificate issued by the  
26 authority pursuant to section 9 of P.L.1996, c.25 (C.34:1B-120);

27 "Chief executive officer" means the chief executive officer of the  
28 New Jersey Economic Development Authority;

29 "Commitment duration" means the tax credit term and five years  
30 from the end of the tax credit term specified in the project  
31 agreement entered into pursuant to section 5 of P.L.1996, c.25  
32 (C.34:1B-116);

33 "Designated industry" means an industry identified by the  
34 authority as desirable for the State to maintain, which may be  
35 designated and amended via the promulgation of rules by the  
36 authority to reflect changing market conditions;

37 "Designated urban center" means an urban center designated in  
38 the State Development and Redevelopment Plan adopted by the  
39 State Planning Commission;

40 "Eligible position" means a full-time position retained by a  
41 business in this State for which a business provides employee health  
42 benefits under a group health plan as defined under section 14 of  
43 P.L.1997, c.146 (C.17B:27-54), a health benefits plan as defined  
44 under section 1 of P.L.1992, c.162 (C.17B:27A-17), or a policy or  
45 contract of health insurance covering more than one person issued  
46 pursuant to Article 2 of Chapter 27 of Title 17B of the New Jersey  
47 Statutes. For an eligible business that (1) submits a certificate of  
48 compliance on or after the effective date of P.L. , c. (C. ),

1 or (2) submitted a certificate of compliance but did not receive, with  
2 respect to that application, an annual tax certificate from the  
3 authority by the effective date of P.L. , c. (C. ), the  
4 requirement that employee health benefits are to be provided shall  
5 be deemed to be satisfied if the benefits are provided by the  
6 business or pursuant to a collective bargaining agreement, no later  
7 than 90 days of employee start date, under a health benefits plan  
8 authorized pursuant to State or federal law;

9 "Full-time employee" means a person employed by the business  
10 for consideration for at least 35 hours a week, or who renders any  
11 other standard of service generally accepted by custom or practice,  
12 as determined by the authority, as full-time employment, or a  
13 person who is employed by a professional employer organization  
14 pursuant to an employee leasing agreement between the business  
15 and the professional employer organization, in accordance with  
16 P.L.2001, c.260 (C.34:8-67 et seq.) for at least 35 hours a week, or  
17 who renders any other standard of service generally accepted by  
18 custom or practice, as determined by the authority, as full-time  
19 employment, and whose wages are subject to withholding as  
20 provided in the "New Jersey Gross Income Tax Act," N.J.S.54A:1-1  
21 et seq. or an employee who is a resident of another State but whose  
22 income is not subject to the "New Jersey Gross Income Tax Act,"  
23 N.J.S.54A:1-1 et seq. or who is a partner of a business who works  
24 for the partnership for at least 35 hours a week, or who renders any  
25 other standard of service generally accepted by custom or practice,  
26 as determined by the authority, as full-time employment, and whose  
27 distributive share of income, gain, loss, or deduction, or whose  
28 guaranteed payments, or any combination thereof, is subject to the  
29 payment of estimated taxes, as provided in the "New Jersey Gross  
30 Income Tax Act," N.J.S.54A:1-1 et seq. "Full-time employee" shall  
31 not include any person who works as an independent contractor or  
32 on a consulting basis for the business;

33 "Full-time employee at the qualified business facility" means a  
34 full-time position in a business in this State, which position the  
35 business has filled with a full-time employee, who shall have their  
36 primary office at the qualified business facility and spend at least 60  
37 percent of their time at the qualified business facility. This  
38 requirement shall supersede any law, regulation, or incentive  
39 agreement that imposes a requirement that the employee be present  
40 at the qualified business facility for a specified percentage of time  
41 greater than 60 percent. This amendment shall not alter or terminate  
42 any waiver of the requirement that an employee spend time at the  
43 qualified business facility implemented by the authority due to  
44 COVID-19 public health emergency and state of emergency.

45 "New business location" means the premises to which a business  
46 will relocate that the business has either purchased or built or for  
47 which the business has entered into a purchase agreement or a  
48 written lease for a period of no less than the commitment duration

1 or eight years, whichever is greater, from the date of relocation. A  
2 "new business location" also means the business's current location  
3 or locations if the business makes a capital investment equal to the  
4 total value of the business retention or relocation grant of tax credits  
5 to the business at that location or locations;

6 "Program" means the Business Retention and Relocation  
7 Assistance Grant Program created pursuant to P.L.1996, c.25  
8 (C.34:1B-112 et seq.);

9 "Project agreement" means an agreement between a business and  
10 the authority that sets the forecasted schedule for completion and  
11 occupancy of the project, the date the commitment duration shall  
12 commence, the amount and tax credit term of the applicable grant of  
13 tax credits, and other such provisions which further the purposes of  
14 P.L.1996, c.25 (C.34:1B-112 et seq.);

15 "Retained full-time job" means an eligible position that currently  
16 exists in New Jersey and is filled by a full-time employee but  
17 which, because of a potential relocation by the business, is at risk of  
18 being lost to another state or country. For the purposes of  
19 determining a number of retained full-time jobs, the eligible  
20 positions of an affiliate shall be considered the eligible positions of  
21 the business;

22 "Tax credit term" means the period of time commencing with the  
23 first issuance of tax credits and continuing during the period in  
24 which the recipient of a grant of tax credits is eligible to apply the  
25 tax credits pursuant to section 7 of P.L.2004, c.65 (C.34:1B-115.3);  
26 and

27 "Yearly tax credit amount" means \$1,500 times the number of  
28 retained full-time jobs. "Yearly tax credit amount" does not include  
29 the amount of any bonus award authorized pursuant to section 5 of  
30 P.L.2004, c.65 (C.34:1B-115.1).  
31 (cf: P.L.2021, c.160, s.64)

32

33 2. Section 2 of P.L.1996, c.26 (C.34:1B-125) is amended to  
34 read as follows:

35 2. As used in sections 1 through 17 of P.L.1996, c.26  
36 (C.34:1B-124 et seq.) and in sections 9 through 11 of  
37 P.L.2003, c.166 (C.34:1B-139.1 through C.34:1B-139.3), unless a  
38 different meaning clearly appears from the context:

39 "Advanced computing" means a technology used in the  
40 designing and developing of computing hardware and software,  
41 including innovations in designing the full spectrum of hardware  
42 from hand-held calculators to super computers, and peripheral  
43 equipment.

44 "Advanced computing company" means a person, whose  
45 headquarters or base of operations is located in New Jersey,  
46 engaged in the research, development, production, or provision of  
47 advanced computing for the purpose of developing or providing  
48 products or processes for specific commercial or public purposes.

1 "Advanced materials" means materials with engineered  
2 properties created through the development of specialized  
3 processing and synthesis technology, including ceramics, high  
4 value-added metals, electronic materials, composites, polymers, and  
5 biomaterials.

6 "Advanced materials company" means a person, whose  
7 headquarters or base of operations is located in New Jersey,  
8 engaged in the research, development, production, or provision of  
9 advanced materials for the purpose of developing or providing  
10 products or processes for specific commercial or public purposes.

11 "Application year" means the grant year for which an eligible  
12 partnership submits the information required under section 8 of  
13 P.L.1996, c.26 (C.34:1B-131).

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

17 "Base years" means the first two complete calendar years  
18 following the effective date of an agreement.

19 "Biotechnology" means the continually expanding body of  
20 fundamental knowledge about the functioning of biological systems  
21 from the macro level to the molecular and sub-atomic levels, as  
22 well as novel products, services, technologies, and sub-technologies  
23 developed as a result of insights gained from research advances  
24 which add to that body of fundamental knowledge.

25 "Biotechnology company" means a person, whose headquarters  
26 or base of operations is located in New Jersey, engaged in the  
27 research, development, production, or provision of biotechnology  
28 for the purpose of developing or providing products or processes for  
29 specific commercial or public purposes, including but not limited  
30 to, medical, pharmaceutical, nutritional, and other health-related  
31 purposes, agricultural purposes, and environmental purposes, or a  
32 person, whose headquarters or base of operations is located in New  
33 Jersey, engaged in providing services or products necessary for  
34 such research, development, production, or provision.

35 "Bonds" means bonds, notes, or other obligations issued by the  
36 authority pursuant to P.L.1996, c.26 (C.34:1B-124 et seq.).

37 "Business" means a corporation; sole proprietorship; partnership;  
38 corporation that has made an election under Subchapter S of  
39 Chapter One of Subtitle A of the Internal Revenue Code of 1986, or  
40 any other business entity through which income flows as a  
41 distributive share to its owners; limited liability company; nonprofit  
42 corporation; or any other form of business organization located  
43 either within or outside this State. A grant received under P.L.1996,  
44 c.26 (C.34:1B-124 et seq.) by a partnership, Subchapter S-  
45 Corporation, or other business entity shall be apportioned among  
46 the persons to whom the income or profit of the partnership,  
47 Subchapter S-Corporation, or other entity is distributed, in the same  
48 proportions as those in which the income or profit is distributed.

1 "Business employment incentive agreement" or "agreement"  
2 means the written agreement between the authority and a business  
3 proposing a project in this State in accordance with the provisions  
4 of P.L.1996, c.26 (C.34:1B-124 et seq.) which establishes the terms  
5 and conditions of a grant to be awarded pursuant to P.L.1996, c.26  
6 (C.34:1B-124 et seq.).

7 "Designated industry" means a business engaged in the field of  
8 biotechnology, pharmaceuticals, financial services, transportation  
9 and logistics, advanced computing, advanced materials, electronic  
10 device technology, environmental technology, or medical device  
11 technology.

12 "Director" means the Director of the Division of Taxation.

13 "Division" means the Division of Taxation in the Department of  
14 the Treasury.

15 "Electronic device technology" means a technology involving  
16 microelectronics, semiconductors, electronic equipment, and  
17 instrumentation, radio frequency, microwave, and millimeter  
18 electronics, and optical and optic-electrical devices, or data and  
19 digital communications and imaging devices.

20 "Electronic device technology company" means a person, whose  
21 headquarters or base of operations is located in New Jersey,  
22 engaged in the research, development, production, or provision of  
23 electronic device technology for the purpose of developing or  
24 providing products or processes for specific commercial or public  
25 purposes.

26 "Eligible partnership" means a partnership or limited liability  
27 company that is qualified to receive a grant as established in  
28 P.L.1996, c.26 (C.34:1B-124 et seq.).

29 "Eligible position" is a new full-time position created by a  
30 business in New Jersey or transferred from another state by the  
31 business under the terms and conditions set forth in P.L.1996, c.26  
32 (C.34:1B-124 et seq.) during the base years or in subsequent years  
33 of a grant. In determining if positions are eligible positions, the  
34 authority shall give greater consideration to positions that average  
35 at least 1.5 times the minimum hourly wage during the term of an  
36 agreement authorized pursuant to P.L.1996, c.26  
37 (C.34:1B-124 et seq.). For grants awarded on or after July 1, 2003,  
38 eligible position includes only a position for which a business  
39 provides employee health benefits under a group health plan as  
40 defined under section 14 of P.L.1997, c.146 (C.17B:27-54), a health  
41 benefits plan as defined under section 1 of P.L.1992, c.162  
42 (C.17B:27A-17), or a policy or contract of health insurance  
43 covering more than one person issued pursuant to Article 2 of Title  
44 17B of the New Jersey Statutes. For an eligible business that (1)  
45 submits its applicable New Jersey tax return and annual payroll  
46 report required pursuant to section 8 of P.L.1996, c.26  
47 (C.34:1B-131) to the authority on or after the effective date of

1 P.L. , c. (C. ), or (2) submitted its applicable New Jersey  
2 tax return and annual payroll report required pursuant to section 8  
3 of P.L.1996, c.26 (C.34:1B-131) to the authority , but did not  
4 receive, with respect to that application, an annual tax certificate  
5 from the authority by the effective date of P.L. , c. (C. ), the  
6 requirement that employee health benefits are to be provided shall  
7 be deemed to be satisfied if the benefits are provided by the  
8 business or pursuant to a collective bargaining agreement, no later  
9 than 90 days of employee start date, under a health benefits plan  
10 authorized pursuant to State or federal law. An "eligible position"  
11 shall also include all current and future partners or members of a  
12 partnership or limited liability company created by a business in  
13 New Jersey or transferred from another state by the business  
14 pursuant to the conditions set forth in P.L.1996, c.26  
15 (C.34:1B-124 et seq.) during the base years or in subsequent years  
16 of a grant. An "eligible position" shall also include a position  
17 occupied by a resident of this State whose position is relocated to  
18 this State from another state but who does not qualify as a "new  
19 employee" because prior to relocation the resident's wages or the  
20 resident's distributive share of income from a gain, from a loss or  
21 deduction, or the resident's guaranteed payments or any  
22 combination thereof, prior to the relocation, were not subject to  
23 income taxes imposed by the state or municipality in which the  
24 position was previously located. An "eligible position" shall also  
25 include a position occupied by a resident of another State whose  
26 position is relocated to this State but whose income is not subject to  
27 the New Jersey gross income tax pursuant to the "New Jersey Gross  
28 Income Tax Act," N.J.S.54A:1-1 et seq. An "eligible position" shall  
29 not include any position located within New Jersey, which, within a  
30 period either three months prior to the business' application for a  
31 grant under P.L.1996, c.26 (C.34:1B-124 et seq.) or six months  
32 after the date of application, ceases to exist or be located within  
33 New Jersey.

34 "Employment incentive" means the amount of a grant, either in  
35 cash or in tax credits, determined pursuant to subsection a. of  
36 section 6 of P.L.1996, c.26 (C.34:1B-129 ).

37 "Environmental technology" means assessment and prevention of  
38 threats or damage to human health or the environment,  
39 environmental cleanup, or the development of alternative energy  
40 sources.

41 "Environmental technology company" means a person, whose  
42 headquarters or base of operations is located in New Jersey,  
43 engaged in the research, development, production, or provision of  
44 environmental technology for the purpose of developing or  
45 providing products or processes for specific commercial or public  
46 purposes.

47 "Estimated tax" means an amount calculated for a partner in an  
48 eligible position equal to 6.37 percent of the lesser of: a. the amount

1 of the partner's net income from the eligible partnership that is  
2 sourced to New Jersey as reflected in Column B of the partner's  
3 Schedule NJK-1 of the application year less the amount of the  
4 partner's net income from the eligible partnership that is sourced to  
5 New Jersey as reflected in column B of the partner's Schedule NJK-  
6 1 in the foundation year; or b. the net of all items of partnership  
7 income upon which tax has been paid as reflected on the partner's  
8 New Jersey Gross Income Tax return in the application year.

9 "Foundation year" means the year immediately prior to the  
10 creation of the eligible position.

11 "Full-time employee" means a person who is employed for  
12 consideration for at least 35 hours a week, or who renders any other  
13 standard of service generally accepted by custom or practice as full-  
14 time employment, whose wages are subject to withholding as  
15 provided in the "New Jersey Gross Income Tax Act," N.J.S.54A:1-1  
16 et seq., and who is determined by the authority to be employed in a  
17 permanent position according to criteria it develops, or who is a  
18 partner of an eligible partnership, who works for the partnership for  
19 at least 35 hours a week, or who renders any other standard of  
20 service generally accepted by custom or practice as full-time  
21 employment, and whose distributive share of income, gain, loss, or  
22 deduction, or whose guaranteed payments, or any combination  
23 thereof, is subject to the payment of estimated taxes, as provided in  
24 the "New Jersey Gross Income Tax Act," N.J.S.54A:1-1 et seq.  
25 "Full-time employee" shall not include any person who works as an  
26 independent contractor or on a consulting basis for the business.

27 "Full-time employee at the qualified business facility" means a  
28 full-time position in a business in this State, which position the  
29 business has filled with a full-time employee, who shall have their  
30 primary office at the qualified business facility and spend at least 60  
31 percent of their time at the qualified business facility. This  
32 requirement shall supersede any law, regulation, or incentive  
33 agreement that imposes a requirement that the employee be present  
34 at the qualified business facility for a specified percentage of time  
35 greater than 60 percent. This amendment shall not alter or terminate  
36 any waiver of the requirement that an employee spend time at the  
37 qualified business facility implemented by the authority due to  
38 COVID-19 public health emergency and state of emergency.

39 "Grant" means a business employment incentive grant as  
40 established in P.L.1996, c.26 (C.34:1B-124 et seq.).

41 "Medical device technology" means a technology involving any  
42 medical equipment or product, other than a pharmaceutical product,  
43 that has therapeutic value, diagnostic value, or both, and is  
44 regulated by the federal Food and Drug Administration.

45 "Medical device technology company" means a person, whose  
46 headquarters or base of operations is located in New Jersey,  
47 engaged in the research, development, production, or provision of  
48 medical device technology for the purpose of developing or

1 providing products or processes for specific commercial or public  
2 purposes.

3 "Net income from the eligible partnership" means the net  
4 combination of a partner's distributive share of the eligible  
5 partnership's income, gain, loss, deduction, or guaranteed payments.

6 "New employee" means a full-time employee first employed in  
7 an eligible position on the project which is the subject of an  
8 agreement or who is a partner of an eligible partnership, who works  
9 for the partnership for at least 35 hours a week, or who renders any  
10 other standard of service generally accepted by custom or practice  
11 as full-time employment, and whose distributive share of income,  
12 gain, loss or deduction, or whose guaranteed payments, or any  
13 combination thereof, is subject to the payment of estimated taxes, as  
14 provided in the "New Jersey Gross Income Tax Act," N.J.S.54A:1-1  
15 et seq.; except that a New Jersey resident whose position is  
16 relocated to this State shall not be classified as a "new employee"  
17 unless the employee's wages, or the employee's distributive share of  
18 income from a gain, from a loss or deduction, or the employee's  
19 guaranteed payments or any combination thereof, prior to the  
20 relocation, were subject to income taxes imposed by the state or  
21 municipality in which the position was previously located. "New  
22 employee" may also include an employee rehired or called back  
23 from a layoff during or following the base years to a vacant position  
24 previously held by that employee or to a new position established  
25 during or following the base years. "New employee" shall not  
26 include any employee who was previously employed in New Jersey  
27 by the business or by a related person as defined in section 2 of  
28 P.L.1993, c.170 (C.54:10A-5.5) if the employee is transferred to the  
29 business, which is the subject of an agreement, unless the  
30 employee's position at the employee's previous employer is filled by  
31 a new employee. "New employee" also shall not include a child,  
32 grandchild, parent, or spouse of an individual associated with the  
33 business who has direct or indirect ownership of at least 15 percent  
34 of the profits, capital, or value of the business. New employee shall  
35 also include an employee whose position is relocated to this State  
36 but whose income is not subject to the New Jersey gross income tax  
37 pursuant to the "New Jersey Gross Income Tax Act," N.J.S.54A:1-1  
38 et seq.

39 "Partner" means a person who is entitled to either a distributive  
40 share of a partnership's income, gain, loss, or deduction, or  
41 guaranteed payments, or any combination thereof, by virtue of  
42 holding an interest in the partnership. "Partner" also includes a  
43 person who is a member of a limited liability company which is  
44 treated as a partnership, as provided in the "New Jersey Gross  
45 Income Tax Act," N.J.S.54A:1-1 et seq.

46 "Refunding Bonds" means bonds, notes or other obligations  
47 issued to refinance bonds, notes or other obligations previously

1 issued by the authority pursuant to the provisions of P.L.1996, c.26  
2 (C.34:1B-124 et seq.).

3 "Residual withholdings" means for any period of time, the excess  
4 of the estimated cumulative withholdings for all executed  
5 agreements eligible for payments under P.L.1996, c.26  
6 (C.34:1B-124 et seq.) over the cumulative anticipated grant  
7 amounts.

8 "Schedule NJK-1" means Schedule NJK-1 as the form existed for  
9 taxable year 1997.

10 "Withholdings" means the amount withheld by a business from  
11 the wages of new employees or estimated taxes paid by, or on  
12 behalf of, partners that are new employees, or any combination  
13 thereof, pursuant to the "New Jersey Gross Income Tax Act,"  
14 N.J.S.54A:1-1 et seq., and, if the new employee is an employee  
15 whose position has moved to New Jersey but whose income is not  
16 subject to the New Jersey gross income tax pursuant to  
17 N.J.S.54A:1-1 et seq., the amount of withholding that would occur  
18 if the employee were to move to New Jersey.  
19 (cf: P.L.2021, c.160, s.63)

20

21 3. Section 2 of P.L.2011, c.149 (C.34:1B-243) is amended to  
22 read as follows:

23 2. As used in P.L.2011, c.149 (C.34:1B-242 et seq.):

24 "Affiliate" means an entity that directly or indirectly controls, is  
25 under common control with, or is controlled by the business.  
26 Control exists in all cases in which the entity is a member of a  
27 controlled group of corporations as defined pursuant to section 1563  
28 of the Internal Revenue Code of 1986 (26 U.S.C. s.1563) or the  
29 entity is an organization in a group of organizations under common  
30 control as defined pursuant to subsection (b) or (c) of section 414 of  
31 the Internal Revenue Code of 1986 (26 U.S.C. s.414). A taxpayer  
32 may establish by clear and convincing evidence, as determined by  
33 the Director of the Division of Taxation in the Department of the  
34 Treasury, that control exists in situations involving lesser  
35 percentages of ownership than required by those statutes. An  
36 affiliate of a business may contribute to meeting either the qualified  
37 investment or full-time employee requirements of a business that  
38 applies for a credit under section 3 of P.L.2007, c.346  
39 (C.34:1B-209).

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

42 "Aviation district" means all areas within the boundaries of the  
43 "Atlantic City International Airport," established pursuant to section  
44 24 of P.L.1991, c.252 (C.27:25A-24), and the Federal Aviation  
45 Administration William J. Hughes Technical Center and the area  
46 within a one-mile radius of the outermost boundary of the "Atlantic  
47 City International Airport" and the Federal Aviation Administration  
48 William J. Hughes Technical Center.

1 "Business" means an applicant proposing to own or lease  
2 premises in a qualified business facility that is:  
3 a corporation that is subject to the tax imposed pursuant to  
4 section 5 of P.L.1945, c.162 (C.54:10A-5);  
5 a corporation that is subject to the tax imposed pursuant to  
6 sections 2 and 3 of P.L.1945, c.132 (C.54:18A-2 and C.54:18A-3),  
7 section 1 of P.L.1950, c.231 (C.17:32-15) or N.J.S.17B:23-5;  
8 a partnership;  
9 an S corporation;  
10 a limited liability company; or  
11 a non-profit corporation.

12 If the business or tenant is a cooperative or part of a cooperative,  
13 then the cooperative may qualify for credits by counting the full-  
14 time employees and capital investments of its member  
15 organizations, and the cooperative may distribute credits to its  
16 member organizations. If the business or tenant is a cooperative that  
17 leases to its member organizations, the lease shall be treated as a  
18 lease to an affiliate or affiliates.

19 A business shall include an affiliate of the business if that  
20 business applies for a credit based upon any capital investment  
21 made by or full-time employees of an affiliate.

22 "Capital investment" in a qualified business facility means  
23 expenses by a business or any affiliate of the business incurred after  
24 application for:

- 25 a. site preparation and construction, repair, renovation,  
26 improvement, equipping, or furnishing on real property or of a  
27 building, structure, facility, or improvement to real property;  
28 b. obtaining and installing furnishings and machinery,  
29 apparatus, or equipment, including but not limited to material goods  
30 subject to bonus depreciation under sections 168 and 179 of the  
31 federal Internal Revenue Code (26 U.S.C. s.168 and s.179), for the  
32 operation of a business on real property or in a building, structure,  
33 facility, or improvement to real property;  
34 c. receiving Highlands Development Credits under the  
35 Highlands Transfer Development Rights Program authorized  
36 pursuant to section 13 of P.L.2004, c.120 (C.13:20-13); or  
37 d. any of the foregoing.

38 In addition to the foregoing, in a Garden State Growth Zone, the  
39 following qualify as a capital investment: any development,  
40 redevelopment, and relocation costs, including, but not limited to,  
41 site acquisition if made within 24 months of application to the  
42 authority, engineering, legal, accounting, and other professional  
43 services required; and relocation, environmental remediation, and  
44 infrastructure improvements for the project area, including, but not  
45 limited to, on- and off-site utility, road, pier, wharf, bulkhead, or  
46 sidewalk construction or repair.

47 In addition to the foregoing, if a business acquires or leases a  
48 qualified business facility, the capital investment made or acquired

1 by the seller or owner, as the case may be, if pertaining primarily to  
2 the premises of the qualified business facility, shall be considered a  
3 capital investment by the business and, if pertaining generally to the  
4 qualified business facility being acquired or leased, shall be  
5 allocated to the premises of the qualified business facility on the  
6 basis of the gross leasable area of the premises in relation to the  
7 total gross leasable area in the qualified business facility. The  
8 capital investment described herein may include any capital  
9 investment made or acquired within 24 months prior to the date of  
10 application so long as the amount of capital investment made or  
11 acquired by the business, any affiliate of the business, or any owner  
12 after the date of application equals at least 50 percent of the amount  
13 of capital investment, allocated to the premises of the qualified  
14 business facility being acquired or leased on the basis of the gross  
15 leasable area of the premises in relation to the total gross leasable  
16 area in the qualified business facility made or acquired prior to the  
17 date of application.

18 "College or university" means a county college, an independent  
19 institution of higher education, a public research university, or a  
20 State college.

21 "Commitment period" means the period of time that is 1.5 times  
22 the eligibility period.

23 "County college" means an educational institution established by  
24 one or more counties, pursuant to chapter 64A of Title 18A of the  
25 New Jersey Statutes.

26 "Deep poverty pocket" means a population census tract having a  
27 poverty level of 20 percent or more, and which is located within the  
28 qualified incentive area and has been determined by the authority to  
29 be an area appropriate for development and in need of economic  
30 development incentive assistance.

31 "Disaster recovery project" means a project located on property  
32 that has been wholly or substantially damaged or destroyed as a  
33 result of a federally-declared disaster which, after utilizing all  
34 disaster funds available from federal, State, county, and local  
35 funding sources, demonstrates to the satisfaction of the authority  
36 that access to additional funding authorized pursuant to the "New  
37 Jersey Economic Opportunity Act of 2013," P.L.2013, c.161  
38 (C.52:27D-489p et al.), is necessary to complete the redevelopment  
39 project, and which is located within the qualified incentive area and  
40 has been determined by the authority to be in an area appropriate  
41 for development and in need of economic development incentive  
42 assistance.

43 "Distressed municipality" means a municipality that is qualified  
44 to receive assistance under P.L.1978, c.14 (C.52:27D-178 et seq.), a  
45 municipality under the supervision of the Local Finance Board  
46 pursuant to the provisions of the "Local Government Supervision  
47 Act (1947)," P.L.1947, c.151 (C.52:27BB-1 et seq.), a municipality  
48 identified by the Director of the Division of Local Government

1 Services in the Department of Community Affairs to be facing  
2 serious fiscal distress, a SDA municipality, or a municipality in  
3 which a major rail station is located.

4 "Doctoral university" means a university located within New  
5 Jersey that is classified as a doctoral university under the Carnegie  
6 Classification of Institutions of Higher Education's Basic  
7 Classification methodology on the effective date of P.L.2017, c.221.

8 "Eligibility period" means the period in which a business may  
9 claim a tax credit under the Grow New Jersey Assistance Program,  
10 beginning with the tax period in which the authority accepts  
11 certification of the business that it has met the capital investment  
12 and employment requirements of the Grow New Jersey Assistance  
13 Program and extending thereafter for a term of not more than 10  
14 years, with the term to be determined solely at the discretion of the  
15 applicant.

16 "Eligible position" or "full-time job" means a full-time position  
17 in a business in this State, which position the business has filled  
18 with a full-time employee, who shall have their primary office at  
19 the qualified business facility and spend at least 60 percent of their  
20 time at the qualified business facility. This requirement shall  
21 supersede any law, regulation, or incentive agreement that imposes  
22 a requirement that the employee be present at the qualified business  
23 facility for a specified percentage of time greater than 60 percent.  
24 This amendment shall not alter or terminate any waiver of the  
25 requirement that an employee spend time at the qualified business  
26 facility implemented by the authority due to COVID-19 public  
27 health emergency and state of emergency.

28 "Full-time employee" means a person:

29 a. who is employed by a business for consideration for at least  
30 35 hours a week, or who renders any other standard of service  
31 generally accepted by custom or practice as full-time employment;  
32 or

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

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

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

3 d. who, except for purposes of the Statewide workforce, is  
4 provided, by the business, with employee health benefits under a  
5 health benefits plan authorized pursuant to State or federal law. For  
6 an eligible business that (1) submits certifications and annual  
7 reports required in an incentive agreement pursuant to subsection e.  
8 of section 4 of P.L.2011, c.149 (C.34:1B-245) on or after the  
9 effective date of P.L. , c. (C. ), or (2) submitted  
10 certifications and annual reports required in an incentive agreement  
11 pursuant to subsection e. of section 4 of P.L.2011, c.149  
12 (C.34:1B-245) on or after January 1, 2022, but did not receive,  
13 with respect to that application, an annual tax certificate from the  
14 authority by the effective date of P.L. , c. (C. ), the  
15 requirement that employee health benefits are to be provided shall  
16 be deemed to be satisfied if the benefits are provided by the  
17 business or pursuant to a collective bargaining agreement, no later  
18 than 90 days of employee start date, under a health benefits plan  
19 authorized pursuant to State or federal law.

20 With respect to a logistics, manufacturing, energy, defense,  
21 aviation, or maritime business, excluding primarily warehouse or  
22 distribution operations, located in a port district having a container  
23 terminal:

24 the requirement that employee health benefits are to be provided  
25 shall be deemed to be satisfied if the benefits are provided in  
26 accordance with industry practice by a third party obligated to  
27 provide such benefits pursuant to a collective bargaining agreement;

28 full-time employment shall include, but not be limited to,  
29 employees that have been hired by way of a labor union hiring hall  
30 or its equivalent;

31 35 hours of employment per week at a qualified business facility  
32 shall constitute one "full-time employee," regardless of whether or  
33 not the hours of work were performed by one or more persons.

34 For any project located in a Garden State Growth Zone which  
35 qualifies under the "Municipal Rehabilitation and Economic  
36 Recovery Act," P.L.2002, c.43 (C.52:27BBB-1 et al.), or any  
37 project located in the Atlantic City Tourism District as established  
38 pursuant to section 5 of P.L.2011, c.18 (C.5:12-219) and regulated  
39 by the Casino Reinvestment Development Authority, and which  
40 will include a retail facility of at least 150,000 square feet, of which  
41 at least 50 percent will be occupied by either a full-service  
42 supermarket or grocery store, 30 hours of employment per week at a  
43 qualified business facility shall constitute one "full-time employee,"  
44 regardless of whether the hours of work were performed by one or  
45 more persons, and the requirement that employee health benefits are  
46 to be provided shall be deemed to be satisfied if the employees of  
47 the business are covered by a collective bargaining agreement.

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

3 Full-time employee shall also not include any person who at the  
4 time of project application works in New Jersey for consideration  
5 for at least 35 hours per week, or who renders any other standard of  
6 service generally accepted by custom or practice as full-time  
7 employment but who prior to project application was not provided,  
8 by the business, with employee health benefits under a health  
9 benefits plan authorized pursuant to State or federal law.

10 "Garden State Create Zone" means the campus of a doctoral  
11 university, and the area within a three-mile radius of the outermost  
12 boundary of the campus of a doctoral university, according to a map  
13 appearing in the doctoral university's official catalog or other  
14 official publication on the effective date of P.L.2017, c.221.

15 "Garden State Growth Zone" or "growth zone" means the four  
16 New Jersey cities with the lowest median family income based on  
17 the 2009 American Community Survey from the US Census, (Table  
18 708. Household, Family, and Per Capita Income and Individuals,  
19 and Families Below Poverty Level by City: 2009); a municipality  
20 which contains a Tourism District as established pursuant to section  
21 5 of P.L.2011, c.18 (C.5:12-219) and regulated by the Casino  
22 Reinvestment Development Authority; or an aviation district.

23 "Highlands development credit receiving area or redevelopment  
24 area" means an area located within a qualified incentive area and  
25 designated by the Highlands Water Protection and Planning Council  
26 for the receipt of Highlands Development Credits under the  
27 Highlands Transfer Development Rights Program authorized  
28 pursuant to section 13 of P.L.2004, c.120 (C.13:20-13).

29 "Incentive agreement" means the contract between the business  
30 and the authority, which sets forth the terms and conditions under  
31 which the business shall be eligible to receive the incentives  
32 authorized pursuant to the program.

33 "Incentive effective date" means the date a business submits the  
34 documentation required pursuant to paragraph (1) of subsection b.  
35 of section 6 of P.L.2011, c.149 (C.34:1B-247 ) in a form  
36 satisfactory to the authority.

37 "Independent institution of higher education" means a college or  
38 university incorporated and located in New Jersey, which by virtue  
39 of law or character or license is a nonprofit educational institution  
40 authorized to grant academic degrees and which provides a level of  
41 education which is equivalent to the education provided by the  
42 State's public institutions of higher education, as attested by the  
43 receipt of and continuation of regional accreditation by the Middle  
44 States Association of Colleges and Schools, and which is eligible to  
45 receive State aid under the provisions of the Constitution of the  
46 United States and the Constitution of the State of New Jersey, but  
47 does not include any educational institution dedicated primarily to

1 the education or training of ministers, priests, rabbis or other  
2 professional persons in the field of religion.

3 "Major rail station" means a railroad station located within a  
4 qualified incentive area which provides access to the public to a  
5 minimum of six rail passenger service lines operated by the New  
6 Jersey Transit Corporation.

7 "Mega project" means:

8 a. a qualified business facility located in a port district housing  
9 a business in the logistics, manufacturing, energy, defense, or  
10 maritime industries, either:

11 (1) having a capital investment in excess of \$20,000,000, and at  
12 which more than 250 full-time employees of the business are  
13 created or retained; or

14 (2) at which more than 1,000 full-time employees of the  
15 business are created or retained;

16 b. a qualified business facility located in an aviation district  
17 housing a business in the aviation industry, in a Garden State  
18 Growth Zone, or in a priority area housing the United States  
19 headquarters and related facilities of an automobile manufacturer,  
20 either:

21 (1) having a capital investment in excess of \$20,000,000, and at  
22 which more than 250 full-time employees of the business are  
23 created or retained, or

24 (2) at which more than 1,000 full-time employees of the  
25 business are created or retained;

26 c. a qualified business facility located in an urban transit hub  
27 housing a business of any kind, having a capital investment in  
28 excess of \$50,000,000, and at which more than 250 full-time  
29 employees of the business are created or retained;

30 d. a project located in an area designated in need of  
31 redevelopment, pursuant to P.L.1992, c.79 (C.40A:12A-1 et al.)  
32 prior to the enactment of P.L.2014, c.63 (C.34:1B-251 et al.) within  
33 Atlantic, Burlington, Camden, Cape May, Cumberland, Gloucester,  
34 Ocean, or Salem counties having a capital investment in excess of  
35 \$20,000,000, and at which more than 150 full-time employees of  
36 the business are created or retained; or

37 e. a qualified business facility primarily used by a business  
38 principally engaged in research, development, or manufacture of a  
39 drug or device, as defined in R.S.24:1-1, or primarily used by a  
40 business licensed to conduct a clinical laboratory and business  
41 facility pursuant to the "New Jersey Clinical Laboratory  
42 Improvement Act," P.L.1975, c.166 (C.45:9-42.26 et seq.), either:

43 (1) having a capital investment in excess of \$20,000,000, and at  
44 which more than 250 full-time employees of the business are  
45 created or retained, or

46 (2) at which more than 1,000 full-time employees of the  
47 business are created or retained.

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

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

16 "Municipal Revitalization Index" means the 2007 index by the  
17 Office for Planning Advocacy within the Department of State  
18 measuring or ranking municipal distress.

19 "New full-time job" means an eligible position created by the  
20 business at the qualified business facility that did not previously  
21 exist in this State. For the purposes of determining a number of new  
22 full-time jobs, the eligible positions of an affiliate shall be  
23 considered eligible positions of the business.

24 "Other eligible area" means the portions of the qualified  
25 incentive area that are not located within a distressed municipality,  
26 or the priority area.

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

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

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

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

39 "Priority area" means the portions of the qualified incentive area  
40 that are not located within a distressed municipality and which:

41 a. are designated pursuant to the "State Planning Act,"  
42 P.L.1985, c.398 (C.52:18A-196 et seq.), as Planning Area 1  
43 (Metropolitan), Planning Area 2 (Suburban), a designated center  
44 under the State Development and Redevelopment Plan, or a  
45 designated growth center in an endorsed plan until June 30, 2013, or  
46 until the State Planning Commission revises and readopts New  
47 Jersey's State Strategic Plan and adopts regulations to revise this  
48 definition;

1 b. intersect with portions of: a deep poverty pocket, a port  
2 district, or federally-owned land approved for closure under a  
3 federal Commission on Base Realignment and Closure action;

4 c. are the proposed site of a disaster recovery project, a  
5 qualified incubator facility, a highlands development credit  
6 receiving area or redevelopment area, a tourism destination project,  
7 or transit oriented development; or

8 d. contain: a vacant commercial building having over 400,000  
9 square feet of office, laboratory, or industrial space available for  
10 occupancy for a period of over one year; or a site that has been  
11 negatively impacted by the approval of a "qualified business  
12 facility," as defined pursuant to section 2 of P.L.2007, c.346  
13 (C.34:1B-208).

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

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

19 "Public research university" means a public research university  
20 as defined in section 3 of P.L.1994, c.48 (C.18A:3B-3).

21 "Qualified business facility" means any building, complex of  
22 buildings or structural components of buildings, and all machinery  
23 and equipment located within a qualified incentive area, used in  
24 connection with the operation of a business that is not engaged in  
25 final point of sale retail business at that location unless the building,  
26 complex of buildings or structural components of buildings, and all  
27 machinery and equipment located within a qualified incentive area,  
28 are used in connection with the operation of:

29 a. a final point of sale retail business located in a Garden State  
30 Growth Zone that will include a retail facility of at least 150,000  
31 square feet, of which at least 50 percent is occupied by either a full-  
32 service supermarket or grocery store; or

33 b. a tourism destination project located in the Atlantic City  
34 Tourism District as established pursuant to section 5 of  
35 P.L.2011, c.18 (C.5:12-219).

36 "Qualified incentive area" means:

37 a. an aviation district;

38 b. a port district;

39 c. a distressed municipality or urban transit hub municipality;

40 d. an area (1) designated pursuant to the "State Planning Act,"  
41 P.L.1985, c.398 (C.52:18A-196 et seq.), as:

42 (a) Planning Area 1 (Metropolitan);

43 (b) Planning Area 2 (Suburban); or

44 (c) Planning Area 3 (Fringe Planning Area);

45 (2) located within a smart growth area and planning area  
46 designated in a master plan adopted by the New Jersey  
47 Meadowlands Commission pursuant to subsection (i) of section 6 of  
48 P.L.1968, c.404 (C.13:17-6) or subject to a redevelopment plan

- 1 adopted by the New Jersey Meadowlands Commission pursuant to  
2 section 20 of P.L.1968, c.404 (C.13:17-21);
- 3 (3) located within any land owned by the New Jersey Sports and  
4 Exposition Authority, established pursuant to P.L.1971, c.137  
5 (C.5:10-1 et seq.), within the boundaries of the Hackensack  
6 Meadowlands District as delineated in section 4 of P.L.1968, c.404  
7 (C.13:17-4);
- 8 (4) located within a regional growth area, rural development  
9 area zoned for industrial use as of the effective date of P.L.2016,  
10 c.75, town, village, or a military and federal installation area  
11 designated in the comprehensive management plan prepared and  
12 adopted by the Pinelands Commission pursuant to the "Pinelands  
13 Protection Act," P.L.1979, c.111 (C.13:18A-1 et seq.);
- 14 (5) located within the planning area of the Highlands Region as  
15 defined in section 3 of P.L.2004, c.120 (C.13:20-3) or a highlands  
16 development credit receiving area or redevelopment area;
- 17 (6) located within a Garden State Growth Zone;
- 18 (7) located within land approved for closure under any federal  
19 Commission on Base Realignment and Closure action; or
- 20 (8) located only within the following portions of the areas  
21 designated pursuant to the "State Planning Act," P.L.1985, c.398  
22 (C.52:18A-196 et seq.), as Planning Area 4A (Rural Planning  
23 Area), Planning Area 4B (Rural/Environmentally Sensitive) or  
24 Planning Area 5 (Environmentally Sensitive) if Planning Area 4A  
25 (Rural Planning Area), Planning Area 4B (Rural/Environmentally  
26 Sensitive) or Planning Area 5 (Environmentally Sensitive) is  
27 located within:
- 28 (a) a designated center under the State Development and  
29 Redevelopment Plan;
- 30 (b) a designated growth center in an endorsed plan until the  
31 State Planning Commission revises and readopts New Jersey's State  
32 Strategic Plan and adopts regulations to revise this definition as it  
33 pertains to Statewide planning areas;
- 34 (c) any area determined to be in need of redevelopment pursuant  
35 to sections 5 and 6 of P.L.1992, c.79 (C.40A:12A-5 and  
36 C.40A:12A-6) or in need of rehabilitation pursuant to section 14 of  
37 P.L.1992, c.79 (C.40A:12A-14);
- 38 (d) any area on which a structure exists or previously existed  
39 including any desired expansion of the footprint of the existing or  
40 previously existing structure provided the expansion otherwise  
41 complies with all applicable federal, State, county, and local  
42 permits and approvals;
- 43 (e) the planning area of the Highlands Region as defined in  
44 section 3 of P.L.2004, c.120 (C.13:20-3) or a highlands  
45 development credit receiving area or redevelopment area; or
- 46 (f) any area on which an existing tourism destination project is  
47 located.

1 "Qualified incentive area" shall not include any property located  
2 within the preservation area of the Highlands Region as defined in  
3 section 3 of P.L.2004, c.120 (C.13:20-3).

4 "Qualified incubator facility" means a commercial building  
5 located within a qualified incentive area: which contains 50,000 or  
6 more square feet of office, laboratory, or industrial space; which is  
7 located near, and presents opportunities for collaboration with, a  
8 research institution, teaching hospital, college, or university; and  
9 within which, at least 50 percent of the gross leasable area is  
10 restricted for use by one or more technology startup companies  
11 during the commitment period.

12 "Retained full-time job" means an eligible position that currently  
13 exists in New Jersey and is filled by a full-time employee but  
14 which, because of a potential relocation by the business, is at risk of  
15 being lost to another state or country, or eliminated. For the  
16 purposes of determining a number of retained full-time jobs, the  
17 eligible positions of an affiliate shall be considered eligible  
18 positions of the business. For the purposes of the certifications and  
19 annual reports required in the incentive agreement pursuant to  
20 subsection e. of section 4 of P.L.2011, c.149 (C.34:1B-245), to the  
21 extent an eligible position that was the basis of the award no longer  
22 exists, a business shall include as a retained full-time job a new  
23 eligible position that is filled by a full-time employee provided that  
24 the position is included in the order of date of hire and is not the  
25 basis for any other incentive award. For a project located in a  
26 Garden State Growth Zone which qualified for the "Municipal  
27 Rehabilitation and Economic Recovery Act," P.L.2002, c.43  
28 (C.52:27BBB-1 et al.), retained full-time job shall include any  
29 employee previously employed in New Jersey and transferred to the  
30 new location in the Garden State Growth Zone which qualified for  
31 the "Municipal Rehabilitation and Economic Recovery Act,"  
32 P.L.2002, c.43 (C.52:27BBB-1 et al.).

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

35 "SDA municipality" means a municipality in which an SDA  
36 district is situate.

37 "State college" means a State college or university established  
38 pursuant to chapter 64 of Title 18A of the New Jersey Statutes.

39 "Targeted industry" means any industry identified from time to  
40 time by the authority which shall initially include advanced  
41 transportation and logistics, advanced manufacturing, aviation,  
42 autonomous vehicle and zero-emission vehicle research or  
43 development, clean energy, life sciences, hemp processing,  
44 information and high technology, finance and insurance,  
45 professional services, film and digital media, non-retail food and  
46 beverage businesses including food innovation, and other  
47 innovative industries that disrupt current technologies or business  
48 models.

1 "Technology startup company" means a for profit business that  
2 has been in operation fewer than five years and is developing or  
3 possesses a proprietary technology or business method of a high-  
4 technology or life science-related product, process, or service which  
5 the business intends to move to commercialization.

6 "Tourism destination project" means a qualified non-gaming  
7 business facility that will be among the most visited privately  
8 owned or operated tourism or recreation sites in the State, and  
9 which is located within the qualified incentive area and 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 oriented development" means a qualified business  
16 facility located within a 1/2-mile radius, or one-mile radius for  
17 projects located in a Garden State Growth Zone, surrounding the  
18 mid-point of a New Jersey Transit Corporation, Port Authority  
19 Transit Corporation, or Port Authority Trans-Hudson Corporation  
20 rail, bus, or ferry station platform area, including all light rail  
21 stations.

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

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

35 (cf: P.L.2021, c.160, s.61)

36

37 4. This act shall take effect immediately.

38

39

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#### STATEMENT

41

42 This bill modifies the employee health benefits requirements  
43 under the Business Retention and Relocation Assistance Grant  
44 Program, the Business Employment Incentive Program, and the  
45 Grow New Jersey Assistance Program. These programs require  
46 participating businesses to create a certain number of positions with  
47 full-time employees, and to provide those full-time employees with  
48 employee health benefits. The bill would allow certain businesses

**S3718 RUIZ, SARLO**

23

1 participating in these programs to satisfy this requirement if the  
2 employee health benefits are provided by the business or pursuant  
3 to a collective bargaining agreement, no later than 90 days of  
4 employee start date, under a health benefits plan authorized  
5 pursuant to State or federal law.

# SENATE BUDGET AND APPROPRIATIONS COMMITTEE

## STATEMENT TO

### **SENATE, No. 3718**

with committee amendments

# **STATE OF NEW JERSEY**

DATED: MAY 11, 2023

The Senate Budget and Appropriations Committee reports favorably and with committee amendments Senate Bill No. 3718.

As amended and reported by the committee, this bill modifies the employee health benefits requirements under the Business Retention and Relocation Assistance Grant Program (BRRAG), the Business Employment Incentive Program (BEIP), and the Grow New Jersey Assistance Program (Grow NJ). These programs require participating businesses to create a certain number of positions with full-time employees, and to provide those full-time employees with employee health benefits. The bill, as amended, would allow businesses participating in these programs that submitted any certifications or documentation, as annually required, on or after January 1, 2020, to satisfy this requirement if the employee health benefits are provided by the business or pursuant to a collective bargaining agreement, no later than 90 days of employee start date, under a health benefits plan authorized pursuant to State or federal law.

As amended and reported by the committee, this bill is identical to Assembly Bill No. 5286 (1R), as also reported by the committee on this date.

#### COMMITTEE AMENDMENTS:

The committee amendments make the provisions of the bill apply retroactively to businesses participating in BRRAG, BEIP, or Grow NJ that submit any certifications or documentation, as required annually under those programs, to the authority on or after January 1, 2020.

#### FISCAL IMPACT:

This bill is not certified as requiring a fiscal note.

# Governor Murphy Takes Action on Legislation

08/16/2023

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

**SCS for S-520/A-3847 (Cruz-Perez/Calabrese, Freiman, Spearman)** - Exempts shellfish aquaculturists with commercial shellfish aquaculture permit from law prohibiting taking of shellfish on Sunday; requires submission of annual shellfish harvest report

**S-1442/A-5345 (Singleton/Thomson, DePhillips, Space)** - Requires public works contractor registration and payroll certification for public works projects to be completed online

**S-3929/A-5182 (Vitale, Scutari/Lampitt, Mukherji)** - Revises certain requirements for involuntary commitment for mental health treatment

[Copy of Statement](#)

**S-3950/A-5575 (Gopal, O'Scanlon/Coughlin)** - Establishes exemption from State school aid reductions for certain school districts

**A-3912/S-2724 (Greenwald, Calabrese/Beach, Cruz-Perez)** - Permits alternating proprietorship of certain wineries

**A-4192/S-3082 (Greenwald/Beach)** - Updates educational and experience requirements to obtain licensure as architect

**A-5286/S-3718 (Greenwald, Pintor Marin/Ruiz, Sarlo)** - Modifies employee health benefits requirements under certain economic development programs

**A-5329/S-3734 (Stanley, Atkins, Moen/Diegnan, Corrado)** - Extends useful service life of certain school buses to 20 years; provides temporary one-year extension of service life of Type S school buses