

34:1B-120, 34:1B-129, 34:1B-209, 34:1B-247**LEGISLATIVE HISTORY CHECKLIST**

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LAWS OF: 2024 **CHAPTER:** 40**NJSA:** 34:1B-120, 34:1B-129, 34:1B-209, 34:1B-247 Extends certain accommodations for businesses participating in State economic development programs.**BILL NO:** A4046 (Substituted for S3303 (2R))**SPONSOR(S)** Pintor Marin, Eliana and others**DATE INTRODUCED:** 3/4/2024**COMMITTEE:** **ASSEMBLY:** State & Local Government
Appropriations**SENATE:** Economic Growth
Budget & Appropriations**AMENDED DURING PASSAGE:** Yes**DATE OF PASSAGE: ASSEMBLY:** 06/28/2024**SENATE:** 06/28/2024**DATE OF APPROVAL:** 7/10/2024**FOLLOWING ARE ATTACHED IF AVAILABLE:****FINAL TEXT OF BILL** (A4046 AcaScaSca (3R) enacted)**ADVANCE LAW** Yes**PAMPHLET LAW** Yes**A4046****INTRODUCED BILL:** (Includes sponsor(s) statement) Yes**REPRINT(S):** Yes AAP 3/14/24 1R
SEG 6/10/24 2R
SBA 6/26/24 3R**TECHNICAL REVIEW:** No**COMMITTEE STATEMENT: ASSEMBLY:** Yes State & Local Government
Appropriations**SENATE:** Yes Economic Growth
Budget & Appropriations(Audio archived recordings of the committee meetings, corresponding to the date of the committee statement, *may possibly* be found at www.njleg.state.nj.us)**FLOOR AMENDMENT STATEMENT:** No**LEGISLATIVE FISCAL ESTIMATE:** Yes 03/21/2024
07/03/2024

S3303 (2R)

INTRODUCED BILL: (Includes sponsor(s) statement)	Yes	
REPRINT(S):	Yes	SEG 6/10/24 1R SBA 6/26/24 2R
TECHNICAL REVIEW:	No	
COMMITTEE STATEMENT:		
ASSEMBLY:	No	
SENATE:	Yes	Economic Growth Budget & Appropriations

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

FLOOR AMENDMENT STATEMENT:	No	
LEGISLATIVE FISCAL ESTIMATE:	Yes	07/03/2024
VETO MESSAGE:	No	
GOVERNOR'S PRESS RELEASE ON SIGNING:	Yes	

FOLLOWING WERE PRINTED:

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REPORTS:	No	
HEARINGS:	No	
NEWSPAPER ARTICLES:	No	

CL/MM

P.L. 2024, CHAPTER 40, *approved July 10, 2024*
Assembly, No. 4046 (*Third 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 9 of P.L.1996, c.25 (C.34:1B-120) is amended to read as
8 follows:

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

34 b. Following the termination of the public health emergency
35 declared by the Governor pursuant to Executive Order No. 103 of
36 2020, as extended, a business that has entered into an incentive
37 agreement may elect, before March 31, 2024, to waive, for the period
38 beginning on July 1, 2022 and ending on March 31, 2024, the
39 requirement that a full-time employee who is employed by the

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

Matter underlined thus is new matter.

Matter enclosed in superscript numerals has been adopted as follows:

¹Assembly AAP committee amendments adopted March 14, 2024.

²Senate SEG committee amendments adopted June 10, 2024.

³Senate SBA committee amendments adopted June 26, 2024.

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

4 (1) any full-time employee employed by the business shall spend
5 at least 10 percent of the employee's time at the qualified business
6 facility for the 2023 tax period ¹and, if elected by the business, the
7 2024 tax period¹ through March 31, 2024; and

8 (2) following the receipt by the business of its tax credit certificate
9 or tax credit transfer certificate for the 2022 tax period, the business
10 shall make a payment of an amount equal to five percent of the amount
11 of tax credit the business receives for the 2022 tax period through
12 March 31, 2024, which payment shall be made to the authority, and
13 which payment the authority shall hold and make available for the
14 provision of loans, guarantees, equity investments, and grants, or other
15 forms of financing to support small business and downtown or
16 commercial corridor activation activities within the municipality in
17 which the qualified business facility is located, as may be designated
18 by the chief executive officer of the authority. ¹Such funds shall be
19 deployed by the authority within 12 months of the authority's receipt
20 of the funds, and the authority shall issue a report each fiscal year to
21 the Legislature, pursuant to section 2 of P.L.1991, c.164 (C.52:14-
22 19.1), detailing how the funds were distributed.¹

23 c. ¹For the period Notwithstanding the provisions of section 2
24 of P.L.1996, c.25 (C.34:1B-113) or any other law or regulation to the
25 contrary,¹ beginning on April 1, 2024, and for all subsequent tax
26 periods, ¹the authority may authorize¹ a business ²located outside
27 an enhanced area or government-restricted municipality, as those
28 terms are defined in section 69 of P.L.2020, c.156 (C.34:1B-337),²
29 that has entered into an ¹amended¹ incentive agreement with the
30 authority ¹may elect¹ to waive the requirement that a full-time
31 employee who is employed by the business shall spend at least 60
32 percent of the employee's time at the qualified business facility;
33 provided, however, that a business that makes this election shall satisfy
34 the following criteria:

35 (1) ²¹(a) for a qualified business facility located in an enhanced
36 area or government-restricted municipality, as those terms are defined
37 in section 69 of P.L.2020, c.156 (C.34:1B-337), any full-time
38 employee employed by the business shall spend at least 50 percent of
39 the employee's time at the qualified business facility during the tax
40 period;

41 (b)² for a qualified business facility located ²anywhere else in the
42 State] outside an enhanced area or government-restricted
43 municipality, as those terms are defined in section 69 of P.L.2020,
44 c.156 (C.34:1B-337)^{2, 1} any full-time employee employed by the
45 business shall spend at least 40 percent of the employee's time at the
46 qualified business facility during the tax period; ¹and¹

1 (2) ‘[following the receipt by the business of its tax credit
2 certificate or tax credit transfer certificate for the tax period, the
3 business shall make a payment of an amount equal to 20 percent of the
4 amount of the tax credit the business receives for the tax period, which
5 payment shall be made to the municipal affordable housing trust fund
6 in the municipality in which the qualified business facility is located]
7 the business shall extend by two years the term of its commitment
8 duration beyond the time set forth in the project agreement; and

9 (3) at the time the business submits its tax credit certificate
10 certification for the tax period, the business shall make a non-
11 refundable payment of an amount equal to 10 percent of the amount of
12 the maximum annual tax credit that the business is eligible to receive
13 for the tax period, which payment shall be made to the authority, and
14 which payment the authority shall hold and make available for the
15 provision of loans, guarantees, equity investments, and grants, or other
16 forms of financing to support small business and downtown or
17 commercial corridor activation activities within enhanced areas or
18 government-restricted municipalities, as those terms are defined in
19 section 69 of P.L.2020, c.156 (C.34:1B-337), as may be designated by
20 the chief executive officer of the authority. Such funds shall be
21 deployed by the authority within 12 months of the authority’s receipt
22 of the funds, and the authority shall issue a report each fiscal year to
23 the Legislature, pursuant to section 2 of P.L.1991, c.164 (C.52:14-
24 19.1), detailing how the funds were distributed¹.

25 d. ‘[The authority, in consultation with the Division of Taxation
26 in the Department of the Treasury, may authorize a tax certificate
27 holder to carry forward tax credits for an additional period specified by
28 the authority, subject to the provisions of this section. The]
29 Notwithstanding the provisions of any law to the contrary, the¹ credit
30 amount may ¹first¹ be taken by the tax certificate holder for the tax
31 period for which it was issued ¹, for the tax period in which it was
32 issued,¹ or ¹[may be carried forward for use by the tax certificate
33 holder in any of the next 20 successive tax periods, and shall expire
34 thereafter] in any tax period during the commitment duration set forth
35 in the project agreement¹ . The tax certificate holder may transfer the
36 tax credit amount on or after the date of issuance ¹[or at any time after
37 the date of issuance]¹ for use by the transferee in the tax period for
38 which it was issued ¹, for the tax period in which it was issued,¹ or
39 ¹[within a period to be determined by the authority, in consultation
40 with the Division of Taxation, but not to exceed the 20 tax periods
41 immediately succeeding the tax period for which it was issued. In the
42 case of a tax certificate received after the end of the tax period for
43 which the tax certificate was issued, whether by transfer or original
44 issuance, a tax certificate holder or transferee shall not be required to
45 amend the tax return for the tax period for which the tax certificate
46 was issued or any successive tax period to first apply the credit] in any

1 of the next three successive tax periods¹ . The tax certificate holder or
2 transferee may first ¹claim use¹ the credit ¹in any tax period on or
3 after the date of issuance] against tax liabilities in the tax period in
4 which it was issued or in a succeeding tax period, as authorized in this
5 subsection, without the need for amending the tax return for the tax
6 period for which the credit was issued¹ , subject to the ¹carry-forward
7 provision in] provisions of¹ this section. Notwithstanding the
8 foregoing, no more than the amount of tax credits equal to the total
9 credit amount ¹, ¹ divided by the duration of the tax credit term, in
10 years, may be taken in any tax period.

11 (cf: P.L.2023, c.261, s.1)

12

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

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

30 (1) The number of eligible positions to be created;

31 (2) The expected duration of those positions;

32 (3) The type of contribution the business can make to the long-
33 term growth of the State's economy;

34 (4) The amount of other financial assistance the business will
35 receive from the State for the project;

36 (5) The total dollar investment the business is making in the
37 project;

38 (6) Whether the business is a designated industry;

39 (7) Impact of the business on State tax revenues; and

40 (8) Such other related factors determined by the authority.

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

1 authority following consultation with the Office of State Planning in
2 the Department of State.

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

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

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

18 (1) For grants accrued but not paid during calendar years 2008
19 through 2013, the tax credit shall be equal to an approved amount and
20 shall be issued in five installments over a five-year period beginning in
21 the 2017 tax accounting or privilege period of the business or tax
22 credit transferee in the following percentages: in year one, five percent
23 of the accrued amount; in year two, 20 percent of the accrued amount;
24 in year three, 25 percent of the accrued amount; in year four, 25
25 percent of the accrued amount; in year five, 25 percent of the accrued
26 amount. To the extent any amount in this paragraph has not been
27 approved by the authority by the commencement of State fiscal year
28 2017, the aggregate tax credit that would have been issued in State
29 fiscal year 2017 shall be issued in the year the amount is approved and
30 the five-year period shall commence in that fiscal year;

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

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

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

46 (5) For a grant accrued but not paid during calendar year 2017, the
47 tax credit shall be equal to any approved amount and shall be issued in
48 three equal installments over a three-year period beginning in the 2020

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

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

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

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

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

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

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

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

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

41 f. The amount of the credit allowed pursuant to this section shall
42 be applied against the tax otherwise due under section 5 of P.L.1945,
43 c.162 (C.54:10A-5), sections 2 and 3 of P.L.1945, c.132 (C.54:18A-2
44 and C.54:18A-3), section 1 of P.L.1950, c.231 (C.17:32-15), or
45 N.J.S.17B:23-5, prior to all other credits and payments. If the credit
46 exceeds the amount of tax liability otherwise due from a business that
47 pays taxes under section 5 of P.L.1945, c.162 (C.54:10A-5), sections 2
48 and 3 of P.L.1945, c.132 (C.54:18A-2 and C.54:18A-3), section 1 of

1 P.L.1950, c.231 (C.17:32-15), or N.J.S.17B:23-5, that amount of
2 excess shall be an overpayment for the purposes of R.S.54:49-15,
3 provided, however, that section 7 of P.L.1992, c.175 (C.54:49-15.1)
4 shall not apply.

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

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

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

39 h. Following the termination of the public health emergency
40 declared by the Governor pursuant to Executive Order No. 103 of
41 2020, as extended, a business that has entered into an incentive
42 agreement may elect, before March 31, 2024, to waive, for the period
43 beginning on July 1, 2022 and ending on March 31, 2024, the
44 requirement that a full-time employee who is employed by the
45 business shall spend at least 60 percent of the employee's time at the
46 qualified business facility; provided, however, that a business that
47 makes such an election shall satisfy the following criteria:

1 (1) any full-time employee employed by the business shall spend at
2 least 10 percent of the employee's time at the qualified business
3 facility for the 2023 tax period and, if elected by the business, the
4 2024 tax period¹ through March 31, 2024; and

5 (2) following the receipt by the business of its tax credit certificate
6 or tax credit transfer certificate for the 2022 tax period, the business
7 shall make a payment of an amount equal to five percent of the amount
8 of tax credit the business receives for the 2022 tax period through
9 March 31, 2024, which payment shall be made to the authority, and
10 which payment the authority shall hold and make available for the
11 provision of loans, guarantees, equity investments, and grants, or other
12 forms of financing to support small business and downtown or
13 commercial corridor activation activities within the municipality in
14 which the qualified business facility is located, as may be designated
15 by the chief executive officer of the authority. Such funds shall be
16 deployed by the authority within 12 months of the authority's receipt
17 of the funds, and the authority shall issue a report each fiscal year to
18 the Legislature, pursuant to section 2 of P.L.1991, c.164 (C.52:14-
19 19.1), detailing how the funds were distributed.¹

20 i. For the period Notwithstanding the provisions of section 2
21 of P.L.1996, c.26 (C.34:1B-125) or any other law or regulation to the
22 contrary,¹ beginning on April 1, 2024, and for all subsequent tax
23 periods, the authority may authorize¹ a business ²located outside
24 an enhanced area or government-restricted municipality, as those
25 terms are defined in section 69 of P.L.2020, c.156 (C.34:1B-337)²
26 that has entered into an amended¹ incentive agreement with the
27 authority ¹may elect¹ to waive the requirement that a full-time
28 employee who is employed by the business shall spend at least 60
29 percent of the employee's time at the qualified business facility;
30 provided, however, that a business that makes this election shall satisfy
31 the following criteria:

32 (1) ²¹(a) for a qualified business facility located in an enhanced
33 area or government-restricted municipality, as those terms are defined
34 in section 69 of P.L.2020, c.156 (C.34:1B-337), any full-time
35 employee employed by the business shall spend at least 50 percent of
36 the employee's time at the qualified business facility during the tax
37 period;

38 (b)² for a qualified business facility located ²anywhere else in the
39 State outside an enhanced area or government-restricted
40 municipality, as those terms are defined in section 69 of P.L.2020,
41 c.156 (C.34:1B-337)^{2, 1} any full-time employee employed by the
42 business shall spend at least 40 percent of the employee's time at the
43 qualified business facility during the tax period; and¹

44 (2) Following the receipt by the business of its tax credit
45 certificate or tax credit transfer certificate for the tax period, the
46 business shall make a payment of an amount equal to 20 percent of the

1 amount of the tax credit the business receives for the tax period, which
2 payment shall be made to the municipal affordable housing trust fund
3 in the municipality in which the qualified business facility is located]
4 the business shall extend by two years the time it is required to
5 maintain the project at a location in New Jersey beyond the time set
6 forth in the incentive agreement; and

7 (3) at the time the business submits its tax credit certificate
8 certification for the tax period, the business shall make a non-
9 refundable payment of an amount equal to 10 percent of the amount of
10 the maximum annual tax credit that the business is eligible to receive
11 for the tax period, which payment shall be made to the authority, and
12 which payment the authority shall hold and make available for the
13 provision of loans, guarantees, equity investments, and grants, or other
14 forms of financing to support small business and downtown or
15 commercial corridor activation activities within enhanced areas or
16 government-restricted municipalities, as those terms are defined in
17 section 69 of P.L.2020, c.156 (C.34:1B-337), as may be designated by
18 the chief executive officer of the authority. Such funds shall be
19 deployed by the authority within 12 months of the authority's receipt
20 of the funds, and the authority shall issue a report each fiscal year to
21 the Legislature, pursuant to section 2 of P.L.1991, c.164 (C.52:14-
22 19.1), detailing how the funds were distributed¹.

23 j. ¹[The authority, in consultation with the Division of Taxation
24 in the Department of the Treasury, may authorize a tax certificate
25 holder to carry forward tax credits for an additional period specified by
26 the authority, subject to the provisions of this section. The]
27 Notwithstanding the provisions of any law to the contrary, the¹ credit
28 amount may ¹first¹ be taken by the tax certificate holder for the tax
29 period for which it was issued ¹, for the tax period in which it was
30 issued,¹ or ¹[may be carried forward for use by the tax certificate
31 holder in any of the next 20 successive tax periods, and shall expire
32 thereafter] in any tax period during the time the business is required to
33 maintain the project at a location in New Jersey, as set forth in the
34 incentive agreement¹. The tax certificate holder may transfer the tax
35 credit amount on or after the date of issuance ¹[or at any time after the
36 date of issuance]¹ for use by the transferee in the tax period for which
37 it was issued ¹, for the tax period in which it was issued,¹ or ¹[within a
38 period to be determined by the authority, in consultation with the
39 Division of Taxation, but not to exceed the 20 tax periods immediately
40 succeeding the tax period for which it was issued. In the case of a tax
41 certificate received after the end of the tax period for which the tax
42 certificate was issued, whether by transfer or original issuance, a tax
43 certificate holder or transferee shall not be required to amend the tax
44 return for the tax period for which the tax certificate was issued or any
45 successive tax period to first apply the credit] in any of the next three
46 successive tax periods¹. The tax certificate holder or transferee may

1 first ~~['claim]~~ use¹ the credit ¹~~['in any tax period on or after the date of~~
2 ~~issuance]~~ against tax liabilities in the tax period in which it was issued
3 or in a succeeding tax period, as authorized in this subsection, without
4 the need for amending the tax return for the tax period for which the
5 credit was issued¹ , subject to the ¹~~['carry-forward provision in]~~
6 provisions of¹ this section. ¹~~['Notwithstanding the foregoing, no more~~
7 ~~than the amount of tax credits equal to the total credit amount, divided~~
8 ~~by the number of years in which the credits may be claimed, not~~
9 ~~including carried-forward use, may be taken in any tax period.】~~¹

10 (cf: P.L.2023, c.261, s.2)

11
12 3. Section 3 of P.L.2007, c.346 (C.34:1B-209) is amended to read
13 as follows:

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

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

37 (3) A business that is a tenant in a qualified business facility, the
38 owner of which has made or acquired capital investments in the
39 facility totaling not less than \$50,000,000, shall occupy a leased area
40 of the qualified business facility that represents at least \$17,500,000 of
41 the capital investment in the facility at which the tenant business and
42 up to two other tenants in the qualified business facility shall employ
43 not fewer than 250 full-time employees in the aggregate to be eligible
44 for a credit under this section. The amount of capital investment in a
45 facility that a leased area represents shall be equal to that percentage of
46 the owner's total capital investment in the facility that the percentage
47 of net leasable area leased by the tenant is of the total net leasable area

1 of the qualified business facility. Capital investments made by a tenant
2 shall be deemed to be included in the calculation of the capital
3 investment made or acquired by the owner, but only to the extent
4 necessary to meet the owner's minimum capital investment of
5 \$50,000,000. Capital investments made by a tenant and not allocated
6 to meet the owner's minimum capital investment threshold of
7 \$50,000,000 shall be added to the amount of capital investment
8 represented by the tenant's leased area in the qualified business
9 facility.

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

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

26 (6) The capital investment of the owner of a qualified business
27 facility is that percentage of the capital investment made or acquired
28 by the owner of the building that the percentage of net leasable area of
29 the qualified business facility not leased to tenants is of the total net
30 leasable area of the qualified business facility.

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

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

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

41 (2) A business shall apply for the credit under this section prior to
42 the effective date of the "New Jersey Economic Opportunity Act of
43 2013," P.L.2013, c.161 (C.52:27D-489p et al.), and shall submit its
44 documentation for approval of its credit amount no later than
45 December 31, 2023.

46 (3) If a business has submitted an application under this section
47 and that application has not been approved for any reason, the lack of
48 approval shall not serve to prejudice in any way the consideration of a

1 new application as may be submitted for the qualified business facility
2 for the provision of incentives offered pursuant to the "New Jersey
3 Economic Opportunity Act of 2013," P.L.2013, c.161 (C.52:27D-489p
4 et al.).

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

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

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

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

45 The amount of credit allowed for a tax period to a business that is a
46 tenant in a qualified business facility shall not exceed the business's
47 total lease payments for occupancy of the qualified business facility
48 for the tax period.

1 A business may elect to suspend its obligations for the 2020, 2021,
2 2022, **[or]** 2023, or 2024 tax period, or any combination thereof, due
3 to the COVID-19 pandemic, provided that the business shall make
4 such election in writing to the authority before the issuance of the tax
5 credit for the corresponding tax year and such suspension shall extend
6 the term of the eligibility period by a corresponding amount of time.
7 The authority shall modify the approval letter, and the business shall
8 execute the modification within the time period provided by the
9 authority. The modification shall provide that the failure to submit the
10 annual report due to the suspension shall not be a forfeiture or an
11 uncertified tax period.

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

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

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

45 (2) If, in any tax period, the business reduces the total number of
46 full-time employees in its Statewide workforce by more than 20
47 percent from the number of full-time employees in its Statewide
48 workforce in the last tax accounting or privilege period prior to the

1 credit amount approval under subsection a. of this section, then the
2 business shall forfeit its credit amount for that tax period and each
3 subsequent tax period, until the first tax period for which
4 documentation demonstrating the restoration of the business's
5 Statewide workforce to the threshold levels required by this paragraph
6 has been reviewed and approved by the authority, for which tax period
7 and each subsequent tax period the full amount of the credit shall be
8 allowed.

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

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

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

36 (5) Following the termination of the public health emergency
37 declared by the Governor pursuant to Executive Order No. 103 of
38 2020, as extended, a business that has entered into an incentive
39 agreement may elect, before March 31, 2024, to waive, for the period
40 beginning on July 1, 2022 and ending on March 31, 2024, the
41 requirement that a full-time employee who is employed by the
42 business shall spend at least 60 percent of the employee's time at the
43 qualified business facility; provided, however, that a business that
44 makes such an election shall satisfy the following criteria:

45 (i) any full-time employee employed by the business shall spend
46 at least 10 percent of the employee's time at the qualified business
47 facility for the 2023 tax period ¹and, if elected by the business, the
48 2024 tax period¹ through March 31, 2024; and

1 (ii) following the receipt by the business of its tax credit certificate
2 or tax credit transfer certificate for the 2022 tax period, the business
3 shall make a payment of an amount equal to five percent of the amount
4 of tax credit the business receives for the 2022 tax period through
5 March 31, 2024, which payment shall be made to the authority, and
6 which payment the authority shall hold and make available for the
7 provision of loans, guarantees, equity investments, and grants, or other
8 forms of financing to support small business and downtown or
9 commercial corridor activation activities within the municipality in
10 which the qualified business facility is located, as may be designated
11 by the chief executive officer of the authority. ¹Such funds shall be
12 deployed by the authority within 12 months of the authority's receipt
13 of the funds, and the authority shall issue a report each fiscal year to
14 the Legislature, pursuant to section 2 of P.L.1991, c.164 (C.52:14-
15 19.1), detailing how the funds were distributed.¹

16 (6) ¹【For the period】 Notwithstanding the provisions of section 2
17 of P.L.2007, c.346 (C.34:1B-208) or any other law or regulation to the
18 contrary,¹ beginning on April 1, 2024, and for all subsequent tax
19 periods, ¹【the authority may authorize】¹ a business ²located outside an
20 enhanced area or government-restricted municipality, as those terms
21 are defined in section 69 of P.L.2020, c.156 (C.34:1B-337),² that has
22 entered into an ¹【amended】¹ incentive agreement with the authority
23 ¹may elect¹ to waive the requirement that a full-time employee who is
24 employed by the business shall spend at least 60 percent of the
25 employee's time at the qualified business facility; provided, however,
26 that a business that makes this election shall satisfy the following
27 criteria:

28 (i) ²【(a) for a qualified business facility located in an enhanced
29 area or government-restricted municipality, as those terms are defined
30 in section 69 of P.L.2020, c.156 (C.34:1B-337), any full-time
31 employee employed by the business shall spend at least 50 percent of
32 the employee's time at the qualified business facility during the tax
33 period;

34 (b)² for a qualified business facility located ²【anywhere else in the
35 State】 outside an enhanced area or government-restricted municipality,
36 as those terms are defined in section 69 of P.L.2020, c.156 (C.34:1B-
37 337)^{2,1} any full-time employee employed by the business shall spend
38 at least 40 percent of the employee's time at the qualified business
39 facility during the tax period; ¹【and】¹

40 (ii) ¹【following the receipt by the business of its tax credit
41 certificate or tax credit transfer certificate for the tax period, the
42 business shall make a payment of an amount equal to 20 percent of the
43 amount of the tax credit the business receives for the tax period, which
44 payment shall be made to the municipal affordable housing trust fund
45 in the municipality in which the qualified business facility is located】
46 the business shall extend by two years the time it is required to

1 maintain the project at a location in New Jersey beyond the time set
2 forth in the incentive agreement; and

3 (iii) at the time the business submits its tax credit certificate
4 certification for the tax period, the business shall make a non-
5 refundable payment of an amount equal to 10 percent of the amount of
6 the maximum annual tax credit that the business is eligible to receive
7 for the tax period, which payment shall be made to the authority, and
8 which payment the authority shall hold and make available for the
9 provision of loans, guarantees, equity investments, and grants, or other
10 forms of financing to support small business and downtown or
11 commercial corridor activation activities within enhanced areas or
12 government-restricted municipalities, as those terms are defined in
13 section 69 of P.L.2020, c.156 (C.34:1B-337), as may be designated by
14 the chief executive officer of the authority. Such funds shall be
15 deployed by the authority within 12 months of the authority's receipt
16 of the funds, and the authority shall issue a report each fiscal year to
17 the Legislature, pursuant to section 2 of P.L.1991, c.164 (C.52:14-
18 19.1), detailing how the funds were distributed¹.

19 (7) ¹【The authority, in consultation with the Division of Taxation
20 in the Department of the Treasury, may authorize a tax certificate
21 holder to carry forward tax credits for an additional period specified by
22 the authority, subject to the provisions of this section. The】
23 Notwithstanding the provisions of any law to the contrary, the¹ credit
24 amount may ¹first¹ be taken by the tax certificate holder for the tax
25 period for which it was issued ¹, for the tax period in which it was
26 issued,¹ or ¹【may be carried forward for use by the tax certificate
27 holder in any of the next 20 successive tax periods, and shall expire
28 thereafter】 in any tax period during the time the business is required to
29 maintain the project at a location in New Jersey, as set forth in the
30 incentive agreement¹ . The tax certificate holder may transfer the tax
31 credit amount on or after the date of issuance ¹【or at any time after the
32 date of issuance】¹ for use by the transferee in the tax period for which
33 it was issued ¹, for the tax period in which it was issued,¹ or ¹【within a
34 period to be determined by the authority, in consultation with the
35 Division of Taxation, but not to exceed the 20 tax periods immediately
36 succeeding the tax period for which it was issued. In the case of a tax
37 certificate received after the end of the tax period for which the tax
38 certificate was issued, whether by transfer or original issuance, a tax
39 certificate holder or transferee shall not be required to amend the tax
40 return for the tax period for which the tax certificate was issued or any
41 successive tax period to first apply the credit】 in any of the next three
42 successive tax periods¹ . The tax certificate holder or transferee may
43 first ¹【claim】 use¹ the credit ¹against tax liabilities¹ in ¹【any】 the¹ tax
44 period ¹【on or after the date of issuance】 in which it was issued or in a
45 succeeding tax period, as authorized in this subsection, without being
46 required to amend the tax return for the tax period for which the credit

1 was issued¹ , subject to the ¹["carry-forward provision in"] provisions
2 of¹ this section. Notwithstanding the foregoing, no more than the
3 amount of tax credits equal to the total credit amount, divided by the
4 ¹["number of"] duration of the tax credit term, in¹ years ¹["in which the
5 credits may be claimed, not including carried-forward use"]¹ , may be
6 taken in any tax period.

7 ¹(8) Notwithstanding the provisions of this subsection or any law
8 or regulation to the contrary, a business that has elected to modify its
9 obligations under an incentive agreement pursuant to P.L.2022, c.134
10 may request, before December 31, 2024, to reduce the number of
11 Statewide employees specified in the incentive agreement, provided
12 the business certifies that ³["all Statewide employment specified in the
13 incentive agreement is assigned to the qualified business facility and"]³
14 the business is requesting to reduce the number of new or retained full-
15 time jobs specified in the incentive agreement commencing with the
16 2020 tax period and, at the discretion of the business, whether the
17 reduction shall continue for each subsequent tax period remaining in
18 the eligibility period.¹

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

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

41 f. A business that has executed an approval letter may request
42 before December 31, **[2023]** 2024 to terminate the award,
43 commencing with the 2020 tax period or any subsequent tax period
44 ending on or before December 31, **[2023]** 2024, due to the COVID-19
45 public health emergency; provided that the business shall submit a
46 certification from the business's chief executive officer or equivalent
47 officer stating that the termination is due, directly or indirectly, to the

1 public health emergency and describing the impact of the public health
2 emergency on the business. All credits for the tax period in which the
3 termination is requested and all subsequent tax periods shall be
4 forfeited, provided however that any credits of the business shall
5 remain unaffected. A termination agreement executed by the authority
6 and business shall not be amended.
7 (cf: P.L.2023, c.261, s.3)

8
9 4. Section 6 of P.L.2011, c.149 (C.34:1B-247) is amended to read
10 as follows:

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

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

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

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

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

26 b. (1) A business shall submit an application for tax credits prior
27 to July 1, 2019. The authority shall not approve an application for tax
28 credits unless the application was submitted prior to July 1, 2019.

29 (2) (a) A business shall submit its documentation indicating that it
30 has met the capital investment and employment requirements and all
31 conditions of approvals specified in the incentive agreement for
32 certification of its tax credit amount, to the authority's satisfaction,
33 within three years following the date of approval of its application by
34 the authority. The authority shall have the discretion to grant two six-
35 month extensions of this deadline. If the authority accepts the
36 documentation, the authority shall request that the Division of
37 Taxation in the Department of the Treasury issue a tax credit based on
38 the approved documentation to be used by the business during the
39 eligibility period. Except as provided in subparagraphs (b) and (c) of
40 this paragraph, in no event shall the incentive effective date occur later
41 than four years following the date of approval of an application by the
42 authority.

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

1 (c) If the Governor declares an emergency, then the chief
2 executive officer of the authority shall have the discretion to grant an
3 extension for the duration of the emergency and the board of the
4 authority, upon recommendation of the chief executive officer, may
5 grant two additional six-month extensions; provided that (i) the
6 extensions are due to the economic disruption caused by the
7 emergency; (ii) the project is delayed due to unforeseeable acts related
8 to the project beyond the eligible business's control and without its
9 fault or negligence; (iii) the eligible business is using best efforts, with
10 all due diligence, to proceed with the completion of the project and the
11 submission of the certification; and (iv) the eligible business has made,
12 and continues to make, all reasonable efforts to prevent, avoid,
13 mitigate, and overcome the delay.

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

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

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

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

29 The credit amount may be taken by the tax certificate holder for
30 the tax period for which it was issued or may be carried forward for
31 use by the tax certificate holder in any of the next 20 successive tax
32 periods, and shall expire thereafter. The tax certificate holder may
33 transfer the tax credit amount on or after the date of issuance or at any
34 time **【within three years of】** after the date of issuance for use by the
35 transferee in the tax period for which it was issued or in any of the
36 next 20 successive tax periods. In the case of a tax certificate received
37 after the end of the tax period for which the tax certificate was issued,
38 whether by transfer or original issuance, a tax certificate holder or
39 transferee shall not be required to amend the tax return for the tax
40 period for which the tax certificate was issued or any successive tax
41 period **【to first apply】** if¹ the credit ¹**【**. The tax certificate holder or
42 transferee may first claim the credit**】** is first applied¹ in ¹**【any】** the¹
43 tax period ¹**【that is on or after the date of issuance】** in which it was
44 issued or in a succeeding tax period, as authorized in subsection k. of
45 this section¹ , ¹and¹ subject to the carry-forward provision in this
46 section. Notwithstanding the foregoing, no more than the amount of

1 tax credits equal to the total credit amount ^{1,1} divided by the duration
2 of the eligibility period ^{1,1} in years ^{1,1} may be taken in any tax period.

3 A business may elect to suspend its obligations for the 2020, 2021,
4 2022, **[or]** 2023, or 2024 tax period, or any combination thereof, due
5 to the COVID-19 pandemic, provided that the business shall make
6 such election in writing to the authority before the issuance of the tax
7 credit for the corresponding tax year and such suspension shall extend
8 the term of the eligibility period by a corresponding amount of time.
9 The authority shall amend the incentive agreement, and the business
10 shall execute the amended incentive agreement within the time period
11 provided by the authority. The amended incentive agreement shall
12 provide that the failure to submit the annual report due to the
13 suspension shall not be a forfeiture or an uncertified tax period.

14 (2) Credits granted to a partnership shall be passed through to the
15 partners, members, or owners, respectively, pro-rata or pursuant to an
16 executed agreement among the partners, members, or owners
17 documenting an alternate distribution method provided to the Director
18 of the Division of Taxation in the Department of the Treasury
19 accompanied by any additional information as the director may
20 require.

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

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

35 d. (1) If, in any tax period, the business reduces the total number
36 of full-time employees in its Statewide workforce by more than 20
37 percent from the number of full-time employees in its Statewide
38 workforce in the last tax period prior to the credit amount approval
39 under section 3 of P.L.2011, c.149 (C.34:1B-244), then the business
40 shall forfeit its credit amount for that tax period and each subsequent
41 tax period, until the first tax period for which documentation
42 demonstrating the restoration of the business's Statewide workforce to
43 the threshold levels required by the incentive agreement has been
44 reviewed and approved by the authority, for which tax period and each
45 subsequent tax period the full amount of the credit shall be allowed.

46 (2) If, in any tax period, the number of full-time employees
47 employed by the business at the qualified business facility located
48 within a qualified incentive area drops below 80 percent of the number

1 of new and retained full-time jobs specified in the incentive
2 agreement, then the business shall forfeit its credit amount for that tax
3 period and each subsequent tax period, until the first tax period for
4 which documentation demonstrating the restoration of the number of
5 full-time employees employed by the business at the qualified business
6 facility to 80 percent of the number of jobs specified in the incentive
7 agreement.

8 (3) (a) If the qualified business facility is sold by the owner in
9 whole or in part during the eligibility period, the new owner shall not
10 acquire the capital investment of the seller and the seller shall forfeit
11 all credits for the tax period in which the sale occurs and all
12 subsequent tax periods, provided however that any credits of the
13 business shall remain unaffected.

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

37 (4) (a) For a project located within a Garden State Growth Zone,
38 if, in any tax period, the number of full-time employees employed by
39 the business at the qualified business facility located within a qualified
40 incentive area increases above the number of full-time employees
41 specified in the incentive agreement, then the business shall be entitled
42 to an increased base credit amount for that tax period and each
43 subsequent tax period, for each additional full-time employee added
44 above the number of full-time employees specified in the incentive
45 agreement, until the first tax period for which documentation
46 demonstrating a reduction of the number of full-time employees
47 employed by the business at the qualified business facility, at which

1 time the tax credit amount will be adjusted accordingly pursuant to this
2 section.

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

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

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

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

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

1 g. A business that has entered into an incentive agreement may
2 request before December 31, ~~2023~~ 2024 to terminate the incentive
3 agreement, commencing with the 2020 tax period or any subsequent
4 tax period ending on or before December 31, ~~2023~~ 2024, due to the
5 COVID-19 public health emergency; provided that the business shall
6 submit a certification from the business's chief executive officer or
7 equivalent officer stating that the termination is due, directly or
8 indirectly, to the public health emergency and describing the impact of
9 the public health emergency on the business. All credits for the tax
10 period in which the termination occurs and all subsequent tax periods
11 shall be forfeited, provided however that any credits of the business
12 shall remain unaffected. A termination agreement executed by the
13 authority and business shall not be amended.

14 h. A business that has entered into an incentive agreement may
15 request, before December 31, ~~2023~~ 2024, to reduce the number of
16 new or retained full-time jobs specified in the incentive agreement
17 based on a certification of the business of the eligible positions at the
18 qualified business facility commencing with the 2020 tax period and,
19 at the discretion of the business, whether the reduction shall continue
20 for each subsequent tax period remaining in the eligibility period,
21 provided that the business maintains the minimum number of new or
22 retained full-time jobs required to be eligible pursuant to subsection c.
23 of section 3 of P.L.2011, c.149 (C.34:1B-244). The reduction in
24 employment shall first apply to the number of new full-time
25 employees, and then shall apply to the number of retained full-time
26 employees.

27 The authority shall calculate a new tax credit total amount for the
28 2020 tax period and the remainder of the eligibility period based on the
29 reduced employment and shall amend the incentive agreement to
30 reflect the recalculated award amount. In no event shall the
31 modification result in an increase in employment or tax credit amount.

32 i. Following the termination of the public health emergency
33 declared by the Governor pursuant to Executive Order No. 103 of
34 2020, as extended, a business that has entered into an incentive
35 agreement may elect, before March 31, 2024, to waive, for the period
36 beginning on July 1, 2022 and ending on March 31, 2024, the
37 requirement that a full-time employee who is employed by the
38 business shall spend at least 60 percent of the employee's time at the
39 qualified business facility; provided, however, that a business that
40 makes such an election shall satisfy the following criteria:

41 (1) any full-time employee employed by the business shall spend
42 at least 10 percent of the employee's time at the qualified business
43 facility for the 2023 tax period ¹and, if elected by the business, the
44 2024 tax period¹ through March 31, 2024; and

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

1 of tax credit the business receives for the 2022 tax period through
2 March 31, 2024, which payment shall be made to the authority, and
3 which payment the authority shall hold and make available for the
4 provision of loans, guarantees, equity investments, and grants, or other
5 forms of financing to support small business and downtown or
6 commercial corridor activation activities within the municipality in
7 which the qualified business facility is located, as may be designated
8 by the chief executive officer of the authority. ¹Such funds shall be
9 deployed by the authority within 12 months of the authority's receipt
10 of the funds, and the authority shall issue a report each fiscal year to
11 the Legislature, pursuant to section 2 of P.L.1991, c.164 (C.52:14-
12 19.1), detailing how the funds were distributed.¹

13 j. ¹For the period Notwithstanding the provisions of section 2
14 of P.L.2011, c.149 (C.34:1B-243) or any other law or regulation to the
15 contrary,¹ beginning on April 1, 2024, and for all subsequent tax
16 periods, ¹the authority may authorize¹ a business ²located outside an
17 enhanced area or government-restricted municipality, as those terms
18 are defined in section 69 of P.L.2020, c.156 (C.34:1B-337)² that has
19 entered into an ¹amended¹ incentive agreement with the authority
20 ¹may elect¹ to waive the requirement that a full-time employee who is
21 employed by the business shall spend at least 60 percent of the
22 employee's time at the qualified business facility; provided, however,
23 that a business that makes this election shall satisfy the following
24 criteria:

25 (1) ²¹(a) for a qualified business facility located in an enhanced
26 area or government-restricted municipality, as those terms are defined
27 in section 69 of P.L.2020, c.156 (C.34:1B-337), any full-time
28 employee employed by the business shall spend at least 50 percent of
29 the employee's time at the qualified business facility during the tax
30 period;

31 (b)² for a qualified business facility located ²anywhere else in
32 the State¹ outside an enhanced area or government-restricted
33 municipality, as those terms are defined in section 69 of P.L.2020,
34 c.156 (C.34:1B-337)^{2,1} any full-time employee employed by the
35 business shall spend at least 40 percent of the employee's time at the
36 qualified business facility during the tax period; ¹and¹

37 (2) ¹following the receipt by the business of its tax credit
38 certificate or tax credit transfer certificate for the tax period, the
39 business shall make a payment of an amount equal to 20 percent of the
40 amount of the tax credit the business receives for the tax period, which
41 payment shall be made to the municipal affordable housing trust fund
42 in the municipality in which the qualified business facility is located¹
43 the business shall extend by two years the term of its commitment
44 period beyond the time set forth in the incentive agreement; and

45 (3) at the time the business submits its tax credit certificate
46 certification for the tax period, the business shall make a non-

1 refundable payment of an amount equal to 10 percent of the amount of
2 the maximum annual tax credit that the business is eligible to receive
3 for the tax period, which payment shall be made to the authority, and
4 which payment the authority shall hold and make available for the
5 provision of loans, guarantees, equity investments, and grants, or other
6 forms of financing to support small business and downtown or
7 commercial corridor activation activities within enhanced areas or
8 government-restricted municipalities, as those terms are defined in
9 section 69 of P.L.2020, c.156 (C.34:1B-337), as may be designated by
10 the chief executive officer of the authority. Such funds shall be
11 deployed by the authority within 12 months of the authority's receipt
12 of the funds, and the authority shall issue a report each fiscal year to
13 the Legislature, pursuant to section 2 of P.L.1991, c.164 (C.52:14-
14 19.1), detailing how the funds were distributed¹.

15 k. ¹["The authority, in consultation with the Division of Taxation
16 in the Department of the Treasury, may authorize a tax certificate
17 holder to carry forward tax credits for an additional period specified by
18 the authority, subject to the provisions of this section. The]
19 Notwithstanding the provisions of any law to the contrary, the¹ credit
20 amount may ¹first¹ be taken by the tax certificate holder for the tax
21 period for which it was issued ¹, for the tax period in which it was
22 issued,¹ or ¹["may be carried forward for use by the tax certificate
23 holder in any of the next 20 successive tax periods, and shall expire
24 thereafter]" in any tax period during the commitment period set forth in
25 the incentive agreement¹ . The tax certificate holder may transfer the
26 tax credit amount on or after the date of issuance ¹["or at any time after
27 the date of issuance]"¹ for use by the transferee in the tax period for
28 which it was issued ¹, for the tax period in which it was issued,¹ or
29 ¹["within a period to be determined by the authority, in consultation
30 with the Division of Taxation, but not to exceed the 20 tax periods
31 immediately succeeding the tax period for which it was issued. In the
32 case of a tax certificate received after the end of the tax period for
33 which the tax certificate was issued, whether by transfer or original
34 issuance, a tax certificate holder or transferee shall not be required to
35 amend the tax return for the tax period for which the tax certificate
36 was issued or any successive tax period to first apply the credit]" in any
37 of the next three successive tax periods¹ . The tax certificate holder or
38 transferee may first ¹["claim]" use¹ the credit ¹against tax liabilities¹ in
39 ¹["any]" the¹ tax period ¹["that is on or after the date of issuance]" in
40 which it was issued or in a succeeding tax period, as authorized in this
41 subsection, without being required to amend the tax return for the
42 taxpayer for which the credit was issued¹ , subject to the ¹["carry-
43 forward provision in]" provisions of¹ this section. Notwithstanding the
44 foregoing, no more than the amount of tax credits equal to the total
45 credit amount ¹,¹ divided by the duration of the ¹["eligibility period]"
46 tax credit term,¹ in years ¹,¹ may be taken in any tax period.

1 ¹1. Notwithstanding the provisions of subsection b. of this section
2 or any law or regulation to the contrary, a business that has elected to
3 modify its obligations under an incentive agreement pursuant to
4 P.L.2022, c.134 may request, before December 31, 2024, to reduce the
5 number of Statewide employees specified in the incentive agreement,
6 provided the business certifies that ³[all Statewide employment
7 specified in the incentive agreement is assigned to the qualified
8 business facility and]³ the business is requesting to reduce the number
9 of new or retained full-time jobs specified in the incentive agreement
10 commencing with the 2020 tax period and, at the discretion of the
11 business, whether the reduction shall continue for each subsequent tax
12 period remaining in the eligibility period.¹

13 (cf: P.L.2023, c.261, s.4)

14

15 5. This act shall take effect immediately.

16

17

18

19

20 _____
21 Extends certain accommodations for businesses participating in
State economic development programs.

CHAPTER 40

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

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

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

C.34:1B-120 Certificate of compliance indicating amount of tax credits; elect to waive requirement, minimum employee time, criteria.

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

b. Following the termination of the public health emergency declared by the Governor pursuant to Executive Order No. 103 of 2020, as extended, a business that has entered into an incentive agreement may elect, before March 31, 2024, to waive, for the period beginning on July 1, 2022 and ending on March 31, 2024, the requirement that a full-time employee who is employed by the business shall spend at least 60 percent of the employee's time at the qualified business facility; provided, however, that a business that makes such an election shall satisfy the following criteria:

(1) any full-time employee employed by the business shall spend at least 10 percent of the employee's time at the qualified business facility for the 2023 tax period and, if elected by the business, the 2024 tax period through March 31, 2024; and

(2) following the receipt by the business of its tax credit certificate or tax credit transfer certificate for the 2022 tax period, the business shall make a payment of an amount equal to five percent of the amount of tax credit the business receives for the 2022 tax period through March 31, 2024, which payment shall be made to the authority, and which payment the authority shall hold and make available for the provision of loans, guarantees, equity investments, and grants, or other forms of financing to support small business and downtown or commercial corridor activation activities within the municipality in which the qualified business facility is located, as may be designated by the chief executive officer of the authority. Such funds shall be deployed by the authority within 12 months of the authority's receipt of

the funds, and the authority shall issue a report each fiscal year to the Legislature, pursuant to section 2 of P.L.1991, c.164 (C.52:14-19.1), detailing how the funds were distributed.

c. Notwithstanding the provisions of section 2 of P.L.1996, c.25 (C.34:1B-113) or any other law or regulation to the contrary, beginning on April 1, 2024, and for all subsequent tax periods, a business located outside an enhanced area or government-restricted municipality, as those terms are defined in section 69 of P.L.2020, c.156 (C.34:1B-337), that has entered into an incentive agreement with the authority may elect to waive the requirement that a full-time employee who is employed by the business shall spend at least 60 percent of the employee's time at the qualified business facility, provided, however, that a business that makes this election shall satisfy the following criteria:

(1) for a qualified business facility located outside an enhanced area or government-restricted municipality, as those terms are defined in section 69 of P.L.2020, c.156 (C.34:1B-337), any full-time employee employed by the business shall spend at least 40 percent of the employee's time at the qualified business facility during the tax period;

(2) the business shall extend by two years the term of its commitment duration beyond the time set forth in the project agreement; and

(3) at the time the business submits its tax credit certificate certification for the tax period, the business shall make a non-refundable payment of an amount equal to 10 percent of the amount of the maximum annual tax credit that the business is eligible to receive for the tax period, which payment shall be made to the authority and which payment the authority shall hold and make available for the provision of loans, guarantees, equity investments, and grants or other forms of financing to support small business and downtown or commercial corridor activation activities within enhanced areas or government-restricted municipalities, as those terms are defined in section 69 of P.L.2020, c.156 (C.34:1B-337), as may be designated by the chief executive officer of the authority. Such funds shall be deployed by the authority within 12 months of the authority's receipt of the funds, and the authority shall issue a report each fiscal year to the Legislature, pursuant to section 2 of P.L.1991, c.164 (C.52:14-19.1), detailing how the funds were distributed.

d. Notwithstanding the provisions of any law to the contrary, the credit amount may first be taken by the tax certificate holder for the tax period for which it was issued, for the tax period in which it was issued, or in any tax period during the commitment duration set forth in the project agreement. The tax certificate holder may transfer the tax credit amount on or after the date of issuance for use by the transferee in the tax period for which it was issued, for the tax period in which it was issued, or in any of the next three successive tax periods. The tax certificate holder or transferee may first use the credit against tax liabilities in the tax period in which it was issued or in a succeeding tax period, as authorized in this subsection, without the need for amending the tax return for the tax period for which the credit was issued, subject to the provisions of this section. Notwithstanding the foregoing, no more than the amount of tax credits equal to the total credit amount, divided by the duration of the tax credit term, in years, may be taken in any tax period.

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

C.34:1B-129 Employment incentive grant criteria; tax credit transfer certificate; elect to waive requirement, minimum employee time, criteria.

6. a. The amount of the employment incentive awarded as a grant by the authority shall either be awarded in cash or as a tax credit. In each case, the amount of the grant shall be not less than 10 percent and not more than 50 percent of the withholdings of the business, or not

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

g. (1) A business that does not pay taxes under section 5 of P.L.1945, c.162 (C.54:10A-5), sections 2 and 3 of P.L.1945, c.132 (C.54:18A-2 and 54:18A-3), section 1 of P.L.1950,

c.231 (C.17:32-15), or N.J.S.17B:23-5 may apply to the executive director of the authority for a tax credit transfer certificate, covering one or more years.

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

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

h. Following the termination of the public health emergency declared by the Governor pursuant to Executive Order No. 103 of 2020, as extended, a business that has entered into an incentive agreement may elect, before March 31, 2024, to waive, for the period beginning on July 1, 2022 and ending on March 31, 2024, the requirement that a full-time employee who is employed by the business shall spend at least 60 percent of the employee's time at the qualified business facility; provided, however, that a business that makes such an election shall satisfy the following criteria:

(1) any full-time employee employed by the business shall spend at least 10 percent of the employee's time at the qualified business facility for the 2023 tax period and, if elected by the business, the 2024 tax period through March 31, 2024; and

(2) following the receipt by the business of its tax credit certificate or tax credit transfer certificate for the 2022 tax period, the business shall make a payment of an amount equal to five percent of the amount of tax credit the business receives for the 2022 tax period through March 31, 2024, which payment shall be made to the authority, and which payment the authority shall hold and make available for the provision of loans, guarantees, equity investments, and grants, or other forms of financing to support small business and downtown or commercial corridor activation activities within the municipality in which the qualified business facility is located, as may be designated by the chief executive officer of the authority. Such funds shall be deployed by the authority within 12 months of the authority's receipt of the funds, and the authority shall issue a report each fiscal year to the Legislature, pursuant to section 2 of P.L.1991, c.164 (C.52:14-19.1), detailing how the funds were distributed.

i. Notwithstanding the provisions of section 2 of P.L.1996, c.26 (C.34:1B-125) or any other law or regulation to the contrary, beginning on April 1, 2024, and for all subsequent tax periods, a business located outside an enhanced area or government-restricted municipality, as those terms are defined in section 69 of P.L.2020, c.156 (C.34:1B-337) that has entered into

an incentive agreement with the authority may elect to waive the requirement that a full-time employee who is employed by the business shall spend at least 60 percent of the employee's time at the qualified business facility, provided, however, that a business that makes this election shall satisfy the following criteria:

(1) for a qualified business facility located outside an enhanced area or government-restricted municipality, as those terms are defined in section 69 of P.L.2020, c.156 (C.34:1B-337), any full-time employee employed by the business shall spend at least 40 percent of the employee's time at the qualified business facility during the tax period;

(2) the business shall extend by two years the time it is required to maintain the project at a location in New Jersey beyond the time set forth in the incentive agreement; and

(3) at the time the business submits its tax credit certificate certification for the tax period, the business shall make a non-refundable payment of an amount equal to 10 percent of the amount of the maximum annual tax credit that the business is eligible to receive for the tax period, which payment shall be made to the authority and which payment the authority shall hold and make available for the provision of loans, guarantees, equity investments, and grants or other forms of financing to support small business and downtown or commercial corridor activation activities within enhanced areas or government-restricted municipalities, as those terms are defined in section 69 of P.L.2020, c.156 (C.34:1B-337), as may be designated by the chief executive officer of the authority. Such funds shall be deployed by the authority within 12 months of the authority's receipt of the funds, and the authority shall issue a report each fiscal year to the Legislature, pursuant to section 2 of P.L.1991, c.164 (C.52:14-19.1), detailing how the funds were distributed.

j. Notwithstanding the provisions of any law to the contrary, the credit amount may first be taken by the tax certificate holder for the tax period for which it was issued, for the tax period in which it was issued, or in any tax period during the time the business is required to maintain the project at a location in New Jersey, as set forth in the incentive agreement. The tax certificate holder may transfer the tax credit amount on or after the date of issuance for use by the transferee in the tax period for which it was issued, for the tax period in which it was issued, or in any of the next three successive tax periods. The tax certificate holder or transferee may first use the credit against tax liabilities in the tax period in which it was issued or in a succeeding tax period, as authorized in this subsection, without the need for amending the tax return for the tax period for which the credit was issued, subject to the provisions of this section.

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

C.34:1B-209 Credit for qualified business facilities, conditions for eligibility; allowance.

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

(5) of subsection a. of section 35 of P.L.2009, c.90 (C.34:1B-209.3) and section 6 of P.L.2010, c.57 (C.34:1B-209.4).

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

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

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

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

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

(7) A business shall be allowed a tax credit of 100 percent of its capital investment, made after the effective date of P.L.2011, c.89 but prior to its submission of documentation pursuant to subsection c. of this section, in a qualified business facility that is part of a mixed use project, provided that (a) the qualified business facility represents at least \$17,500,000 of the total capital investment in the mixed use project, (b) the business employs not fewer than 250 full-time employees in the qualified business facility, and (c) the total capital investment in the mixed use project of which the qualified business facility is a part is not less than \$50,000,000. The allowance of credits under this paragraph shall be subject to the restrictions and requirements, to the extent that those are not inconsistent with the provisions of this paragraph, set forth in paragraphs (1) through (6) of this subsection, including, but not limited to, the requirement that the business shall demonstrate to the authority, at the time of application, that

the State's financial support of the proposed capital investment in a qualified business facility will yield a net positive benefit to both the State and the eligible municipality.

(8) In determining whether a proposed capital investment will yield a net positive benefit, the authority shall not consider the transfer of an existing job from one location in the State to another location in the State as the creation of a new job, unless (a) the business proposes to transfer existing jobs to a municipality in the State as part of a consolidation of business operations from two or more other locations that are not in the same municipality whether in-State or out-of-State, or (b) the business's chief executive officer, or equivalent officer, submits a certification to the authority indicating that the existing jobs are at risk of leaving the State and that the business's chief executive officer, or equivalent officer, has reviewed the information submitted to the authority and that the representations contained therein are accurate, and the business intends to employ not fewer than 500 full-time employees in the qualified business facility. In the event that this certification by the business's chief executive officer, or equivalent officer, is found to be willfully false, the authority may revoke any award of tax credits in their entirety, which revocation shall be in addition to any other criminal or civil penalties that the business and the officer may be subject to. When considering an application involving intra-State job transfers, the authority shall require the company to submit the following information as part of its application: a full economic analysis of all locations under consideration by the company; all lease agreements, ownership documents, or substantially similar documentation for the business's current in-State locations; and all lease agreements, ownership documents, or substantially similar documentation for the potential out-of-State location alternatives, to the extent they exist. Based on this information, and any other information deemed relevant by the authority, the authority shall independently verify and confirm, by way of making a factual finding by separate vote of the authority's board, the business's assertion that the jobs are actually at risk of leaving the State, before a business may be awarded any tax credits under this section.

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

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

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

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

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

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

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

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

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

A business may elect to suspend its obligations for the 2020, 2021, 2022, 2023, or 2024 tax period, or any combination thereof, due to the COVID-19 pandemic, provided that the business shall make such election in writing to the authority before the issuance of the tax credit for the corresponding tax year and such suspension shall extend the term of the eligibility period by a corresponding amount of time. The authority shall modify the approval letter, and the business shall execute the modification within the time period provided by the authority. The modification shall provide that the failure to submit the annual report due to the suspension shall not be a forfeiture or an uncertified tax period.

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

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

d. (1) If, in any tax period, fewer than 200 full-time employees of the business at the qualified business facility are employed in new full-time positions, the amount of the credit otherwise determined pursuant to final calculation of the award of tax credits pursuant to subsection c. of this section shall be reduced by 20 percent for that tax period and each subsequent tax period

until the first period for which documentation demonstrating the restoration of the 200 full-time employees employed in new full-time positions at the qualified business facility has been reviewed and approved by the authority, for which tax period and each subsequent tax period the full amount of the credit shall be allowed; provided, however, that for businesses applying before January 1, 2010, there shall be no reduction if a business relocates to an urban transit hub from another location or other locations in the same municipality. For the purposes of this paragraph, a "new full-time position" means a position created by the business at the qualified business facility that did not previously exist in this State.

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

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

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

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

(5) Following the termination of the public health emergency declared by the Governor pursuant to Executive Order No. 103 of 2020, as extended, a business that has entered into an incentive agreement may elect, before March 31, 2024, to waive, for the period beginning on July 1, 2022 and ending on March 31, 2024, the requirement that a full-time employee who is employed by the business shall spend at least 60 percent of the employee's time at the qualified business facility; provided, however, that a business that makes such an election shall satisfy the following criteria:

(i) any full-time employee employed by the business shall spend at least 10 percent of the employee's time at the qualified business facility for the 2023 tax period and, if elected by the business, the 2024 tax period through March 31, 2024; and

(ii) following the receipt by the business of its tax credit certificate or tax credit transfer certificate for the 2022 tax period, the business shall make a payment of an amount equal to

five percent of the amount of tax credit the business receives for the 2022 tax period through March 31, 2024, which payment shall be made to the authority, and which payment the authority shall hold and make available for the provision of loans, guarantees, equity investments, and grants, or other forms of financing to support small business and downtown or commercial corridor activation activities within the municipality in which the qualified business facility is located, as may be designated by the chief executive officer of the authority. Such funds shall be deployed by the authority within 12 months of the authority's receipt of the funds, and the authority shall issue a report each fiscal year to the Legislature, pursuant to section 2 of P.L.1991, c.164 (C.52:14-19.1), detailing how the funds were distributed.

(6) Notwithstanding the provisions of section 2 of P.L.2007, c.346 (C.34:1B-208) or any other law or regulation to the contrary, beginning on April 1, 2024, and for all subsequent tax periods, a business located outside an enhanced area or government-restricted municipality, as those terms are defined in section 69 of P.L.2020, c.156 (C.34:1B-337), that has entered into an incentive agreement with the authority may elect to waive the requirement that a full-time employee who is employed by the business shall spend at least 60 percent of the employee's time at the qualified business facility, provided, however, that a business that makes this election shall satisfy the following criteria:

(i) for a qualified business facility located outside an enhanced area or government-restricted municipality, as those terms are defined in section 69 of P.L.2020, c.156 (C.34:1B-337), any full-time employee employed by the business shall spend at least 40 percent of the employee's time at the qualified business facility during the tax period;

(ii) the business shall extend by two years the time it is required to maintain the project at a location in New Jersey beyond the time set forth in the incentive agreement; and

(iii) at the time the business submits its tax credit certificate certification for the tax period, the business shall make a non-refundable payment of an amount equal to 10 percent of the amount of the maximum annual tax credit that the business is eligible to receive for the tax period, which payment shall be made to the authority and which payment the authority shall hold and make available for the provision of loans, guarantees, equity investments, and grants or other forms of financing to support small business and downtown or commercial corridor activation activities within enhanced areas or government-restricted municipalities, as those terms are defined in section 69 of P.L.2020, c.156 (C.34:1B-337), as may be designated by the chief executive officer of the authority. Such funds shall be deployed by the authority within 12 months of the authority's receipt of the funds, and the authority shall issue a report each fiscal year to the Legislature, pursuant to section 2 of P.L.1991, c.164 (C.52:14-19.1), detailing how the funds were distributed.

(7) Notwithstanding the provisions of any law to the contrary, the credit amount may first be taken by the tax certificate holder for the tax period for which it was issued, for the tax period in which it was issued, or in any tax period during the time the business is required to maintain the project at a location in New Jersey, as set forth in the incentive agreement. The tax certificate holder may transfer the tax credit amount on or after the date of issuance for use by the transferee in the tax period for which it was issued, for the tax period in which it was issued, or in any of the next three successive tax periods. The tax certificate holder or transferee may first use the credit against tax liabilities in the tax period in which it was issued or in a succeeding tax period, as authorized in this subsection, without being required to amend the tax return for the tax period for which the credit was issued, subject to the provisions of this section. Notwithstanding the foregoing, no more than the amount of tax credits equal to the total credit amount, divided by the duration of the tax credit term, in years, may be taken in any tax period.

(8) Notwithstanding the provisions of this subsection or any law or regulation to the contrary, a business that has elected to modify its obligations under an incentive agreement pursuant to P.L.2022, c.134 may request, before December 31, 2024, to reduce the number of Statewide employees specified in the incentive agreement, provided the business certifies that the business is requesting to reduce the number of new or retained full-time jobs specified in the incentive agreement commencing with the 2020 tax period and, at the discretion of the business, whether the reduction shall continue for each subsequent tax period remaining in the eligibility period.

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

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

f. A business that has executed an approval letter may request before December 31, 2024 to terminate the award, commencing with the 2020 tax period or any subsequent tax period ending on or before December 31, 2024, due to the COVID-19 public health emergency; provided that the business shall submit a certification from the business's chief executive officer or equivalent officer stating that the termination is due, directly or indirectly, to the public health emergency and describing the impact of the public health emergency on the business. All credits for the tax period in which the termination is requested and all subsequent tax periods shall be forfeited, provided however that any credits of the business shall remain unaffected. A termination agreement executed by the authority and business shall not be amended.

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

C.34:1B-247 Limits on combined value of approved credits.

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

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

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

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

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

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

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

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

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

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

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

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

The credit amount may be taken by the tax certificate holder for the tax period for which it was issued or may be carried forward for use by the tax certificate holder in any of the next 20 successive tax periods and shall expire thereafter. The tax certificate holder may transfer the tax credit amount on or after the date of issuance or at any time after the date of issuance for use by the transferee in the tax period for which it was issued or in any of the next 20 successive tax periods. In the case of a tax certificate received after the end of the tax period for which the tax certificate was issued, whether by transfer or original issuance, a tax certificate holder or transferee shall not be required to amend the tax return for the tax period for which the tax certificate was issued or any successive tax period if the credit is first applied in the tax period in which it was issued or in a succeeding tax period, as authorized in subsection k. of this section, and subject to the carry-forward provision in this section. Notwithstanding the

foregoing, no more than the amount of tax credits equal to the total credit amount, divided by the duration of the eligibility period, in years, may be taken in any tax period.

A business may elect to suspend its obligations for the 2020, 2021, 2022, 2023, or 2024 tax period, or any combination thereof, due to the COVID-19 pandemic, provided that the business shall make such election in writing to the authority before the issuance of the tax credit for the corresponding tax year and such suspension shall extend the term of the eligibility period by a corresponding amount of time. The authority shall amend the incentive agreement, and the business shall execute the amended incentive agreement within the time period provided by the authority. The amended incentive agreement shall provide that the failure to submit the annual report due to the suspension shall not be a forfeiture or an uncertified tax period.

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

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

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

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

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

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

(b) In connection with a regional distribution facility of foodstuffs, the business entity or entities which own or lease the facility shall qualify as a business regardless of: (i) the type of the business entity or entities which own or lease the facility; (ii) the ownership or leasing

of the facility by more than one business entity; or (iii) the ownership of the business entity or entities which own or lease the facility. The ownership or leasing, whether by members, shareholders, partners, or other owners of the business entity or entities, shall be treated as ownership or leasing by affiliates. The members, shareholders, partners, or other ownership or leasing participants and others that are tenants in the facility shall be treated as affiliates for the purpose of counting the full-time employees and capital investments in the facility. The business entity or entities may distribute credits to members, shareholders, partners, or other ownership or leasing participants in accordance with their respective interests. If the business entity or entities or their members, shareholders, partners, or other ownership or leasing participants lease space in the facility to members, shareholders, partners, or other ownership or leasing participants or others as tenants in the facility, the leases shall be treated as a lease to an affiliate, and the business entity or entities shall not be subject to forfeiture of the credits. For the purposes of this section, leasing shall include subleasing and tenants shall include subtenants.

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

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

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

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

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

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

g. A business that has entered into an incentive agreement may request before December 31, 2024 to terminate the incentive agreement, commencing with the 2020 tax period or any subsequent tax period ending on or before December 31, 2024, due to the COVID-19 public health emergency; provided that the business shall submit a certification from the business's chief executive officer or equivalent officer stating that the termination is due, directly or indirectly, to the public health emergency and describing the impact of the public health emergency on the business. All credits for the tax period in which the termination occurs and all subsequent tax periods shall be forfeited, provided however that any credits of the business shall remain unaffected. A termination agreement executed by the authority and business shall not be amended.

h. A business that has entered into an incentive agreement may request, before December 31, 2024, to reduce the number of new or retained full-time jobs specified in the incentive agreement based on a certification of the business of the eligible positions at the qualified business facility commencing with the 2020 tax period and, at the discretion of the business, whether the reduction shall continue for each subsequent tax period remaining in the eligibility period, provided that the business maintains the minimum number of new or retained full-time jobs required to be eligible pursuant to subsection c. of section 3 of P.L.2011, c.149 (C.34:1B-244). The reduction in employment shall first apply to the number of new full-time employees, and then shall apply to the number of retained full-time employees.

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

i. Following the termination of the public health emergency declared by the Governor pursuant to Executive Order No. 103 of 2020, as extended, a business that has entered into an incentive agreement may elect, before March 31, 2024, to waive, for the period beginning on July 1, 2022 and ending on March 31, 2024, the requirement that a full-time employee who is employed by the business shall spend at least 60 percent of the employee's time at the qualified business facility; provided, however, that a business that makes such an election shall satisfy the following criteria:

(1) any full-time employee employed by the business shall spend at least 10 percent of the employee's time at the qualified business facility for the 2023 tax period and, if elected by the business, the 2024 tax period through March 31, 2024; and

(2) following the receipt by the business of its tax credit certificate or tax credit transfer certificate for the 2022 tax period, the business shall make a payment of an amount equal to five percent of the amount of tax credit the business receives for the 2022 tax period through March 31, 2024, which payment shall be made to the authority, and which payment the authority shall hold and make available for the provision of loans, guarantees, equity investments, and grants, or other forms of financing to support small business and downtown

or commercial corridor activation activities within the municipality in which the qualified business facility is located, as may be designated by the chief executive officer of the authority. Such funds shall be deployed by the authority within 12 months of the authority's receipt of the funds, and the authority shall issue a report each fiscal year to the Legislature, pursuant to section 2 of P.L.1991, c.164 (C.52:14-19.1), detailing how the funds were distributed.

j. Notwithstanding the provisions of section 2 of P.L.2011, c.149 (C.34:1B-243) or any other law or regulation to the contrary, beginning on April 1, 2024, and for all subsequent tax periods, a business located outside an enhanced area or government-restricted municipality, as those terms are defined in section 69 of P.L.2020, c.156 (C.34:1B-337) that has entered into an incentive agreement with the authority may elect to waive the requirement that a full-time employee who is employed by the business shall spend at least 60 percent of the employee's time at the qualified business facility, provided, however, that a business that makes this election shall satisfy the following criteria:

(1) for a qualified business facility located outside an enhanced area or government-restricted municipality, as those terms are defined in section 69 of P.L.2020, c.156 (C.34:1B-337), any full-time employee employed by the business shall spend at least 40 percent of the employee's time at the qualified business facility during the tax period;

(2) the business shall extend by two years the term of its commitment period beyond the time set forth in the incentive agreement; and

(3) at the time the business submits its tax credit certificate certification for the tax period, the business shall make a non-refundable payment of an amount equal to 10 percent of the amount of the maximum annual tax credit that the business is eligible to receive for the tax period, which payment shall be made to the authority and which payment the authority shall hold and make available for the provision of loans, guarantees, equity investments, and grants or other forms of financing to support small business and downtown or commercial corridor activation activities within enhanced areas or government-restricted municipalities, as those terms are defined in section 69 of P.L.2020, c.156 (C.34:1B-337), as may be designated by the chief executive officer of the authority. Such funds shall be deployed by the authority within 12 months of the authority's receipt of the funds, and the authority shall issue a report each fiscal year to the Legislature, pursuant to section 2 of P.L.1991, c.164 (C.52:14-19.1), detailing how the funds were distributed.

k. Notwithstanding the provisions of any law to the contrary, the credit amount may first be taken by the tax certificate holder for the tax period for which it was issued, for the tax period in which it was issued, or in any tax period during the commitment period set forth in the incentive agreement. The tax certificate holder may transfer the tax credit amount on or after the date of issuance for use by the transferee in the tax period for which it was issued, for the tax period in which it was issued, or in any of the next three successive tax periods. The tax certificate holder or transferee may first use the credit against tax liabilities in the tax period in which it was issued or in a succeeding tax period, as authorized in this subsection, without being required to amend the tax return for the taxpayer for which the credit was issued, subject to the provisions of this section. Notwithstanding the foregoing, no more than the amount of tax credits equal to the total credit amount, divided by the duration of the tax credit term, in years, may be taken in any tax period.

l. Notwithstanding the provisions of subsection b. of this section or any law or regulation to the contrary, a business that has elected to modify its obligations under an incentive agreement pursuant to P.L.2022, c.134 may request, before December 31, 2024, to reduce the number of Statewide employees specified in the incentive agreement, provided the business certifies that the business is requesting to reduce the number of new or retained full-time jobs

specified in the incentive agreement commencing with the 2020 tax period and, at the discretion of the business, whether the reduction shall continue for each subsequent tax period remaining in the eligibility period.

5. This act shall take effect immediately.

Approved July 10, 2024.

ASSEMBLY, No. 4046

STATE OF NEW JERSEY

221st LEGISLATURE

INTRODUCED MARCH 4, 2024

Sponsored by:

Assemblywoman ELIANA PINTOR MARIN

District 29 (Essex and Hudson)

Assemblyman WILLIAM W. SPEARMAN

District 5 (Camden and Gloucester)

SYNOPSIS

Extends certain accommodations for businesses participating in State economic development programs.

CURRENT VERSION OF TEXT

As introduced.



(Sponsorship Updated As Of: 3/14/2024)

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

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

35 b. Following the termination of the public health emergency
36 declared by the Governor pursuant to Executive Order No. 103 of
37 2020, as extended, a business that has entered into an incentive
38 agreement may elect, before March 31, 2024, to waive, for the
39 period beginning on July 1, 2022 and ending on March 31, 2024,
40 the requirement that a full-time employee who is employed by the
41 business shall spend at least 60 percent of the employee's time at
42 the qualified business facility; provided, however, that a business
43 that makes such an election shall satisfy the following criteria:

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

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 business facility for the 2023 tax period through March 31, 2024;
2 and

3 (2) following the receipt by the business of its tax credit
4 certificate or tax credit transfer certificate for the 2022 tax period,
5 the business shall make a payment of an amount equal to five
6 percent of the amount of tax credit the business receives for the
7 2022 tax period through March 31, 2024, which payment shall be
8 made to the authority, and which payment the authority shall hold
9 and make available for the provision of loans, guarantees, equity
10 investments, and grants, or other forms of financing to support
11 small business and downtown or commercial corridor activation
12 activities within the municipality in which the qualified business
13 facility is located, as may be designated by the chief executive
14 officer of the authority.

15 c. For the period beginning on April 1, 2024, and for all
16 subsequent tax periods, the authority may authorize a business that
17 has entered into an amended incentive agreement with the authority
18 to waive the requirement that a full-time employee who is employed
19 by the business shall spend at least 60 percent of the employee's
20 time at the qualified business facility; provided, however, that a
21 business that makes this election shall satisfy the following criteria:

22 (1) any full-time employee employed by the business shall
23 spend at least 40 percent of the employee's time at the qualified
24 business facility during the tax period; and

25 (2) following the receipt by the business of its tax credit
26 certificate or tax credit transfer certificate for the tax period, the
27 business shall make a payment of an amount equal to 20 percent of
28 the amount of the tax credit the business receives for the tax period,
29 which payment shall be made to the municipal affordable housing
30 trust fund in the municipality in which the qualified business
31 facility is located.

32 d. The authority, in consultation with the Division of Taxation
33 in the Department of the Treasury, may authorize a tax certificate
34 holder to carry forward tax credits for an additional period specified
35 by the authority, subject to the provisions of this section. The credit
36 amount may be taken by the tax certificate holder for the tax period
37 for which it was issued or may be carried forward for use by the tax
38 certificate holder in any of the next 20 successive tax periods, and
39 shall expire thereafter. The tax certificate holder may transfer the
40 tax credit amount on or after the date of issuance or at any time
41 after the date of issuance for use by the transferee in the tax period
42 for which it was issued or within a period to be determined by the
43 authority, in consultation with the Division of Taxation, but not to
44 exceed the 20 tax periods immediately succeeding the tax period for
45 which it was issued. In the case of a tax certificate received after
46 the end of the tax period for which the tax certificate was issued,
47 whether by transfer or original issuance, a tax certificate holder or
48 transferee shall not be required to amend the tax return for the tax

1 period for which the tax certificate was issued or any successive tax
2 period to first apply the credit. The tax certificate holder or
3 transferee may first claim the credit in any tax period on or after the
4 date of issuance, subject to the carry-forward provision in this
5 section. Notwithstanding the foregoing, no more than the amount
6 of tax credits equal to the total credit amount divided by the
7 duration of the tax credit term, in years, may be taken in any tax
8 period.

9 (cf: P.L.2023, c.261, s.1)

10

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

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

29 (1) The number of eligible positions to be created;

30 (2) The expected duration of those positions;

31 (3) The type of contribution the business can make to the long-
32 term growth of the State's economy;

33 (4) The amount of other financial assistance the business will
34 receive from the State for the project;

35 (5) The total dollar investment the business is making in the
36 project;

37 (6) Whether the business is a designated industry;

38 (7) Impact of the business on State tax revenues; and

39 (8) Such other related factors determined by the authority.

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

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

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

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

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

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

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

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

46 (5) For a grant accrued but not paid during calendar year 2017,
47 the tax credit shall be equal to any approved amount and shall be
48 issued in three equal installments over a three-year period

1 beginning in the 2020 tax accounting or privilege period of the
2 business or tax credit transferee;

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

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

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

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

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

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

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

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

41 f. The amount of the credit allowed pursuant to this section
42 shall be applied against the tax otherwise due under section 5 of
43 P.L.1945, c.162 (C.54:10A-5), sections 2 and 3 of P.L.1945, c.132
44 (C.54:18A-2 and C.54:18A-3), section 1 of P.L.1950, c.231
45 (C.17:32-15), or N.J.S.17B:23-5, prior to all other credits and
46 payments. If the credit exceeds the amount of tax liability otherwise
47 due from a business that pays taxes under section 5 of P.L.1945,
48 c.162 (C.54:10A-5), sections 2 and 3 of P.L.1945, c.132 (C.54:18A-

1 2 and C.54:18A-3), section 1 of P.L.1950, c.231 (C.17:32-15), or
2 N.J.S.17B:23-5, that amount of excess shall be an overpayment for
3 the purposes of R.S.54:49-15, provided, however, that section 7 of
4 P.L.1992, c.175 (C.54:49-15.1) shall not apply.

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

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

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

41 h. Following the termination of the public health emergency
42 declared by the Governor pursuant to Executive Order No. 103 of
43 2020, as extended, a business that has entered into an incentive
44 agreement may elect, before March 31, 2024, to waive, for the
45 period beginning on July 1, 2022 and ending on March 31, 2024,
46 the requirement that a full-time employee who is employed by the
47 business shall spend at least 60 percent of the employee's time at

1 the qualified business facility; provided, however, that a business
2 that makes such an election shall satisfy the following criteria:

3 (1) any full-time employee employed by the business shall spend
4 at least 10 percent of the employee's time at the qualified business
5 facility for the 2023 tax period through March 31, 2024; and

6 (2) following the receipt by the business of its tax credit
7 certificate or tax credit transfer certificate for the 2022 tax period,
8 the business shall make a payment of an amount equal to five
9 percent of the amount of tax credit the business receives for the
10 2022 tax period through March 31, 2024, which payment shall be
11 made to the authority, and which payment the authority shall hold
12 and make available for the provision of loans, guarantees, equity
13 investments, and grants, or other forms of financing to support
14 small business and downtown or commercial corridor activation
15 activities within the municipality in which the qualified business
16 facility is located, as may be designated by the chief executive
17 officer of the authority.

18 i. For the period beginning on April 1, 2024, and for all
19 subsequent tax periods, the authority may authorize a business that
20 has entered into an amended incentive agreement with the authority
21 to waive the requirement that a full-time employee who is employed
22 by the business shall spend at least 60 percent of the employee's
23 time at the qualified business facility; provided, however, that a
24 business that makes this election shall satisfy the following criteria:

25 (1) any full-time employee employed by the business shall
26 spend at least 40 percent of the employee's time at the qualified
27 business facility during the tax period; and

28 (2) following the receipt by the business of its tax credit
29 certificate or tax credit transfer certificate for the tax period, the
30 business shall make a payment of an amount equal to 20 percent of
31 the amount of the tax credit the business receives for the tax period,
32 which payment shall be made to the municipal affordable housing
33 trust fund in the municipality in which the qualified business
34 facility is located.

35 j. The authority, in consultation with the Division of Taxation
36 in the Department of the Treasury, may authorize a tax certificate
37 holder to carry forward tax credits for an additional period specified
38 by the authority, subject to the provisions of this section. The credit
39 amount may be taken by the tax certificate holder for the tax period
40 for which it was issued or may be carried forward for use by the tax
41 certificate holder in any of the next 20 successive tax periods, and
42 shall expire thereafter. The tax certificate holder may transfer the
43 tax credit amount on or after the date of issuance or at any time
44 after the date of issuance for use by the transferee in the tax period
45 for which it was issued or within a period to be determined by the
46 authority, in consultation with the Division of Taxation, but not to
47 exceed the 20 tax periods immediately succeeding the tax period for
48 which it was issued. In the case of a tax certificate received after

1 the end of the tax period for which the tax certificate was issued,
2 whether by transfer or original issuance, a tax certificate holder or
3 transferee shall not be required to amend the tax return for the tax
4 period for which the tax certificate was issued or any successive tax
5 period to first apply the credit. The tax certificate holder or
6 transferee may first claim the credit in any tax period on or after the
7 date of issuance, subject to the carry-forward provision in this
8 section. Notwithstanding the foregoing, no more than the amount
9 of tax credits equal to the total credit amount, divided by the
10 number of years in which the credits may be claimed, not including
11 carried-forward use, may be taken in any tax period.

12 (cf: P.L.2023, c.261, s.2)

13

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

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

33 (2) A business, other than a tenant eligible pursuant to
34 paragraph (3) of this subsection, shall make or acquire capital
35 investments totaling not less than \$50,000,000 in a qualified
36 business facility, at which the business shall employ not fewer than
37 250 full-time employees to be eligible for a credit under this
38 section. A business that acquires a qualified business facility shall
39 also be deemed to have acquired the capital investment made or
40 acquired by the seller.

41 (3) A business that is a tenant in a qualified business facility, the
42 owner of which has made or acquired capital investments in the
43 facility totaling not less than \$50,000,000, shall occupy a leased
44 area of the qualified business facility that represents at least
45 \$17,500,000 of the capital investment in the facility at which the
46 tenant business and up to two other tenants in the qualified business
47 facility shall employ not fewer than 250 full-time employees in the
48 aggregate to be eligible for a credit under this section. The amount

1 of capital investment in a facility that a leased area represents shall
2 be equal to that percentage of the owner's total capital investment in
3 the facility that the percentage of net leasable area leased by the
4 tenant is of the total net leasable area of the qualified business
5 facility. Capital investments made by a tenant shall be deemed to be
6 included in the calculation of the capital investment made or
7 acquired by the owner, but only to the extent necessary to meet the
8 owner's minimum capital investment of \$50,000,000. Capital
9 investments made by a tenant and not allocated to meet the owner's
10 minimum capital investment threshold of \$50,000,000 shall be
11 added to the amount of capital investment represented by the
12 tenant's leased area in the qualified business facility.

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

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

30 (6) The capital investment of the owner of a qualified business
31 facility is that percentage of the capital investment made or
32 acquired by the owner of the building that the percentage of net
33 leasable area of the qualified business facility not leased to tenants
34 is of the total net leasable area of the qualified business facility.

35 (7) A business shall be allowed a tax credit of 100 percent of its
36 capital investment, made after the effective date of P.L.2011, c.89
37 but prior to its submission of documentation pursuant to subsection
38 c. of this section, in a qualified business facility that is part of a
39 mixed use project, provided that (a) the qualified business facility
40 represents at least \$17,500,000 of the total capital investment in the
41 mixed use project, (b) the business employs not fewer than 250 full-
42 time employees in the qualified business facility, and (c) the total
43 capital investment in the mixed use project of which the qualified
44 business facility is a part is not less than \$50,000,000. The
45 allowance of credits under this paragraph shall be subject to the
46 restrictions and requirements, to the extent that those are not
47 inconsistent with the provisions of this paragraph, set forth in
48 paragraphs (1) through (6) of this subsection, including, but not

1 limited to, the requirement that the business shall demonstrate to the
2 authority, at the time of application, that the State's financial
3 support of the proposed capital investment in a qualified business
4 facility will yield a net positive benefit to both the State and the
5 eligible municipality.

6 (8) In determining whether a proposed capital investment will
7 yield a net positive benefit, the authority shall not consider the
8 transfer of an existing job from one location in the State to another
9 location in the State as the creation of a new job, unless (a) the
10 business proposes to transfer existing jobs to a municipality in the
11 State as part of a consolidation of business operations from two or
12 more other locations that are not in the same municipality whether
13 in-State or out-of-State, or (b) the business's chief executive officer,
14 or equivalent officer, submits a certification to the authority
15 indicating that the existing jobs are at risk of leaving the State and
16 that the business's chief executive officer, or equivalent officer, has
17 reviewed the information submitted to the authority and that the
18 representations contained therein are accurate, and the business
19 intends to employ not fewer than 500 full-time employees in the
20 qualified business facility. In the event that this certification by the
21 business's chief executive officer, or equivalent officer, is found to
22 be willfully false, the authority may revoke any award of tax credits
23 in their entirety, which revocation shall be in addition to any other
24 criminal or civil penalties that the business and the officer may be
25 subject to. When considering an application involving intra-State
26 job transfers, the authority shall require the company to submit the
27 following information as part of its application: a full economic
28 analysis of all locations under consideration by the company; all
29 lease agreements, ownership documents, or substantially similar
30 documentation for the business's current in-State locations; and all
31 lease agreements, ownership documents, or substantially similar
32 documentation for the potential out-of-State location alternatives, to
33 the extent they exist. Based on this information, and any other
34 information deemed relevant by the authority, the authority shall
35 independently verify and confirm, by way of making a factual
36 finding by separate vote of the authority's board, the business's
37 assertion that the jobs are actually at risk of leaving the State,
38 before a business may be awarded any tax credits under this section.

39 b. (1) If applications under this section have been received by
40 the authority prior to the effective date of the "New Jersey
41 Economic Opportunity Act of 2013," P.L.2013, c.161 (C.52:27D-
42 489p et al.), then, to the extent that there remains sufficient
43 financial authorization for the award of a tax credit, the authority is
44 authorized to consider those applications and to make awards of tax
45 credits to eligible applicants, provided that the authority shall take
46 final action on those applications no later than December 31, 2013.

47 (2) A business shall apply for the credit under this section prior
48 to the effective date of the "New Jersey Economic Opportunity Act

1 of 2013," P.L.2013, c.161 (C.52:27D-489p et al.), and shall submit
2 its documentation for approval of its credit amount no later than
3 December 31, 2023.

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

11 (4) Tax credits awarded pursuant to P.L.2007, c.346 (C.34:1B-
12 207 et seq.) for applications submitted to and approved by the
13 authority prior to the effective date of the "New Jersey Economic
14 Opportunity Act of 2013," P.L.2013, c.161 (C.52:27D-489p et al.),
15 shall be administered by the authority in the manner established
16 prior to that date.

17 (5) With respect to an application received by the authority prior
18 to the effective date of the "New Jersey Economic Opportunity Act
19 of 2013," P.L.2013, c.161 (C.52:27D-489p et al.) for a qualified
20 business facility that is located on or adjacent to the campus of an
21 acute care medical facility, (a) the minimum number of full-time
22 employees required for eligibility under the program may be
23 employed by any number of tenants or other occupants of the
24 facility, in the aggregate, and the initial satisfaction of the
25 requirement following completion of the project shall be deemed to
26 satisfy the employment requirements of the program in all respects,
27 and (b) if the capital investment in the facility exceeds
28 \$100,000,000, the determination of the net positive benefit yield
29 shall be based on the benefits generated during a period of up to 30
30 years following the completion of the project, as determined by the
31 authority.

32 c. (1) The amount of credit allowed shall, except as otherwise
33 provided, be equal to the capital investment made by the business,
34 or the capital investment represented by the business's leased area,
35 or area owned by the business as a condominium, and shall be taken
36 over a 10-year period, at the rate of one-tenth of the total amount of
37 the business's credit for each tax accounting or privilege period of
38 the business, beginning with the tax period in which the business is
39 first certified by the authority as having met the investment capital
40 and employment qualifications, subject to any reduction or
41 disqualification as provided by subsection d. of this section as
42 determined by annual review by the authority. In conducting its
43 annual review, the authority may require a business to submit any
44 information determined by the authority to be necessary and
45 relevant to its review.

46 The credit amount that may be taken for a tax period of the
47 business that exceeds the final liabilities of the business for the tax
48 period may be carried forward for use by the business in the next 20

1 successive tax periods, and shall expire thereafter, provided that the
2 value of all credits approved by the authority against tax liabilities
3 pursuant to P.L.2007, c.346 (C.34:1B-207 et seq.) in any fiscal year
4 shall not exceed \$260,000,000.

5 The amount of credit allowed for a tax period to a business that
6 is a tenant in a qualified business facility shall not exceed the
7 business's total lease payments for occupancy of the qualified
8 business facility for the tax period.

9 A business may elect to suspend its obligations for the 2020,
10 2021, 2022, **[or]** 2023, or 2024 tax period, or any combination
11 thereof, due to the COVID-19 pandemic, provided that the business
12 shall make such election in writing to the authority before the
13 issuance of the tax credit for the corresponding tax year and such
14 suspension shall extend the term of the eligibility period by a
15 corresponding amount of time. The authority shall modify the
16 approval letter, and the business shall execute the modification
17 within the time period provided by the authority. The modification
18 shall provide that the failure to submit the annual report due to the
19 suspension shall not be a forfeiture or an uncertified tax period.

20 (2) A business that is a partnership shall not be allowed a credit
21 under this section directly, but the amount of credit of an owner of a
22 business shall be determined by allocating to each owner of the
23 partnership that proportion of the credit of the business that is equal
24 to the owner of the partnership's share, whether or not distributed,
25 of the total distributive income or gain of the partnership for its tax
26 period ending within or at the end of the owner's tax period, or that
27 proportion that is allocated by an agreement, if any, among the
28 owners of the partnership that has been provided to the Director of
29 the Division of Taxation in the Department of the Treasury by the
30 time and accompanied by the additional information as the director
31 may require.

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

37 d. (1) If, in any tax period, fewer than 200 full-time employees
38 of the business at the qualified business facility are employed in
39 new full-time positions, the amount of the credit otherwise
40 determined pursuant to final calculation of the award of tax credits
41 pursuant to subsection c. of this section shall be reduced by 20
42 percent for that tax period and each subsequent tax period until the
43 first period for which documentation demonstrating the restoration
44 of the 200 full-time employees employed in new full-time positions
45 at the qualified business facility has been reviewed and approved by
46 the authority, for which tax period and each subsequent tax period
47 the full amount of the credit shall be allowed; provided, however,
48 that for businesses applying before January 1, 2010, there shall be

1 no reduction if a business relocates to an urban transit hub from
2 another location or other locations in the same municipality. For the
3 purposes of this paragraph, a "new full-time position" means a
4 position created by the business at the qualified business facility
5 that did not previously exist in this State.

6 (2) If, in any tax period, the business reduces the total number
7 of full-time employees in its Statewide workforce by more than 20
8 percent from the number of full-time employees in its Statewide
9 workforce in the last tax accounting or privilege period prior to the
10 credit amount approval under subsection a. of this section, then the
11 business shall forfeit its credit amount for that tax period and each
12 subsequent tax period, until the first tax period for which
13 documentation demonstrating the restoration of the business's
14 Statewide workforce to the threshold levels required by this
15 paragraph has been reviewed and approved by the authority, for
16 which tax period and each subsequent tax period the full amount of
17 the credit shall be allowed.

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

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

42 (ii) If a tenant subleases its tenancy in whole or in part during
43 the 10-year eligibility period, the new tenant shall not acquire the
44 credit of the sublessor, and the sublessor tenant shall forfeit all
45 credits for the tax period of its sublease and all subsequent tax
46 periods.

47 (5) Following the termination of the public health emergency
48 declared by the Governor pursuant to Executive Order No. 103 of

1 2020, as extended, a business that has entered into an incentive
2 agreement may elect, before March 31, 2024, to waive, for the
3 period beginning on July 1, 2022 and ending on March 31, 2024,
4 the requirement that a full-time employee who is employed by the
5 business shall spend at least 60 percent of the employee's time at
6 the qualified business facility; provided, however, that a business
7 that makes such an election shall satisfy the following criteria:

8 (i) any full-time employee employed by the business shall
9 spend at least 10 percent of the employee's time at the qualified
10 business facility for the 2023 tax period through March 31, 2024;
11 and

12 (ii) following the receipt by the business of its tax credit
13 certificate or tax credit transfer certificate for the 2022 tax period,
14 the business shall make a payment of an amount equal to five
15 percent of the amount of tax credit the business receives for the
16 2022 tax period through March 31, 2024, which payment shall be
17 made to the authority, and which payment the authority shall hold
18 and make available for the provision of loans, guarantees, equity
19 investments, and grants, or other forms of financing to support
20 small business and downtown or commercial corridor activation
21 activities within the municipality in which the qualified business
22 facility is located, as may be designated by the chief executive
23 officer of the authority.

24 (6) For the period beginning on April 1, 2024, and for all
25 subsequent tax periods, the authority may authorize a business that
26 has entered into an amended incentive agreement with the authority
27 to waive the requirement that a full-time employee who is employed
28 by the business shall spend at least 60 percent of the employee's
29 time at the qualified business facility; provided, however, that a
30 business that makes this election shall satisfy the following criteria:

31 (i) any full-time employee employed by the business shall
32 spend at least 40 percent of the employee's time at the qualified
33 business facility during the tax period; and

34 (ii) following the receipt by the business of its tax credit
35 certificate or tax credit transfer certificate for the tax period, the
36 business shall make a payment of an amount equal to 20 percent of
37 the amount of the tax credit the business receives for the tax period,
38 which payment shall be made to the municipal affordable housing
39 trust fund in the municipality in which the qualified business
40 facility is located.

41 (7) The authority, in consultation with the Division of Taxation
42 in the Department of the Treasury, may authorize a tax certificate
43 holder to carry forward tax credits for an additional period specified
44 by the authority, subject to the provisions of this section. The
45 credit amount may be taken by the tax certificate holder for the tax
46 period for which it was issued or may be carried forward for use by
47 the tax certificate holder in any of the next 20 successive tax
48 periods, and shall expire thereafter. The tax certificate holder may

1 transfer the tax credit amount on or after the date of issuance or at
2 any time after the date of issuance for use by the transferee in the
3 tax period for which it was issued or within a period to be
4 determined by the authority, in consultation with the Division of
5 Taxation, but not to exceed the 20 tax periods immediately
6 succeeding the tax period for which it was issued. In the case of a
7 tax certificate received after the end of the tax period for which the
8 tax certificate was issued, whether by transfer or original issuance,
9 a tax certificate holder or transferee shall not be required to amend
10 the tax return for the tax period for which the tax certificate was
11 issued or any successive tax period to first apply the credit. The tax
12 certificate holder or transferee may first claim the credit in any tax
13 period on or after the date of issuance, subject to the carry-forward
14 provision in this section. Notwithstanding the foregoing, no more
15 than the amount of tax credits equal to the total credit amount,
16 divided by the number of years in which the credits may be
17 claimed, not including carried-forward use, may be taken in any tax
18 period.

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

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

42 f. A business that has executed an approval letter may request
43 before December 31, **[2023]** 2024 to terminate the award,
44 commencing with the 2020 tax period or any subsequent tax period
45 ending on or before December 31, **[2023]** 2024, due to the COVID-
46 19 public health emergency; provided that the business shall submit
47 a certification from the business's chief executive officer or
48 equivalent officer stating that the termination is due, directly or

1 indirectly, to the public health emergency and describing the impact
2 of the public health emergency on the business. All credits for the
3 tax period in which the termination is requested and all subsequent
4 tax periods shall be forfeited, provided however that any credits of
5 the business shall remain unaffected. A termination agreement
6 executed by the authority and business shall not be amended.
7 (cf: P.L.2023, c.261, s.3)

8
9 4. Section 6 of P.L.2011, c.149 (C.34:1B-247) is amended to
10 read as follows:

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

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

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

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

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

26 b. (1) A business shall submit an application for tax credits
27 prior to July 1, 2019. The authority shall not approve an application
28 for tax credits unless the application was submitted prior to July 1,
29 2019.

30 (2) (a) A business shall submit its documentation indicating
31 that it has met the capital investment and employment requirements
32 and all conditions of approvals specified in the incentive agreement
33 for certification of its tax credit amount, to the authority's
34 satisfaction, within three years following the date of approval of its
35 application by the authority. The authority shall have the discretion
36 to grant two six-month extensions of this deadline. If the authority
37 accepts the documentation, the authority shall request that the
38 Division of Taxation in the Department of the Treasury issue a tax
39 credit based on the approved documentation to be used by the
40 business during the eligibility period. Except as provided in
41 subparagraphs (b) and (c) of this paragraph, in no event shall the
42 incentive effective date occur later than four years following the
43 date of approval of an application by the authority.

44 (b) As of the effective date of P.L.2017, c.314, a business which
45 applied for the tax credit prior to July 1, 2014 under P.L.2011,
46 c.149 (C.34:1B-242 et al.), shall submit its documentation to the
47 authority no later than July 28, 2019, indicating that it has met the

1 capital investment and employment requirements specified in the
2 incentive agreement for certification of its tax credit amount.

3 (c) If the Governor declares an emergency, then the chief
4 executive officer of the authority shall have the discretion to grant
5 an extension for the duration of the emergency and the board of the
6 authority, upon recommendation of the chief executive officer, may
7 grant two additional six-month extensions; provided that (i) the
8 extensions are due to the economic disruption caused by the
9 emergency; (ii) the project is delayed due to unforeseeable acts
10 related to the project beyond the eligible business's control and
11 without its fault or negligence; (iii) the eligible business is using
12 best efforts, with all due diligence, to proceed with the completion
13 of the project and the submission of the certification; and (iv) the
14 eligible business has made, and continues to make, all reasonable
15 efforts to prevent, avoid, mitigate, and overcome the delay.

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

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

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

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

31 The credit amount may be taken by the tax certificate holder for
32 the tax period for which it was issued or may be carried forward for
33 use by the tax certificate holder in any of the next 20 successive tax
34 periods, and shall expire thereafter. The tax certificate holder may
35 transfer the tax credit amount on or after the date of issuance or at
36 any time **【within three years of】** after the date of issuance for use
37 by the transferee in the tax period for which it was issued or in any
38 of the next 20 successive tax periods. In the case of a tax certificate
39 received after the end of the tax period for which the tax certificate
40 was issued, whether by transfer or original issuance, a tax
41 certificate holder or transferee shall not be required to amend the
42 tax return for the tax period for which the tax certificate was issued
43 or any successive tax period to first apply the credit. The tax
44 certificate holder or transferee may first claim the credit in any tax
45 period that is on or after the date of issuance, subject to the carry-
46 forward provision in this section. Notwithstanding the foregoing,
47 no more than the amount of tax credits equal to the total credit

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

3 A business may elect to suspend its obligations for the 2020,
4 2021, 2022, **【or】** 2023, or 2024 tax period, or any combination
5 thereof, due to the COVID-19 pandemic, provided that the business
6 shall make such election in writing to the authority before the
7 issuance of the tax credit for the corresponding tax year and such
8 suspension shall extend the term of the eligibility period by a
9 corresponding amount of time. The authority shall amend the
10 incentive agreement, and the business shall execute the amended
11 incentive agreement within the time period provided by the
12 authority. The amended incentive agreement shall provide that the
13 failure to submit the annual report due to the suspension shall not be
14 a forfeiture or an uncertified tax period.

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

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

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

36 d. (1) If, in any tax period, the business reduces the total
37 number of full-time employees in its Statewide workforce by more
38 than 20 percent from the number of full-time employees in its
39 Statewide workforce in the last tax period prior to the credit amount
40 approval under section 3 of P.L.2011, c.149 (C.34:1B-244), then the
41 business shall forfeit its credit amount for that tax period and each
42 subsequent tax period, until the first tax period for which
43 documentation demonstrating the restoration of the business's
44 Statewide workforce to the threshold levels required by the
45 incentive agreement has been reviewed and approved by the
46 authority, for which tax period and each subsequent tax period the
47 full amount of the credit shall be allowed.

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

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

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

40 (4) (a) For a project located within a Garden State Growth
41 Zone, if, in any tax period, the number of full-time employees
42 employed by the business at the qualified business facility located
43 within a qualified incentive area increases above the number of full-
44 time employees specified in the incentive agreement, then the
45 business shall be entitled to an increased base credit amount for that
46 tax period and each subsequent tax period, for each additional full-
47 time employee added above the number of full-time employees
48 specified in the incentive agreement, until the first tax period for

1 which documentation demonstrating a reduction of the number of
2 full-time employees employed by the business at the qualified
3 business facility, at which time the tax credit amount will be
4 adjusted accordingly pursuant to this section.

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

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

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

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

43 f. A business which has already applied for a tax credit
44 incentive award prior to the effective date of the "New Jersey
45 Economic Opportunity Act of 2013," P.L.2013, c.161 (C.52:27D-
46 489p et al.), but who has not yet been approved for the tax credits,
47 or has not executed an agreement with the authority, may proceed
48 under that application or seek to amend the application or reapply

1 for a tax credit incentive award for the same project or any part
2 thereof for the purpose of availing itself of any more favorable
3 provisions of the program.

4 g. A business that has entered into an incentive agreement may
5 request before December 31, **[2023]** 2024 to terminate the
6 incentive agreement, commencing with the 2020 tax period or any
7 subsequent tax period ending on or before December 31, **[2023]**
8 2024, due to the COVID-19 public health emergency; provided that
9 the business shall submit a certification from the business's chief
10 executive officer or equivalent officer stating that the termination is
11 due, directly or indirectly, to the public health emergency and
12 describing the impact of the public health emergency on the
13 business. All credits for the tax period in which the termination
14 occurs and all subsequent tax periods shall be forfeited, provided
15 however that any credits of the business shall remain unaffected. A
16 termination agreement executed by the authority and business shall
17 not be amended.

18 h. A business that has entered into an incentive agreement may
19 request, before December 31, **[2023]** 2024, to reduce the number of
20 new or retained full-time jobs specified in the incentive agreement
21 based on a certification of the business of the eligible positions at
22 the qualified business facility commencing with the 2020 tax period
23 and, at the discretion of the business, whether the reduction shall
24 continue for each subsequent tax period remaining in the eligibility
25 period, provided that the business maintains the minimum number
26 of new or retained full-time jobs required to be eligible pursuant to
27 subsection c. of section 3 of P.L.2011, c.149 (C.34:1B-244). The
28 reduction in employment shall first apply to the number of new full-
29 time employees, and then shall apply to the number of retained full-
30 time employees.

31 The authority shall calculate a new tax credit total amount for the
32 2020 tax period and the remainder of the eligibility period based on
33 the reduced employment and shall amend the incentive agreement
34 to reflect the recalculated award amount. In no event shall the
35 modification result in an increase in employment or tax credit
36 amount.

37 i. Following the termination of the public health emergency
38 declared by the Governor pursuant to Executive Order No. 103 of
39 2020, as extended, a business that has entered into an incentive
40 agreement may elect, before March 31, 2024, to waive, for the
41 period beginning on July 1, 2022 and ending on March 31, 2024,
42 the requirement that a full-time employee who is employed by the
43 business shall spend at least 60 percent of the employee's time at
44 the qualified business facility; provided, however, that a business
45 that makes such an election shall satisfy the following criteria:

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

1 business facility for the 2023 tax period through March 31, 2024;
2 and

3 (2) following the receipt by the business of its tax credit
4 certificate or tax credit transfer certificate for the 2022 tax period,
5 the business shall make a payment of an amount equal to five
6 percent of the amount of tax credit the business receives for the
7 2022 tax period through March 31, 2024, which payment shall be
8 made to the authority, and which payment the authority shall hold
9 and make available for the provision of loans, guarantees, equity
10 investments, and grants, or other forms of financing to support
11 small business and downtown or commercial corridor activation
12 activities within the municipality in which the qualified business
13 facility is located, as may be designated by the chief executive
14 officer of the authority.

15 j. For the period beginning on April 1, 2024, and for all
16 subsequent tax periods, the authority may authorize a business that
17 has entered into an amended incentive agreement with the authority
18 to waive the requirement that a full-time employee who is employed
19 by the business shall spend at least 60 percent of the employee's
20 time at the qualified business facility; provided, however, that a
21 business that makes this election shall satisfy the following criteria:

22 (1) any full-time employee employed by the business shall
23 spend at least 40 percent of the employee's time at the qualified
24 business facility during the tax period; and

25 (2) following the receipt by the business of its tax credit
26 certificate or tax credit transfer certificate for the tax period, the
27 business shall make a payment of an amount equal to 20 percent of
28 the amount of the tax credit the business receives for the tax period,
29 which payment shall be made to the municipal affordable housing
30 trust fund in the municipality in which the qualified business
31 facility is located.

32 k. The authority, in consultation with the Division of Taxation
33 in the Department of the Treasury, may authorize a tax certificate
34 holder to carry forward tax credits for an additional period specified
35 by the authority, subject to the provisions of this section. The
36 credit amount may be taken by the tax certificate holder for the tax
37 period for which it was issued or may be carried forward for use by
38 the tax certificate holder in any of the next 20 successive tax
39 periods, and shall expire thereafter. The tax certificate holder may
40 transfer the tax credit amount on or after the date of issuance or at
41 any time after the date of issuance for use by the transferee in the
42 tax period for which it was issued or within a period to be
43 determined by the authority, in consultation with the Division of
44 Taxation, but not to exceed the 20 tax periods immediately
45 succeeding the tax period for which it was issued. In the case of a
46 tax certificate received after the end of the tax period for which the
47 tax certificate was issued, whether by transfer or original issuance,
48 a tax certificate holder or transferee shall not be required to amend

1 the tax return for the tax period for which the tax certificate was
2 issued or any successive tax period to first apply the credit. The tax
3 certificate holder or transferee may first claim the credit in any tax
4 period that is on or after the date of issuance, subject to the carry-
5 forward provision in this section. Notwithstanding the foregoing,
6 no more than the amount of tax credits equal to the total credit
7 amount divided by the duration of the eligibility period in years
8 may be taken in any tax period.

9 (cf: P.L.2023, c.261, s.4)

10
11 5. This act shall take effect immediately.

12
13
14 STATEMENT

15
16 This bill provides certain accommodations to businesses
17 participating in the Business Employment Incentive Program, the
18 Business Retention and Relocation Assistance Grant Program, the
19 Grow New Jersey Assistance Program, and the Urban Transit Hub
20 Program.

21 Under current law, a business that participates in any of these
22 programs is awarded an economic development incentive in the
23 form of tax credits after meeting certain program requirements.
24 Under each program, the business is required to create or retain a
25 certain number of full-time jobs at a qualified business facility, with
26 the number of jobs created or retained varying depending on the
27 program and the location of the qualified business facility.
28 However, in order for a full-time job to be counted towards
29 satisfying the requirements of each program, current law requires
30 full-time employees to spend at least 60 percent of their time at the
31 qualified business facility.

32 Current law allows a business participating in any of these
33 programs to waive this requirement through March 31, 2024,
34 provided that: (1) any full-time employee employed by the business
35 spends at least 10 percent of the employee's time at the qualified
36 business facility for the 2023 tax period through March 31, 2024;
37 and (2) the business makes a payment of an amount equal to five
38 percent of the amount of the tax credit that the business receives for
39 the 2022 tax period.

40 The bill would extend this authorization for the tax period
41 beginning on April 1, 2024, and for all subsequent tax periods, for
42 any business that has entered into an amended incentive agreement,
43 provided that: (1) any full-time employee employed by the business
44 spends at least 40 percent of the employee's time at the qualified
45 business facility during the tax period; and (2) the business makes a
46 payment of an amount equal to 20 percent of the amount of the tax
47 credit that the business receives for the tax period, which payment

1 is to be made to the municipal affordable housing trust fund in the
2 municipality in which the qualified business facility is located.

3 The bill allows the New Jersey Economic Development
4 Authority (“authority”), in consultation with the Division of
5 Taxation in the Department of the Treasury, to authorize a tax
6 certificate holder to carry forward the tax credit issued to the holder
7 pursuant to the bill, for a period to be determined by the authority,
8 in consultation with the Division of Taxation, but not to exceed the
9 20 tax periods immediately succeeding the tax period for which it
10 was issued. The tax credit will expire thereafter. The bill permits
11 the tax certificate holder to transfer the tax credit amount on or after
12 the date of issuance or at any time after the date of issuance for use
13 by the transferee in the tax period for which it was issued or within
14 a period to be determined by the authority, in consultation with the
15 Division of Taxation, but not to exceed the 20 tax periods
16 immediately succeeding the tax period for which it was issued. The
17 tax certificate holder or transferee may first claim the credit in any
18 tax period that is on or after the date of issuance subject to the
19 carry-forward provision in the bill. The bill provides that no more
20 than the amount of tax credits equal to the total credit amount
21 divided by the duration of the eligibility period in years may be
22 taken in any tax period.

[First Reprint]

ASSEMBLY, No. 4046

STATE OF NEW JERSEY
221st LEGISLATURE

INTRODUCED MARCH 4, 2024

Sponsored by:

Assemblywoman ELIANA PINTOR MARIN

District 29 (Essex and Hudson)

Assemblyman WILLIAM W. SPEARMAN

District 5 (Camden and Gloucester)

SYNOPSIS

Extends certain accommodations for businesses participating in State economic development programs.

CURRENT VERSION OF TEXT

As reported by the Assembly Appropriations Committee on March 14, 2024, with amendments.



(Sponsorship Updated As Of: 3/14/2024)

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

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

35 b. Following the termination of the public health emergency
36 declared by the Governor pursuant to Executive Order No. 103 of
37 2020, as extended, a business that has entered into an incentive
38 agreement may elect, before March 31, 2024, to waive, for the
39 period beginning on July 1, 2022 and ending on March 31, 2024,
40 the requirement that a full-time employee who is employed by the
41 business shall spend at least 60 percent of the employee's time at
42 the qualified business facility; provided, however, that a business
43 that makes such an election shall satisfy the following criteria:

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

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

Matter underlined thus is new matter.

Matter enclosed in superscript numerals has been adopted as follows:

¹Assembly AAP committee amendments adopted March 14, 2024.

1 business facility for the 2023 tax period ¹and, if elected by the
2 business, the 2024 tax period¹ through March 31, 2024; and

3 (2) following the receipt by the business of its tax credit
4 certificate or tax credit transfer certificate for the 2022 tax period,
5 the business shall make a payment of an amount equal to five
6 percent of the amount of tax credit the business receives for the
7 2022 tax period through March 31, 2024, which payment shall be
8 made to the authority, and which payment the authority shall hold
9 and make available for the provision of loans, guarantees, equity
10 investments, and grants, or other forms of financing to support
11 small business and downtown or commercial corridor activation
12 activities within the municipality in which the qualified business
13 facility is located, as may be designated by the chief executive
14 officer of the authority. ¹Such funds shall be deployed by the
15 authority within 12 months of the authority's receipt of the funds,
16 and the authority shall issue a report each fiscal year to the
17 Legislature, pursuant to section 2 of P.L.1991, c.164 (C.52:14-
18 19.1), detailing how the funds were distributed.¹

19 c. ¹For the period Notwithstanding the provisions of section
20 2 of P.L.1996, c.25 (C.34:1B-113) or any other law or regulation to
21 the contrary,¹ beginning on April 1, 2024, and for all subsequent tax
22 periods, ¹the authority may authorize¹ a business that has entered
23 into an ¹amended¹ incentive agreement with the authority ¹may
24 elect¹ to waive the requirement that a full-time employee who is
25 employed by the business shall spend at least 60 percent of the
26 employee's time at the qualified business facility; provided,
27 however, that a business that makes this election shall satisfy the
28 following criteria:

29 (1) ¹(a) for a qualified business facility located in an enhanced
30 area or government-restricted municipality, as those terms are
31 defined in section 69 of P.L.2020, c.156 (C.34:1B-337), any full-
32 time employee employed by the business shall spend at least 50
33 percent of the employee's time at the qualified business facility
34 during the tax period;

35 (b) for a qualified business facility located anywhere else in the
36 State,¹ any full-time employee employed by the business shall
37 spend at least 40 percent of the employee's time at the qualified
38 business facility during the tax period; ¹and¹

39 (2) ¹following the receipt by the business of its tax credit
40 certificate or tax credit transfer certificate for the tax period, the
41 business shall make a payment of an amount equal to 20 percent of
42 the amount of the tax credit the business receives for the tax period,
43 which payment shall be made to the municipal affordable housing
44 trust fund in the municipality in which the qualified business
45 facility is located the business shall extend by two years the term
46 of its commitment duration beyond the time set forth in the project
47 agreement; and

1 (3) at the time the business submits its tax credit certificate
2 certification for the tax period, the business shall make a non-
3 refundable payment of an amount equal to 10 percent of the amount
4 of the maximum annual tax credit that the business is eligible to
5 receive for the tax period, which payment shall be made to the
6 authority, and which payment the authority shall hold and make
7 available for the provision of loans, guarantees, equity investments,
8 and grants, or other forms of financing to support small business
9 and downtown or commercial corridor activation activities within
10 enhanced areas or government-restricted municipalities, as those
11 terms are defined in section 69 of P.L.2020, c.156 (C.34:1B-337),
12 as may be designated by the chief executive officer of the authority.
13 Such funds shall be deployed by the authority within 12 months of
14 the authority's receipt of the funds, and the authority shall issue a
15 report each fiscal year to the Legislature, pursuant to section 2 of
16 P.L.1991, c.164 (C.52:14-19.1), detailing how the funds were
17 distributed¹ .

18 d. ¹【The authority, in consultation with the Division of
19 Taxation in the Department of the Treasury, may authorize a tax
20 certificate holder to carry forward tax credits for an additional
21 period specified by the authority, subject to the provisions of this
22 section. The】 Notwithstanding the provisions of any law to the
23 contrary, the¹ credit amount may ¹first¹ be taken by the tax
24 certificate holder for the tax period for which it was issued ¹, for the
25 tax period in which it was issued,¹ or ¹【may be carried forward for
26 use by the tax certificate holder in any of the next 20 successive tax
27 periods, and shall expire thereafter】 in any tax period during the
28 commitment duration set forth in the project agreement¹ . The tax
29 certificate holder may transfer the tax credit amount on or after the
30 date of issuance ¹【or at any time after the date of issuance】¹ for use
31 by the transferee in the tax period for which it was issued ¹, for the
32 tax period in which it was issued,¹ or ¹【within a period to be
33 determined by the authority, in consultation with the Division of
34 Taxation, but not to exceed the 20 tax periods immediately
35 succeeding the tax period for which it was issued. In the case of a
36 tax certificate received after the end of the tax period for which the
37 tax certificate was issued, whether by transfer or original issuance,
38 a tax certificate holder or transferee shall not be required to amend
39 the tax return for the tax period for which the tax certificate was
40 issued or any successive tax period to first apply the credit】 in any
41 of the next three successive tax periods¹ . The tax certificate holder
42 or transferee may first ¹【claim】 use¹ the credit ¹【in any tax period
43 on or after the date of issuance】 against tax liabilities in the tax
44 period in which it was issued or in a succeeding tax period, as
45 authorized in this subsection, without the need for amending the tax
46 return for the tax period for which the credit was issued¹ , subject to

1 the ¹['carry-forward provision in'] provisions of¹ this section.
2 Notwithstanding the foregoing, no more than the amount of tax
3 credits equal to the total credit amount ¹,¹ divided by the duration of
4 the tax credit term, in years, may be taken in any tax period.
5 (cf: P.L.2023, c.261, s.1)

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

37 h. Following the termination of the public health emergency
38 declared by the Governor pursuant to Executive Order No. 103 of
39 2020, as extended, a business that has entered into an incentive
40 agreement may elect, before March 31, 2024, to waive, for the
41 period beginning on July 1, 2022 and ending on March 31, 2024,
42 the requirement that a full-time employee who is employed by the
43 business shall spend at least 60 percent of the employee's time at
44 the qualified business facility; provided, however, that a business
45 that makes such an election shall satisfy the following criteria:

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

1 facility for the 2023 tax period ¹and, if elected by the business, the
2 2024 tax period¹ through March 31, 2024; and

3 (2) following the receipt by the business of its tax credit
4 certificate or tax credit transfer certificate for the 2022 tax period,
5 the business shall make a payment of an amount equal to five
6 percent of the amount of tax credit the business receives for the
7 2022 tax period through March 31, 2024, which payment shall be
8 made to the authority, and which payment the authority shall hold
9 and make available for the provision of loans, guarantees, equity
10 investments, and grants, or other forms of financing to support
11 small business and downtown or commercial corridor activation
12 activities within the municipality in which the qualified business
13 facility is located, as may be designated by the chief executive
14 officer of the authority. ¹Such funds shall be deployed by the
15 authority within 12 months of the authority's receipt of the funds,
16 and the authority shall issue a report each fiscal year to the
17 Legislature, pursuant to section 2 of P.L.1991, c.164 (C.52:14-
18 19.1), detailing how the funds were distributed.¹

19 i. ¹【For the period】 Notwithstanding the provisions of section
20 2 of P.L.1996, c.26 (C.34:1B-125) or any other law or regulation to
21 the contrary,¹ beginning on April 1, 2024, and for all subsequent tax
22 periods, ¹【the authority may authorize】¹ a business that has entered
23 into an ¹【amended】¹ incentive agreement with the authority ¹may
24 elect¹ to waive the requirement that a full-time employee who is
25 employed by the business shall spend at least 60 percent of the
26 employee's time at the qualified business facility; provided,
27 however, that a business that makes this election shall satisfy the
28 following criteria:

29 (1) ¹(a) for a qualified business facility located in an enhanced
30 area or government-restricted municipality, as those terms are
31 defined in section 69 of P.L.2020, c.156 (C.34:1B-337), any full-
32 time employee employed by the business shall spend at least 50
33 percent of the employee's time at the qualified business facility
34 during the tax period;

35 (b) for a qualified business facility located anywhere else in the
36 State,¹ any full-time employee employed by the business shall
37 spend at least 40 percent of the employee's time at the qualified
38 business facility during the tax period; ¹【and】¹

39 (2) ¹【following the receipt by the business of its tax credit
40 certificate or tax credit transfer certificate for the tax period, the
41 business shall make a payment of an amount equal to 20 percent of
42 the amount of the tax credit the business receives for the tax period,
43 which payment shall be made to the municipal affordable housing
44 trust fund in the municipality in which the qualified business
45 facility is located】 the business shall extend by two years the time it
46 is required to maintain the project at a location in New Jersey
47 beyond the time set forth in the incentive agreement; and

1 (3) at the time the business submits its tax credit certificate
2 certification for the tax period, the business shall make a non-
3 refundable payment of an amount equal to 10 percent of the amount
4 of the maximum annual tax credit that the business is eligible to
5 receive for the tax period, which payment shall be made to the
6 authority, and which payment the authority shall hold and make
7 available for the provision of loans, guarantees, equity investments,
8 and grants, or other forms of financing to support small business
9 and downtown or commercial corridor activation activities within
10 enhanced areas or government-restricted municipalities, as those
11 terms are defined in section 69 of P.L.2020, c.156 (C.34:1B-337),
12 as may be designated by the chief executive officer of the authority.
13 Such funds shall be deployed by the authority within 12 months of
14 the authority's receipt of the funds, and the authority shall issue a
15 report each fiscal year to the Legislature, pursuant to section 2 of
16 P.L.1991, c.164 (C.52:14-19.1), detailing how the funds were
17 distributed¹ .

18 j. ¹【The authority, in consultation with the Division of
19 Taxation in the Department of the Treasury, may authorize a tax
20 certificate holder to carry forward tax credits for an additional
21 period specified by the authority, subject to the provisions of this
22 section. The】 Notwithstanding the provisions of any law to the
23 contrary, the¹ credit amount may ¹first¹ be taken by the tax
24 certificate holder for the tax period for which it was issued ¹, for the
25 tax period in which it was issued, ¹ or ¹【may be carried forward for
26 use by the tax certificate holder in any of the next 20 successive tax
27 periods, and shall expire thereafter】 in any tax period during the time
28 the business is required to maintain the project at a location in New
29 Jersey, as set forth in the incentive agreement¹ . The tax certificate
30 holder may transfer the tax credit amount on or after the date of
31 issuance ¹【or at any time after the date of issuance】¹ for use by the
32 transferee in the tax period for which it was issued ¹, for the tax
33 period in which it was issued,¹ or ¹【within a period to be
34 determined by the authority, in consultation with the Division of
35 Taxation, but not to exceed the 20 tax periods immediately
36 succeeding the tax period for which it was issued. In the case of a
37 tax certificate received after the end of the tax period for which the
38 tax certificate was issued, whether by transfer or original issuance,
39 a tax certificate holder or transferee shall not be required to amend
40 the tax return for the tax period for which the tax certificate was
41 issued or any successive tax period to first apply the credit】 in any
42 of the next three successive tax periods¹ . The tax certificate holder
43 or transferee may first ¹【claim】 use¹ the credit ¹【in any tax period
44 on or after the date of issuance】 against tax liabilities in the tax
45 period in which it was issued or in a succeeding tax period, as
46 authorized in this subsection, without the need for amending the tax

1 return for the tax period for which the credit was issued¹ , subject to
2 the ¹['carry-forward provision in'] provisions of¹ this section.
3 ¹['Notwithstanding the foregoing, no more than the amount of tax
4 credits equal to the total credit amount, divided by the number of
5 years in which the credits may be claimed, not including carried-
6 forward use, may be taken in any tax period.】¹

7 (cf: P.L.2023, c.261, s.2)

8

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

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

28 (2) A business, other than a tenant eligible pursuant to
29 paragraph (3) of this subsection, shall make or acquire capital
30 investments totaling not less than \$50,000,000 in a qualified
31 business facility, at which the business shall employ not fewer than
32 250 full-time employees to be eligible for a credit under this
33 section. A business that acquires a qualified business facility shall
34 also be deemed to have acquired the capital investment made or
35 acquired by the seller.

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

1 included in the calculation of the capital investment made or
2 acquired by the owner, but only to the extent necessary to meet the
3 owner's minimum capital investment of \$50,000,000. Capital
4 investments made by a tenant and not allocated to meet the owner's
5 minimum capital investment threshold of \$50,000,000 shall be
6 added to the amount of capital investment represented by the
7 tenant's leased area in the qualified business facility.

8 (4) A business shall not be allowed tax credits under this section
9 if the business participates in a business employment incentive
10 agreement, pursuant to P.L.1996, c.26 (C.34:1B-124 et seq.),
11 relating to the same capital and employees that qualify the business
12 for this credit, or if the business receives assistance pursuant to
13 P.L.1996, c.25 (C.34:1B-112 et seq.). A business that is allowed a
14 tax credit under this section shall not be eligible for incentives
15 authorized pursuant to P.L.2002, c.43 (C.52:27BBB-1 et al.). A
16 business shall not qualify for a tax credit under this section, based
17 upon its capital investment and the employment of full-time
18 employees, if that capital investment or employment was the basis
19 for which a grant was provided to the business pursuant to the
20 "InvestNJ Business Grant Program Act," P.L.2008, c.112 (C.34:1B-
21 237 et seq.).

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

25 (6) The capital investment of the owner of a qualified business
26 facility is that percentage of the capital investment made or
27 acquired by the owner of the building that the percentage of net
28 leasable area of the qualified business facility not leased to tenants
29 is of the total net leasable area of the qualified business facility.

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

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

34 b. (1) If applications under this section have been received by
35 the authority prior to the effective date of the "New Jersey
36 Economic Opportunity Act of 2013," P.L.2013, c.161 (C.52:27D-
37 489p et al.), then, to the extent that there remains sufficient
38 financial authorization for the award of a tax credit, the authority is
39 authorized to consider those applications and to make awards of tax
40 credits to eligible applicants, provided that the authority shall take
41 final action on those applications no later than December 31, 2013.

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

47 (3) If a business has submitted an application under this section
48 and that application has not been approved for any reason, the lack

1 of approval shall not serve to prejudice in any way the
2 consideration of a new application as may be submitted for the
3 qualified business facility for the provision of incentives offered
4 pursuant to the "New Jersey Economic Opportunity Act of 2013,"
5 P.L.2013, c.161 (C.52:27D-489p et al.).

6 (4) Tax credits awarded pursuant to P.L.2007, c.346 (C.34:1B-
7 207 et seq.) for applications submitted to and approved by the
8 authority prior to the effective date of the "New Jersey Economic
9 Opportunity Act of 2013," P.L.2013, c.161 (C.52:27D-489p et al.),
10 shall be administered by the authority in the manner established
11 prior to that date.

12 (5) With respect to an application received by the authority prior
13 to the effective date of the "New Jersey Economic Opportunity Act
14 of 2013," P.L.2013, c.161 (C.52:27D-489p et al.) for a qualified
15 business facility that is located on or adjacent to the campus of an
16 acute care medical facility, (a) the minimum number of full-time
17 employees required for eligibility under the program may be
18 employed by any number of tenants or other occupants of the
19 facility, in the aggregate, and the initial satisfaction of the
20 requirement following completion of the project shall be deemed to
21 satisfy the employment requirements of the program in all respects,
22 and (b) if the capital investment in the facility exceeds
23 \$100,000,000, the determination of the net positive benefit yield
24 shall be based on the benefits generated during a period of up to 30
25 years following the completion of the project, as determined by the
26 authority.

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

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

1 The amount of credit allowed for a tax period to a business that
2 is a tenant in a qualified business facility shall not exceed the
3 business's total lease payments for occupancy of the qualified
4 business facility for the tax period.

5 A business may elect to suspend its obligations for the 2020,
6 2021, 2022, **[or]** 2023, or 2024 tax period, or any combination
7 thereof, due to the COVID-19 pandemic, provided that the business
8 shall make such election in writing to the authority before the
9 issuance of the tax credit for the corresponding tax year and such
10 suspension shall extend the term of the eligibility period by a
11 corresponding amount of time. The authority shall modify the
12 approval letter, and the business shall execute the modification
13 within the time period provided by the authority. The modification
14 shall provide that the failure to submit the annual report due to the
15 suspension shall not be a forfeiture or an uncertified tax period.

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

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

33 d. (1) If, in any tax period, fewer than 200 full-time employees
34 of the business at the qualified business facility are employed in
35 new full-time positions, the amount of the credit otherwise
36 determined pursuant to final calculation of the award of tax credits
37 pursuant to subsection c. of this section shall be reduced by 20
38 percent for that tax period and each subsequent tax period until the
39 first period for which documentation demonstrating the restoration
40 of the 200 full-time employees employed in new full-time positions
41 at the qualified business facility has been reviewed and approved by
42 the authority, for which tax period and each subsequent tax period
43 the full amount of the credit shall be allowed; provided, however,
44 that for businesses applying before January 1, 2010, there shall be
45 no reduction if a business relocates to an urban transit hub from
46 another location or other locations in the same municipality. For the
47 purposes of this paragraph, a "new full-time position" means a

1 position created by the business at the qualified business facility
2 that did not previously exist in this State.

3 (2) If, in any tax period, the business reduces the total number
4 of full-time employees in its Statewide workforce by more than 20
5 percent from the number of full-time employees in its Statewide
6 workforce in the last tax accounting or privilege period prior to the
7 credit amount approval under subsection a. of this section, then the
8 business shall forfeit its credit amount for that tax period and each
9 subsequent tax period, until the first tax period for which
10 documentation demonstrating the restoration of the business's
11 Statewide workforce to the threshold levels required by this
12 paragraph has been reviewed and approved by the authority, for
13 which tax period and each subsequent tax period the full amount of
14 the credit shall be allowed.

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

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

39 (ii) If a tenant subleases its tenancy in whole or in part during
40 the 10-year eligibility period, the new tenant shall not acquire the
41 credit of the sublessor, and the sublessor tenant shall forfeit all
42 credits for the tax period of its sublease and all subsequent tax
43 periods.

44 (5) Following the termination of the public health emergency
45 declared by the Governor pursuant to Executive Order No. 103 of
46 2020, as extended, a business that has entered into an incentive
47 agreement may elect, before March 31, 2024, to waive, for the
48 period beginning on July 1, 2022 and ending on March 31, 2024,

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

5 (i) any full-time employee employed by the business shall
6 spend at least 10 percent of the employee's time at the qualified
7 business facility for the 2023 tax period 'and, if elected by the
8 business, the 2024 tax period' through March 31, 2024; and

9 (ii) following the receipt by the business of its tax credit
10 certificate or tax credit transfer certificate for the 2022 tax period,
11 the business shall make a payment of an amount equal to five
12 percent of the amount of tax credit the business receives for the
13 2022 tax period through March 31, 2024, which payment shall be
14 made to the authority, and which payment the authority shall hold
15 and make available for the provision of loans, guarantees, equity
16 investments, and grants, or other forms of financing to support
17 small business and downtown or commercial corridor activation
18 activities within the municipality in which the qualified business
19 facility is located, as may be designated by the chief executive
20 officer of the authority. 'Such funds shall be deployed by the
21 authority within 12 months of the authority's receipt of the funds,
22 and the authority shall issue a report each fiscal year to the
23 Legislature, pursuant to section 2 of P.L.1991, c.164 (C.52:14-
24 19.1), detailing how the funds were distributed.'

25 (6) '[For the period] Notwithstanding the provisions of section
26 2 of P.L.2007, c.346 (C.34:1B-208) or any other law or regulation
27 to the contrary,' beginning on April 1, 2024, and for all subsequent
28 tax periods, '[the authority may authorize]' a business that has
29 entered into an '[amended]' incentive agreement with the authority
30 'may elect' to waive the requirement that a full-time employee who
31 is employed by the business shall spend at least 60 percent of the
32 employee's time at the qualified business facility; provided,
33 however, that a business that makes this election shall satisfy the
34 following criteria:

35 (i) '(a) for a qualified business facility located in an enhanced
36 area or government-restricted municipality, as those terms are
37 defined in section 69 of P.L.2020, c.156 (C.34:1B-337), any full-
38 time employee employed by the business shall spend at least 50
39 percent of the employee's time at the qualified business facility
40 during the tax period;

41 (b) for a qualified business facility located anywhere else in the
42 State,' any full-time employee employed by the business shall
43 spend at least 40 percent of the employee's time at the qualified
44 business facility during the tax period; '[and]'

45 (ii) '[following the receipt by the business of its tax credit
46 certificate or tax credit transfer certificate for the tax period, the
47 business shall make a payment of an amount equal to 20 percent of

1 the amount of the tax credit the business receives for the tax period,
2 which payment shall be made to the municipal affordable housing
3 trust fund in the municipality in which the qualified business
4 facility is located】 the business shall extend by two years the time it is
5 required to maintain the project at a location in New Jersey beyond the
6 time set forth in the incentive agreement; and

7 (iii) at the time the business submits its tax credit certificate
8 certification for the tax period, the business shall make a non-
9 refundable payment of an amount equal to 10 percent of the amount
10 of the maximum annual tax credit that the business is eligible to
11 receive for the tax period, which payment shall be made to the
12 authority, and which payment the authority shall hold and make
13 available for the provision of loans, guarantees, equity investments,
14 and grants, or other forms of financing to support small business
15 and downtown or commercial corridor activation activities within
16 enhanced areas or government-restricted municipalities, as those
17 terms are defined in section 69 of P.L.2020, c.156 (C.34:1B-337),
18 as may be designated by the chief executive officer of the authority.
19 Such funds shall be deployed by the authority within 12 months of
20 the authority's receipt of the funds, and the authority shall issue a
21 report each fiscal year to the Legislature, pursuant to section 2 of
22 P.L.1991, c.164 (C.52:14-19.1), detailing how the funds were
23 distributed¹ .

24 (7) ¹【The authority, in consultation with the Division of
25 Taxation in the Department of the Treasury, may authorize a tax
26 certificate holder to carry forward tax credits for an additional
27 period specified by the authority, subject to the provisions of this
28 section. The】 Notwithstanding the provisions of any law to the
29 contrary, the¹ credit amount may ¹first¹ be taken by the tax
30 certificate holder for the tax period for which it was issued ¹, for the
31 tax period in which it was issued,¹ or ¹【may be carried forward for
32 use by the tax certificate holder in any of the next 20 successive tax
33 periods, and shall expire thereafter】 in any tax period during the
34 time the business is required to maintain the project at a location in
35 New Jersey, as set forth in the incentive agreement¹ . The tax
36 certificate holder may transfer the tax credit amount on or after the
37 date of issuance ¹【or at any time after the date of issuance】¹ for use
38 by the transferee in the tax period for which it was issued ¹, for the
39 tax period in which it was issued,¹ or ¹【within a period to be
40 determined by the authority, in consultation with the Division of
41 Taxation, but not to exceed the 20 tax periods immediately
42 succeeding the tax period for which it was issued. In the case of a
43 tax certificate received after the end of the tax period for which the
44 tax certificate was issued, whether by transfer or original issuance,
45 a tax certificate holder or transferee shall not be required to amend
46 the tax return for the tax period for which the tax certificate was
47 issued or any successive tax period to first apply the credit】 in any

1 of the next three successive tax periods¹ . The tax certificate holder
2 or transferee may first **['claim] use¹ the credit ¹against tax**
3 liabilities¹ in **['any] the¹ tax period ¹[on or after the date of**
4 issuance] in which it was issued or in a succeeding tax period, as
5 authorized in this subsection, without being required to amend the
6 tax return for the tax period for which the credit was issued¹ ,
7 subject to the **['carry-forward provision in] provisions of¹ this**
8 section. Notwithstanding the foregoing, no more than the amount
9 of tax credits equal to the total credit amount, divided by the
10 **['number of] duration of the tax credit term, in¹ years ¹[in which**
11 the credits may be claimed, not including carried-forward use]¹ ,
12 may be taken in any tax period.

13 ¹(8)Notwithstanding the provisions of this subsection or any law
14 or regulation to the contrary, a business that has elected to modify
15 its obligations under an incentive agreement pursuant to P.L.2022,
16 c.134 may request, before December 31, 2024, to reduce the
17 number of Statewide employees specified in the incentive
18 agreement, provided the business certifies that all Statewide
19 employment specified in the incentive agreement is assigned to the
20 qualified business facility and the business is requesting to reduce
21 the number of new or retained full-time jobs specified in the
22 incentive agreement commencing with the 2020 tax period and, at
23 the discretion of the business, whether the reduction shall continue
24 for each subsequent tax period remaining in the eligibility period.¹

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

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

1 f. A business that has executed an approval letter may request
2 before December 31, **[2023]** 2024 to terminate the award,
3 commencing with the 2020 tax period or any subsequent tax period
4 ending on or before December 31, **[2023]** 2024, due to the COVID-
5 19 public health emergency; provided that the business shall submit
6 a certification from the business's chief executive officer or
7 equivalent officer stating that the termination is due, directly or
8 indirectly, to the public health emergency and describing the impact
9 of the public health emergency on the business. All credits for the
10 tax period in which the termination is requested and all subsequent
11 tax periods shall be forfeited, provided however that any credits of
12 the business shall remain unaffected. A termination agreement
13 executed by the authority and business shall not be amended.
14 (cf: P.L.2023, c.261, s.3)

15

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

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

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

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

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

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

33 b. (1) A business shall submit an application for tax credits
34 prior to July 1, 2019. The authority shall not approve an application
35 for tax credits unless the application was submitted prior to July 1,
36 2019.

37 (2) (a) A business shall submit its documentation indicating
38 that it has met the capital investment and employment requirements
39 and all conditions of approvals specified in the incentive agreement
40 for certification of its tax credit amount, to the authority's
41 satisfaction, within three years following the date of approval of its
42 application by the authority. The authority shall have the discretion
43 to grant two six-month extensions of this deadline. If the authority
44 accepts the documentation, the authority shall request that the
45 Division of Taxation in the Department of the Treasury issue a tax
46 credit based on the approved documentation to be used by the
47 business during the eligibility period. Except as provided in
48 subparagraphs (b) and (c) of this paragraph, in no event shall the

1 incentive effective date occur later than four years following the
2 date of approval of an application by the authority.

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

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

22 (3) Full-time employment for an accounting or privilege period
23 shall be determined as the average of the monthly full-time
24 employment for the period.

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

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

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

37 The credit amount may be taken by the tax certificate holder for
38 the tax period for which it was issued or may be carried forward for
39 use by the tax certificate holder in any of the next 20 successive tax
40 periods, and shall expire thereafter. The tax certificate holder may
41 transfer the tax credit amount on or after the date of issuance or at
42 any time **【within three years of】** after the date of issuance for use
43 by the transferee in the tax period for which it was issued or in any
44 of the next 20 successive tax periods. In the case of a tax certificate
45 received after the end of the tax period for which the tax certificate
46 was issued, whether by transfer or original issuance, a tax
47 certificate holder or transferee shall not be required to amend the
48 tax return for the tax period for which the tax certificate was issued

1 or any successive tax period ¹**【to first apply】** ¹if ¹the credit ¹**【.** The
2 tax certificate holder or transferee may first claim the credit **】** is first
3 applied ¹in ¹**【any】** ¹the ¹tax period ¹**【that is on or after the date of**
4 issuance **】** in which it was issued or in a succeeding tax period, as
5 authorized in subsection k. of this section ¹ , ¹and ¹subject to the
6 carry-forward provision in this section. Notwithstanding the
7 foregoing, no more than the amount of tax credits equal to the total
8 credit amount ¹ , ¹ divided by the duration of the eligibility period ¹ , ¹
9 in years ¹ , ¹ may be taken in any tax period.

10 A business may elect to suspend its obligations for the 2020,
11 2021, 2022, **【or】** 2023, or 2024 tax period, or any combination
12 thereof, due to the COVID-19 pandemic, provided that the business
13 shall make such election in writing to the authority before the
14 issuance of the tax credit for the corresponding tax year and such
15 suspension shall extend the term of the eligibility period by a
16 corresponding amount of time. The authority shall amend the
17 incentive agreement, and the business shall execute the amended
18 incentive agreement within the time period provided by the
19 authority. The amended incentive agreement shall provide that the
20 failure to submit the annual report due to the suspension shall not be
21 a forfeiture or an uncertified tax period.

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

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

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

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

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

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

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

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

47 (4) (a) For a project located within a Garden State Growth
48 Zone, if, in any tax period, the number of full-time employees

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

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

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

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

46 (2) the capital investment incurred and new or retained full-time
47 jobs pledged by the business in the new incentive agreement are

1 separate and apart from any capital investment or jobs underlying
2 the previous award of incentives.

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

12 g. A business that has entered into an incentive agreement may
13 request before December 31, **[2023]** 2024 to terminate the
14 incentive agreement, commencing with the 2020 tax period or any
15 subsequent tax period ending on or before December 31, **[2023]**
16 2024, due to the COVID-19 public health emergency; provided that
17 the business shall submit a certification from the business's chief
18 executive officer or equivalent officer stating that the termination is
19 due, directly or indirectly, to the public health emergency and
20 describing the impact of the public health emergency on the
21 business. All credits for the tax period in which the termination
22 occurs and all subsequent tax periods shall be forfeited, provided
23 however that any credits of the business shall remain unaffected. A
24 termination agreement executed by the authority and business shall
25 not be amended.

26 h. A business that has entered into an incentive agreement may
27 request, before December 31, **[2023]** 2024, to reduce the number of
28 new or retained full-time jobs specified in the incentive agreement
29 based on a certification of the business of the eligible positions at
30 the qualified business facility commencing with the 2020 tax period
31 and, at the discretion of the business, whether the reduction shall
32 continue for each subsequent tax period remaining in the eligibility
33 period, provided that the business maintains the minimum number
34 of new or retained full-time jobs required to be eligible pursuant to
35 subsection c. of section 3 of P.L.2011, c.149 (C.34:1B-244). The
36 reduction in employment shall first apply to the number of new full-
37 time employees, and then shall apply to the number of retained full-
38 time employees.

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

45 i. Following the termination of the public health emergency
46 declared by the Governor pursuant to Executive Order No. 103 of
47 2020, as extended, a business that has entered into an incentive
48 agreement may elect, before March 31, 2024, to waive, for the

1 period beginning on July 1, 2022 and ending on March 31, 2024,
2 the requirement that a full-time employee who is employed by the
3 business shall spend at least 60 percent of the employee's time at
4 the qualified business facility; provided, however, that a business
5 that makes such an election shall satisfy the following criteria:

6 (1) any full-time employee employed by the business shall
7 spend at least 10 percent of the employee's time at the qualified
8 business facility for the 2023 tax period and, if elected by the
9 business, the 2024 tax period¹ through March 31, 2024; and

10 (2) following the receipt by the business of its tax credit
11 certificate or tax credit transfer certificate for the 2022 tax period,
12 the business shall make a payment of an amount equal to five
13 percent of the amount of tax credit the business receives for the
14 2022 tax period through March 31, 2024, which payment shall be
15 made to the authority, and which payment the authority shall hold
16 and make available for the provision of loans, guarantees, equity
17 investments, and grants, or other forms of financing to support
18 small business and downtown or commercial corridor activation
19 activities within the municipality in which the qualified business
20 facility is located, as may be designated by the chief executive
21 officer of the authority. Such funds shall be deployed by the
22 authority within 12 months of the authority's receipt of the funds,
23 and the authority shall issue a report each fiscal year to the
24 Legislature, pursuant to section 2 of P.L.1991, c.164 (C.52:14-
25 19.1), detailing how the funds were distributed.¹

26 j. For the period Notwithstanding the provisions of section
27 2 of P.L.2011, c.149 (C.34:1B-243) or any other law or regulation
28 to the contrary,¹ beginning on April 1, 2024, and for all subsequent
29 tax periods, the authority may authorize¹ a business that has
30 entered into an amended¹ incentive agreement with the authority
31 may elect¹ to waive the requirement that a full-time employee who
32 is employed by the business shall spend at least 60 percent of the
33 employee's time at the qualified business facility; provided,
34 however, that a business that makes this election shall satisfy the
35 following criteria:

36 (1) (a) for a qualified business facility located in an enhanced
37 area or government-restricted municipality, as those terms are
38 defined in section 69 of P.L.2020, c.156 (C.34:1B-337), any full-
39 time employee employed by the business shall spend at least 50
40 percent of the employee's time at the qualified business facility
41 during the tax period;

42 (b) for a qualified business facility located anywhere else in the
43 State,¹ any full-time employee employed by the business shall
44 spend at least 40 percent of the employee's time at the qualified
45 business facility during the tax period; and¹

46 (2) following the receipt by the business of its tax credit
47 certificate or tax credit transfer certificate for the tax period, the

1 business shall make a payment of an amount equal to 20 percent of
2 the amount of the tax credit the business receives for the tax period,
3 which payment shall be made to the municipal affordable housing
4 trust fund in the municipality in which the qualified business
5 facility is located】 the business shall extend by two years the term
6 of its commitment period beyond the time set forth in the incentive
7 agreement; and

8 (3) at the time the business submits its tax credit certificate
9 certification for the tax period, the business shall make a non-
10 refundable payment of an amount equal to 10 percent of the amount
11 of the maximum annual tax credit that the business is eligible to
12 receive for the tax period, which payment shall be made to the
13 authority, and which payment the authority shall hold and make
14 available for the provision of loans, guarantees, equity investments,
15 and grants, or other forms of financing to support small business
16 and downtown or commercial corridor activation activities within
17 enhanced areas or government-restricted municipalities, as those
18 terms are defined in section 69 of P.L.2020, c.156 (C.34:1B-337),
19 as may be designated by the chief executive officer of the authority.
20 Such funds shall be deployed by the authority within 12 months of
21 the authority's receipt of the funds, and the authority shall issue a
22 report each fiscal year to the Legislature, pursuant to section 2 of
23 P.L.1991, c.164 (C.52:14-19.1), detailing how the funds were
24 distributed¹ .

25 k. 【The authority, in consultation with the Division of
26 Taxation in the Department of the Treasury, may authorize a tax
27 certificate holder to carry forward tax credits for an additional
28 period specified by the authority, subject to the provisions of this
29 section. The】 Notwithstanding the provisions of any law to the
30 contrary, the¹ credit amount may ¹first¹ be taken by the tax
31 certificate holder for the tax period for which it was issued ¹, for the
32 tax period in which it was issued,¹ or ¹【may be carried forward for
33 use by the tax certificate holder in any of the next 20 successive tax
34 periods, and shall expire thereafter】 in any tax period during the
35 commitment period set forth in the incentive agreement¹ . The tax
36 certificate holder may transfer the tax credit amount on or after the
37 date of issuance ¹【or at any time after the date of issuance】¹ for use
38 by the transferee in the tax period for which it was issued ¹, for the
39 tax period in which it was issued,¹ or ¹【within a period to be
40 determined by the authority, in consultation with the Division of
41 Taxation, but not to exceed the 20 tax periods immediately
42 succeeding the tax period for which it was issued. In the case of a
43 tax certificate received after the end of the tax period for which the
44 tax certificate was issued, whether by transfer or original issuance,
45 a tax certificate holder or transferee shall not be required to amend
46 the tax return for the tax period for which the tax certificate was
47 issued or any successive tax period to first apply the credit】 in any

1 of the next three successive tax periods¹ . The tax certificate holder
2 or transferee may first **['claim] use¹ the credit ¹against tax**
3 liabilities¹ in **['any] the¹ tax period ¹['that is on or after the date of**
4 issuance¹ in which it was issued or in a succeeding tax period, as
5 authorized in this subsection, without being required to amend the
6 tax return for the taxpayer for which the credit was issued¹ , subject
7 to the **['carry-forward provision in] provisions of¹ this section.**
8 Notwithstanding the foregoing, no more than the amount of tax
9 credits equal to the total credit amount ^{1,1} divided by the duration of
10 the **['eligibility period] tax credit term,¹ in years ^{1,1} may be taken**
11 in any tax period.

12 ¹l. Notwithstanding the provisions of subsection b. of this
13 section or any law or regulation to the contrary, a business that has
14 elected to modify its obligations under an incentive agreement
15 pursuant to P.L.2022, c.134 may request, before December 31,
16 2024, to reduce the number of Statewide employees specified in the
17 incentive agreement, provided the business certifies that all
18 Statewide employment specified in the incentive agreement is
19 assigned to the qualified business facility and the business is
20 requesting to reduce the number of new or retained full-time jobs
21 specified in the incentive agreement commencing with the 2020 tax
22 period and, at the discretion of the business, whether the reduction
23 shall continue for each subsequent tax period remaining in the
24 eligibility period.¹

25 (cf: P.L.2023, c.261, s.4)

26

27 5. This act shall take effect immediately.

[Second Reprint]

ASSEMBLY, No. 4046

STATE OF NEW JERSEY
221st LEGISLATURE

INTRODUCED MARCH 4, 2024

Sponsored by:

Assemblywoman ELIANA PINTOR MARIN

District 29 (Essex and Hudson)

Assemblyman WILLIAM W. SPEARMAN

District 5 (Camden and Gloucester)

SYNOPSIS

Extends certain accommodations for businesses participating in State economic development programs.

CURRENT VERSION OF TEXT

As reported by the Senate Economic Growth Committee on June 10, 2024, with amendments.



(Sponsorship Updated As Of: 3/14/2024)

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

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

34 b. Following the termination of the public health emergency
35 declared by the Governor pursuant to Executive Order No. 103 of
36 2020, as extended, a business that has entered into an incentive
37 agreement may elect, before March 31, 2024, to waive, for the period
38 beginning on July 1, 2022 and ending on March 31, 2024, the
39 requirement that a full-time employee who is employed by the
40 business shall spend at least 60 percent of the employee's time at the
41 qualified business facility; provided, however, that a business that
42 makes such an election shall satisfy the following criteria:

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

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

Matter underlined thus is new matter.

Matter enclosed in superscript numerals has been adopted as follows:

¹Assembly AAP committee amendments adopted March 14, 2024.

²Senate SEG committee amendments adopted June 10, 2024.

1 facility for the 2023 tax period ¹and, if elected by the business, the
2 2024 tax period¹ through March 31, 2024; and

3 (2) following the receipt by the business of its tax credit certificate
4 or tax credit transfer certificate for the 2022 tax period, the business
5 shall make a payment of an amount equal to five percent of the amount
6 of tax credit the business receives for the 2022 tax period through
7 March 31, 2024, which payment shall be made to the authority, and
8 which payment the authority shall hold and make available for the
9 provision of loans, guarantees, equity investments, and grants, or other
10 forms of financing to support small business and downtown or
11 commercial corridor activation activities within the municipality in
12 which the qualified business facility is located, as may be designated
13 by the chief executive officer of the authority. ¹Such funds shall be
14 deployed by the authority within 12 months of the authority's receipt
15 of the funds, and the authority shall issue a report each fiscal year to
16 the Legislature, pursuant to section 2 of P.L.1991, c.164 (C.52:14-
17 19.1), detailing how the funds were distributed.¹

18 c. ¹【For the period】 Notwithstanding the provisions of section 2
19 of P.L.1996, c.25 (C.34:1B-113) or any other law or regulation to the
20 contrary,¹ beginning on April 1, 2024, and for all subsequent tax
21 periods, ¹【the authority may authorize】¹ a business ²located outside
22 an enhanced area or government-restricted municipality, as those
23 terms are defined in section 69 of P.L.2020, c.156 (C.34:1B-337),²
24 that has entered into an ¹【amended】¹ incentive agreement with the
25 authority ¹may elect¹ to waive the requirement that a full-time
26 employee who is employed by the business shall spend at least 60
27 percent of the employee's time at the qualified business facility;
28 provided, however, that a business that makes this election shall satisfy
29 the following criteria:

30 (1) ²¹(a) for a qualified business facility located in an enhanced
31 area or government-restricted municipality, as those terms are defined
32 in section 69 of P.L.2020, c.156 (C.34:1B-337), any full-time
33 employee employed by the business shall spend at least 50 percent of
34 the employee's time at the qualified business facility during the tax
35 period;

36 (b)² for a qualified business facility located ²【anywhere else in the
37 State】 outside an enhanced area or government-restricted
38 municipality, as those terms are defined in section 69 of P.L.2020,
39 c.156 (C.34:1B-337)^{2, 1} any full-time employee employed by the
40 business shall spend at least 40 percent of the employee's time at the
41 qualified business facility during the tax period; ¹【and】¹

42 (2) ¹【following the receipt by the business of its tax credit
43 certificate or tax credit transfer certificate for the tax period, the
44 business shall make a payment of an amount equal to 20 percent of the
45 amount of the tax credit the business receives for the tax period, which
46 payment shall be made to the municipal affordable housing trust fund

1 in the municipality in which the qualified business facility is located]
2 the business shall extend by two years the term of its commitment
3 duration beyond the time set forth in the project agreement; and
4 (3) at the time the business submits its tax credit certificate
5 certification for the tax period, the business shall make a non-
6 refundable payment of an amount equal to 10 percent of the amount of
7 the maximum annual tax credit that the business is eligible to receive
8 for the tax period, which payment shall be made to the authority, and
9 which payment the authority shall hold and make available for the
10 provision of loans, guarantees, equity investments, and grants, or other
11 forms of financing to support small business and downtown or
12 commercial corridor activation activities within enhanced areas or
13 government-restricted municipalities, as those terms are defined in
14 section 69 of P.L.2020, c.156 (C.34:1B-337), as may be designated by
15 the chief executive officer of the authority. Such funds shall be
16 deployed by the authority within 12 months of the authority's receipt
17 of the funds, and the authority shall issue a report each fiscal year to
18 the Legislature, pursuant to section 2 of P.L.1991, c.164 (C.52:14-
19 19.1), detailing how the funds were distributed¹.
20 d. ¹[The authority, in consultation with the Division of Taxation
21 in the Department of the Treasury, may authorize a tax certificate
22 holder to carry forward tax credits for an additional period specified by
23 the authority, subject to the provisions of this section. The]
24 Notwithstanding the provisions of any law to the contrary, the¹ credit
25 amount may ¹first¹ be taken by the tax certificate holder for the tax
26 period for which it was issued ¹, for the tax period in which it was
27 issued,¹ or ¹[may be carried forward for use by the tax certificate
28 holder in any of the next 20 successive tax periods, and shall expire
29 thereafter] in any tax period during the commitment duration set forth
30 in the project agreement¹ . The tax certificate holder may transfer the
31 tax credit amount on or after the date of issuance ¹[or at any time after
32 the date of issuance.]¹ for use by the transferee in the tax period for
33 which it was issued ¹, for the tax period in which it was issued,¹ or
34 ¹[within a period to be determined by the authority, in consultation
35 with the Division of Taxation, but not to exceed the 20 tax periods
36 immediately succeeding the tax period for which it was issued. In the
37 case of a tax certificate received after the end of the tax period for
38 which the tax certificate was issued, whether by transfer or original
39 issuance, a tax certificate holder or transferee shall not be required to
40 amend the tax return for the tax period for which the tax certificate
41 was issued or any successive tax period to first apply the credit] in any
42 of the next three successive tax periods¹ . The tax certificate holder or
43 transferee may first ¹[claim] use¹ the credit ¹[in any tax period on or
44 after the date of issuance] against tax liabilities in the tax period in
45 which it was issued or in a succeeding tax period, as authorized in this
46 subsection, without the need for amending the tax return for the tax

1 period for which the credit was issued¹ , subject to the ¹carry-forward
2 provision in] provisions of¹ this section. Notwithstanding the
3 foregoing, no more than the amount of tax credits equal to the total
4 credit amount ^{1,1} divided by the duration of the tax credit term, in
5 years, may be taken in any tax period.

6 (cf: P.L.2023, c.261, s.1)

7

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

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

25 (1) The number of eligible positions to be created;

26 (2) The expected duration of those positions;

27 (3) The type of contribution the business can make to the long-
28 term growth of the State's economy;

29 (4) The amount of other financial assistance the business will
30 receive from the State for the project;

31 (5) The total dollar investment the business is making in the
32 project;

33 (6) Whether the business is a designated industry;

34 (7) Impact of the business on State tax revenues; and

35 (8) Such other related factors determined by the authority.

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

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

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

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

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

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

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

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

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

45 (6) For a grant accrued but not paid during calendar year 2018, the
46 tax credit shall be equal to any approved amount and shall be issued in
47 two equal installments over a two-year period beginning in the 2022

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

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

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

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

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

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

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

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

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

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

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

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

35 h. Following the termination of the public health emergency
36 declared by the Governor pursuant to Executive Order No. 103 of
37 2020, as extended, a business that has entered into an incentive
38 agreement may elect, before March 31, 2024, to waive, for the period
39 beginning on July 1, 2022 and ending on March 31, 2024, the
40 requirement that a full-time employee who is employed by the
41 business shall spend at least 60 percent of the employee's time at the
42 qualified business facility; provided, however, that a business that
43 makes such an election shall satisfy the following criteria:

44 (1) any full-time employee employed by the business shall spend at
45 least 10 percent of the employee's time at the qualified business
46 facility for the 2023 tax period ¹and, if elected by the business, the
47 2024 tax period¹ through March 31, 2024; and

1 (2) following the receipt by the business of its tax credit certificate
2 or tax credit transfer certificate for the 2022 tax period, the business
3 shall make a payment of an amount equal to five percent of the amount
4 of tax credit the business receives for the 2022 tax period through
5 March 31, 2024, which payment shall be made to the authority, and
6 which payment the authority shall hold and make available for the
7 provision of loans, guarantees, equity investments, and grants, or other
8 forms of financing to support small business and downtown or
9 commercial corridor activation activities within the municipality in
10 which the qualified business facility is located, as may be designated
11 by the chief executive officer of the authority. ¹Such funds shall be
12 deployed by the authority within 12 months of the authority's receipt
13 of the funds, and the authority shall issue a report each fiscal year to
14 the Legislature, pursuant to section 2 of P.L.1991, c.164 (C.52:14-
15 19.1), detailing how the funds were distributed.¹

16 i. ¹[For the period] Notwithstanding the provisions of section 2
17 of P.L.1996, c.26 (C.34:1B-125) or any other law or regulation to the
18 contrary,¹ beginning on April 1, 2024, and for all subsequent tax
19 periods, ¹[the authority may authorize]¹ a business ²located outside
20 an enhanced area or government-restricted municipality, as those
21 terms are defined in section 69 of P.L.2020, c.156 (C.34:1B-337)²
22 that has entered into an ¹[amended]¹ incentive agreement with the
23 authority ¹may elect¹ to waive the requirement that a full-time
24 employee who is employed by the business shall spend at least 60
25 percent of the employee's time at the qualified business facility;
26 provided, however, that a business that makes this election shall satisfy
27 the following criteria:

28 (1) ²[¹(a) for a qualified business facility located in an enhanced
29 area or government-restricted municipality, as those terms are defined
30 in section 69 of P.L.2020, c.156 (C.34:1B-337), any full-time
31 employee employed by the business shall spend at least 50 percent of
32 the employee's time at the qualified business facility during the tax
33 period;

34 (b)² for a qualified business facility located ²[anywhere else in the
35 State] outside an enhanced area or government-restricted
36 municipality, as those terms are defined in section 69 of P.L.2020,
37 c.156 (C.34:1B-337)^{2,1} any full-time employee employed by the
38 business shall spend at least 40 percent of the employee's time at the
39 qualified business facility during the tax period; ¹[and]¹

40 (2) ¹[following the receipt by the business of its tax credit
41 certificate or tax credit transfer certificate for the tax period, the
42 business shall make a payment of an amount equal to 20 percent of the
43 amount of the tax credit the business receives for the tax period, which
44 payment shall be made to the municipal affordable housing trust fund
45 in the municipality in which the qualified business facility is located]
46 the business shall extend by two years the time it is required to

1 maintain the project at a location in New Jersey beyond the time set
2 forth in the incentive agreement; and

3 (3) at the time the business submits its tax credit certificate
4 certification for the tax period, the business shall make a non-
5 refundable payment of an amount equal to 10 percent of the amount of
6 the maximum annual tax credit that the business is eligible to receive
7 for the tax period, which payment shall be made to the authority, and
8 which payment the authority shall hold and make available for the
9 provision of loans, guarantees, equity investments, and grants, or other
10 forms of financing to support small business and downtown or
11 commercial corridor activation activities within enhanced areas or
12 government-restricted municipalities, as those terms are defined in
13 section 69 of P.L.2020, c.156 (C.34:1B-337), as may be designated by
14 the chief executive officer of the authority. Such funds shall be
15 deployed by the authority within 12 months of the authority's receipt
16 of the funds, and the authority shall issue a report each fiscal year to
17 the Legislature, pursuant to section 2 of P.L.1991, c.164 (C.52:14-
18 19.1), detailing how the funds were distributed¹.

19 j. ¹【The authority, in consultation with the Division of Taxation
20 in the Department of the Treasury, may authorize a tax certificate
21 holder to carry forward tax credits for an additional period specified by
22 the authority, subject to the provisions of this section. The】
23 Notwithstanding the provisions of any law to the contrary, the¹ credit
24 amount may ¹first¹ be taken by the tax certificate holder for the tax
25 period for which it was issued ¹, for the tax period in which it was
26 issued,¹ or ¹【may be carried forward for use by the tax certificate
27 holder in any of the next 20 successive tax periods, and shall expire
28 thereafter】 in any tax period during the time the business is required to
29 maintain the project at a location in New Jersey, as set forth in the
30 incentive agreement¹ . The tax certificate holder may transfer the tax
31 credit amount on or after the date of issuance ¹【or at any time after the
32 date of issuance】¹ for use by the transferee in the tax period for which
33 it was issued ¹, for the tax period in which it was issued,¹ or ¹【within a
34 period to be determined by the authority, in consultation with the
35 Division of Taxation, but not to exceed the 20 tax periods immediately
36 succeeding the tax period for which it was issued. In the case of a tax
37 certificate received after the end of the tax period for which the tax
38 certificate was issued, whether by transfer or original issuance, a tax
39 certificate holder or transferee shall not be required to amend the tax
40 return for the tax period for which the tax certificate was issued or any
41 successive tax period to first apply the credit】 in any of the next three
42 successive tax periods¹ . The tax certificate holder or transferee may
43 first ¹【claim】 use¹ the credit ¹【in any tax period on or after the date of
44 issuance】 against tax liabilities in the tax period in which it was issued
45 or in a succeeding tax period, as authorized in this subsection, without
46 the need for amending the tax return for the tax period for which the

1 credit was issued¹ , subject to the ¹carry-forward provision in]
2 provisions of¹ this section. ¹Notwithstanding the foregoing, no more
3 than the amount of tax credits equal to the total credit amount, divided
4 by the number of years in which the credits may be claimed, not
5 including carried-forward use, may be taken in any tax period.]¹
6 (cf: P.L.2023, c.261, s.2)

7
8 3. Section 3 of P.L.2007, c.346 (C.34:1B-209) is amended to read
9 as follows:

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

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

33 (3) A business that is a tenant in a qualified business facility, the
34 owner of which has made or acquired capital investments in the
35 facility totaling not less than \$50,000,000, shall occupy a leased area
36 of the qualified business facility that represents at least \$17,500,000 of
37 the capital investment in the facility at which the tenant business and
38 up to two other tenants in the qualified business facility shall employ
39 not fewer than 250 full-time employees in the aggregate to be eligible
40 for a credit under this section. The amount of capital investment in a
41 facility that a leased area represents shall be equal to that percentage of
42 the owner's total capital investment in the facility that the percentage
43 of net leasable area leased by the tenant is of the total net leasable area
44 of the qualified business facility. Capital investments made by a tenant
45 shall be deemed to be included in the calculation of the capital
46 investment made or acquired by the owner, but only to the extent
47 necessary to meet the owner's minimum capital investment of
48 \$50,000,000. Capital investments made by a tenant and not allocated

1 to meet the owner's minimum capital investment threshold of
2 \$50,000,000 shall be added to the amount of capital investment
3 represented by the tenant's leased area in the qualified business
4 facility.

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

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

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

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

44 (8) In determining whether a proposed capital investment will
45 yield a net positive benefit, the authority shall not consider the transfer
46 of an existing job from one location in the State to another location in
47 the State as the creation of a new job, unless (a) the business proposes
48 to transfer existing jobs to a municipality in the State as part of a

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

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

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

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

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

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

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

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

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

45 A business may elect to suspend its obligations for the 2020, 2021,
46 2022, **[or]** 2023, or 2024 tax period, or any combination thereof, due
47 to the COVID-19 pandemic, provided that the business shall make
48 such election in writing to the authority before the issuance of the tax

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

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

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

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

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

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

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

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

28 (ii) If a tenant subleases its tenancy in whole or in part during the
29 10-year eligibility period, the new tenant shall not acquire the credit of
30 the sublessor, and the sublessor tenant shall forfeit all credits for the
31 tax period of its sublease and all subsequent tax periods.

32 (5) Following the termination of the public health emergency
33 declared by the Governor pursuant to Executive Order No. 103 of
34 2020, as extended, a business that has entered into an incentive
35 agreement may elect, before March 31, 2024, to waive, for the period
36 beginning on July 1, 2022 and ending on March 31, 2024, the
37 requirement that a full-time employee who is employed by the
38 business shall spend at least 60 percent of the employee's time at the
39 qualified business facility; provided, however, that a business that
40 makes such an election shall satisfy the following criteria:

41 (i) any full-time employee employed by the business shall spend
42 at least 10 percent of the employee's time at the qualified business
43 facility for the 2023 tax period ¹and, if elected by the business, the
44 2024 tax period¹ through March 31, 2024; and

45 (ii) following the receipt by the business of its tax credit certificate
46 or tax credit transfer certificate for the 2022 tax period, the business
47 shall make a payment of an amount equal to five percent of the amount
48 of tax credit the business receives for the 2022 tax period through

1 March 31, 2024, which payment shall be made to the authority, and
2 which payment the authority shall hold and make available for the
3 provision of loans, guarantees, equity investments, and grants, or other
4 forms of financing to support small business and downtown or
5 commercial corridor activation activities within the municipality in
6 which the qualified business facility is located, as may be designated
7 by the chief executive officer of the authority. ¹Such funds shall be
8 deployed by the authority within 12 months of the authority's receipt
9 of the funds, and the authority shall issue a report each fiscal year to
10 the Legislature, pursuant to section 2 of P.L.1991, c.164 (C.52:14-
11 19.1), detailing how the funds were distributed.¹

12 (6) ¹[For the period] Notwithstanding the provisions of section 2
13 of P.L.2007, c.346 (C.34:1B-208) or any other law or regulation to the
14 contrary,¹ beginning on April 1, 2024, and for all subsequent tax
15 periods, ¹[the authority may authorize]¹ a business ²located outside
16 an enhanced area or government-restricted municipality, as those
17 terms are defined in section 69 of P.L.2020, c.156 (C.34:1B-337)²
18 that has entered into an ¹[amended]¹ incentive agreement with the
19 authority ¹may elect¹ to waive the requirement that a full-time
20 employee who is employed by the business shall spend at least 60
21 percent of the employee's time at the qualified business facility;
22 provided, however, that a business that makes this election shall satisfy
23 the following criteria:

24 (i) ²[¹(a) for a qualified business facility located in an enhanced
25 area or government-restricted municipality, as those terms are defined
26 in section 69 of P.L.2020, c.156 (C.34:1B-337), any full-time
27 employee employed by the business shall spend at least 50 percent of
28 the employee's time at the qualified business facility during the tax
29 period;

30 (b)² for a qualified business facility located ²[anywhere else in the
31 State] outside an enhanced area or government-restricted
32 municipality, as those terms are defined in section 69 of P.L.2020,
33 c.156 (C.34:1B-337)^{2, 1} any full-time employee employed by the
34 business shall spend at least 40 percent of the employee's time at the
35 qualified business facility during the tax period; ¹[and]¹

36 (ii) ¹[following the receipt by the business of its tax credit
37 certificate or tax credit transfer certificate for the tax period, the
38 business shall make a payment of an amount equal to 20 percent of the
39 amount of the tax credit the business receives for the tax period, which
40 payment shall be made to the municipal affordable housing trust fund
41 in the municipality in which the qualified business facility is located]
42 the business shall extend by two years the time it is required to
43 maintain the project at a location in New Jersey beyond the time set
44 forth in the incentive agreement; and

45 (iii) at the time the business submits its tax credit certificate
46 certification for the tax period, the business shall make a non-
47 refundable payment of an amount equal to 10 percent of the amount of

1 the maximum annual tax credit that the business is eligible to receive
2 for the tax period, which payment shall be made to the authority, and
3 which payment the authority shall hold and make available for the
4 provision of loans, guarantees, equity investments, and grants, or other
5 forms of financing to support small business and downtown or
6 commercial corridor activation activities within enhanced areas or
7 government-restricted municipalities, as those terms are defined in
8 section 69 of P.L.2020, c.156 (C.34:1B-337), as may be designated by
9 the chief executive officer of the authority. Such funds shall be
10 deployed by the authority within 12 months of the authority's receipt
11 of the funds, and the authority shall issue a report each fiscal year to
12 the Legislature, pursuant to section 2 of P.L.1991, c.164 (C.52:14-
13 19.1), detailing how the funds were distributed¹.

14 (7) ¹【The authority, in consultation with the Division of Taxation
15 in the Department of the Treasury, may authorize a tax certificate
16 holder to carry forward tax credits for an additional period specified by
17 the authority, subject to the provisions of this section. The】
18 Notwithstanding the provisions of any law to the contrary, the¹ credit
19 amount may ¹first¹ be taken by the tax certificate holder for the tax
20 period for which it was issued ¹, for the tax period in which it was
21 issued,¹ or ¹【may be carried forward for use by the tax certificate
22 holder in any of the next 20 successive tax periods, and shall expire
23 thereafter】 in any tax period during the time the business is required to
24 maintain the project at a location in New Jersey, as set forth in the
25 incentive agreement¹. The tax certificate holder may transfer the tax
26 credit amount on or after the date of issuance ¹【or at any time after the
27 date of issuance】¹ for use by the transferee in the tax period for which
28 it was issued ¹, for the tax period in which it was issued,¹ or ¹【within a
29 period to be determined by the authority, in consultation with the
30 Division of Taxation, but not to exceed the 20 tax periods immediately
31 succeeding the tax period for which it was issued. In the case of a tax
32 certificate received after the end of the tax period for which the tax
33 certificate was issued, whether by transfer or original issuance, a tax
34 certificate holder or transferee shall not be required to amend the tax
35 return for the tax period for which the tax certificate was issued or any
36 successive tax period to first apply the credit】 in any of the next three
37 successive tax periods¹. The tax certificate holder or transferee may
38 first ¹【claim】 use¹ the credit ¹against tax liabilities¹ in ¹【any】 the¹ tax
39 period ¹【on or after the date of issuance】 in which it was issued or in a
40 succeeding tax period, as authorized in this subsection, without being
41 required to amend the tax return for the tax period for which the credit
42 was issued¹, subject to the ¹【carry-forward provision in】 provisions
43 of¹ this section. Notwithstanding the foregoing, no more than the
44 amount of tax credits equal to the total credit amount, divided by the
45 ¹【number of】 duration of the tax credit term, in¹ years ¹【in which the

1 credits may be claimed, not including carried-forward use¹, may be
2 taken in any tax period.

3 ¹(8) Notwithstanding the provisions of this subsection or
4 any law or regulation to the contrary, a business that has elected to
5 modify its obligations under an incentive agreement pursuant to
6 P.L.2022, c.134 may request, before December 31, 2024, to reduce the
7 number of Statewide employees specified in the incentive agreement,
8 provided the business certifies that all Statewide employment specified
9 in the incentive agreement is assigned to the qualified business facility
10 and the business is requesting to reduce the number of new or retained
11 full-time jobs specified in the incentive agreement commencing with
12 the 2020 tax period and, at the discretion of the business, whether the
13 reduction shall continue for each subsequent tax period remaining in
14 the eligibility period.¹

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

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

37 f. A business that has executed an approval letter may request
38 before December 31, **[2023]** 2024 to terminate the award,
39 commencing with the 2020 tax period or any subsequent tax period
40 ending on or before December 31, **[2023]** 2024, due to the COVID-19
41 public health emergency; provided that the business shall submit a
42 certification from the business's chief executive officer or equivalent
43 officer stating that the termination is due, directly or indirectly, to the
44 public health emergency and describing the impact of the public health
45 emergency on the business. All credits for the tax period in which the
46 termination is requested and all subsequent tax periods shall be
47 forfeited, provided however that any credits of the business shall

1 remain unaffected. A termination agreement executed by the authority
2 and business shall not be amended.

3 (cf: P.L.2023, c.261, s.3)

4

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

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

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

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

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

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

22 b. (1) A business shall submit an application for tax credits prior
23 to July 1, 2019. The authority shall not approve an application for tax
24 credits unless the application was submitted prior to July 1, 2019.

25 (2) (a) A business shall submit its documentation indicating that it
26 has met the capital investment and employment requirements and all
27 conditions of approvals specified in the incentive agreement for
28 certification of its tax credit amount, to the authority's satisfaction,
29 within three years following the date of approval of its application by
30 the authority. The authority shall have the discretion to grant two six-
31 month extensions of this deadline. If the authority accepts the
32 documentation, the authority shall request that the Division of
33 Taxation in the Department of the Treasury issue a tax credit based on
34 the approved documentation to be used by the business during the
35 eligibility period. Except as provided in subparagraphs (b) and (c) of
36 this paragraph, in no event shall the incentive effective date occur later
37 than four years following the date of approval of an application by the
38 authority.

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

45 (c) If the Governor declares an emergency, then the chief
46 executive officer of the authority shall have the discretion to grant an
47 extension for the duration of the emergency and the board of the
48 authority, upon recommendation of the chief executive officer, may

1 grant two additional six-month extensions; provided that (i) the
2 extensions are due to the economic disruption caused by the
3 emergency; (ii) the project is delayed due to unforeseeable acts related
4 to the project beyond the eligible business's control and without its
5 fault or negligence; (iii) the eligible business is using best efforts, with
6 all due diligence, to proceed with the completion of the project and the
7 submission of the certification; and (iv) the eligible business has made,
8 and continues to make, all reasonable efforts to prevent, avoid,
9 mitigate, and overcome the delay.

10 (3) Full-time employment for an accounting or privilege period
11 shall be determined as the average of the monthly full-time
12 employment for the period.

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

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

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

25 The credit amount may be taken by the tax certificate holder for
26 the tax period for which it was issued or may be carried forward for
27 use by the tax certificate holder in any of the next 20 successive tax
28 periods, and shall expire thereafter. The tax certificate holder may
29 transfer the tax credit amount on or after the date of issuance or at any
30 time **【within three years of】** after the date of issuance for use by the
31 transferee in the tax period for which it was issued or in any of the
32 next 20 successive tax periods. In the case of a tax certificate received
33 after the end of the tax period for which the tax certificate was issued,
34 whether by transfer or original issuance, a tax certificate holder or
35 transferee shall not be required to amend the tax return for the tax
36 period ¹【to first apply】 if¹ the credit ¹【. The tax certificate holder or
37 transferee may first claim the credit】 is first applied¹ in ¹【any】 the¹
38 tax period ¹【that is on or after the date of issuance】 in which it was
39 issued or in a succeeding tax period, as authorized in subsection k. of
40 this section¹ , ¹and¹ subject to the carry-forward provision in this
41 section. Notwithstanding the foregoing, no more than the amount of
42 tax credits equal to the total credit amount ^{1,1} divided by the duration
43 of the eligibility period ^{1,1} in years ^{1,1} may be taken in any tax period.

44 A business may elect to suspend its obligations for the 2020, 2021,
45 2022, **【or】** 2023, or 2024 tax period, or any combination thereof, due
46 to the COVID-19 pandemic, provided that the business shall make
47

1 such election in writing to the authority before the issuance of the tax
2 credit for the corresponding tax year and such suspension shall extend
3 the term of the eligibility period by a corresponding amount of time.
4 The authority shall amend the incentive agreement, and the business
5 shall execute the amended incentive agreement within the time period
6 provided by the authority. The amended incentive agreement shall
7 provide that the failure to submit the annual report due to the
8 suspension shall not be a forfeiture or an uncertified tax period.

9 (2) Credits granted to a partnership shall be passed through to the
10 partners, members, or owners, respectively, pro-rata or pursuant to an
11 executed agreement among the partners, members, or owners
12 documenting an alternate distribution method provided to the Director
13 of the Division of Taxation in the Department of the Treasury
14 accompanied by any additional information as the director may
15 require.

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

21 (4) In order to respond to the profoundly negative impact of the
22 COVID-19 pandemic on the State's economy and finances, the
23 authority may request a tax certificate holder, at the tax certificate
24 holder's discretion, to defer the application of a credit amount allowed
25 pursuant to this section to a later tax period. Upon request, the
26 authority and the tax certificate holder shall negotiate the terms of the
27 deferral, which shall hold the certificate holder harmless, which will be
28 made in the incentive agreement or as an addendum to the incentive
29 agreement.

30 d. (1) If, in any tax period, the business reduces the total number
31 of full-time employees in its Statewide workforce by more than 20
32 percent from the number of full-time employees in its Statewide
33 workforce in the last tax period prior to the credit amount approval
34 under section 3 of P.L.2011, c.149 (C.34:1B-244), then the business
35 shall forfeit its credit amount for that tax period and each subsequent
36 tax period, until the first tax period for which documentation
37 demonstrating the restoration of the business's Statewide workforce to
38 the threshold levels required by the incentive agreement has been
39 reviewed and approved by the authority, for which tax period and each
40 subsequent tax period the full amount of the credit shall be allowed.

41 (2) If, in any tax period, the number of full-time employees
42 employed by the business at the qualified business facility located
43 within a qualified incentive area drops below 80 percent of the number
44 of new and retained full-time jobs specified in the incentive
45 agreement, then the business shall forfeit its credit amount for that tax
46 period and each subsequent tax period, until the first tax period for
47 which documentation demonstrating the restoration of the number of
48 full-time employees employed by the business at the qualified business

1 facility to 80 percent of the number of jobs specified in the incentive
2 agreement.

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

9 (b) In connection with a regional distribution facility of foodstuffs,
10 the business entity or entities which own or lease the facility shall
11 qualify as a business regardless of: (i) the type of the business entity or
12 entities which own or lease the facility; (ii) the ownership or leasing of
13 the facility by more than one business entity; or (iii) the ownership of
14 the business entity or entities which own or lease the facility. The
15 ownership or leasing, whether by members, shareholders, partners, or
16 other owners of the business entity or entities, shall be treated as
17 ownership or leasing by affiliates. The members, shareholders,
18 partners, or other ownership or leasing participants and others that are
19 tenants in the facility shall be treated as affiliates for the purpose of
20 counting the full-time employees and capital investments in the
21 facility. The business entity or entities may distribute credits to
22 members, shareholders, partners, or other ownership or leasing
23 participants in accordance with their respective interests. If the
24 business entity or entities or their members, shareholders, partners, or
25 other ownership or leasing participants lease space in the facility to
26 members, shareholders, partners, or other ownership or leasing
27 participants or others as tenants in the facility, the leases shall be
28 treated as a lease to an affiliate, and the business entity or entities shall
29 not be subject to forfeiture of the credits. For the purposes of this
30 section, leasing shall include subleasing and tenants shall include
31 subtenants.

32 (4) (a) For a project located within a Garden State Growth Zone,
33 if, in any tax period, the number of full-time employees employed by
34 the business at the qualified business facility located within a qualified
35 incentive area increases above the number of full-time employees
36 specified in the incentive agreement, then the business shall be entitled
37 to an increased base credit amount for that tax period and each
38 subsequent tax period, for each additional full-time employee added
39 above the number of full-time employees specified in the incentive
40 agreement, until the first tax period for which documentation
41 demonstrating a reduction of the number of full-time employees
42 employed by the business at the qualified business facility, at which
43 time the tax credit amount will be adjusted accordingly pursuant to this
44 section.

45 (b) For a project located within a Garden State Growth Zone which
46 qualifies under the "Municipal Rehabilitation and Economic Recovery
47 Act," P.L.2002, c.43 (C.52:27BBB-1 et al.), or which contains a

1 Tourism District as established pursuant to section 5 of P.L.2011, c.18
2 (C.5:12-219) and regulated by the Casino Reinvestment Development
3 Authority, and which qualifies for a tax credit pursuant to
4 subsubparagraph (ii) of subparagraphs (a) through (e) of paragraph (6)
5 of subsection d. of section 5 of P.L.2011, c.149 (C.34:1B-246), if, in
6 any tax period the number of full-time employees employed by the
7 business at the qualified business facility located within a qualified
8 incentive area increases above the number of full-time employees
9 specified in the incentive agreement such that the business shall then
10 meet the minimum number of employees required in subparagraph (b),
11 (c), (d), or (e) of paragraph (6) of subsection d. of section 5 of
12 P.L.2011, c.149 (C.34:1B-246), then the authority shall recalculate the
13 total tax credit amount per full-time job by using the certified capital
14 investment of the project allowable under the applicable
15 subsubparagraph and the number of full-time jobs certified on the date
16 of the recalculation and applying those numbers to subparagraph (b),
17 (c), (d), or (e) of paragraph (6) of subsection d. of section 5 of
18 P.L.2011, c.149 (C.34:1B-246), until the first tax period for which
19 documentation demonstrating a reduction of the number of full-time
20 employees employed by the business at the qualified business facility,
21 at which time the tax credit amount shall be adjusted accordingly
22 pursuant to this section.

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

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

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

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

44 g. A business that has entered into an incentive agreement may
45 request before December 31, **[2023]** 2024 to terminate the incentive
46 agreement, commencing with the 2020 tax period or any subsequent
47 tax period ending on or before December 31, **[2023]** 2024, due to the
48 COVID-19 public health emergency; provided that the business shall

1 submit a certification from the business's chief executive officer or
2 equivalent officer stating that the termination is due, directly or
3 indirectly, to the public health emergency and describing the impact of
4 the public health emergency on the business. All credits for the tax
5 period in which the termination occurs and all subsequent tax periods
6 shall be forfeited, provided however that any credits of the business
7 shall remain unaffected. A termination agreement executed by the
8 authority and business shall not be amended.

9 h. A business that has entered into an incentive agreement may
10 request, before December 31, ~~2023~~ 2024, to reduce the number of
11 new or retained full-time jobs specified in the incentive agreement
12 based on a certification of the business of the eligible positions at the
13 qualified business facility commencing with the 2020 tax period and,
14 at the discretion of the business, whether the reduction shall continue
15 for each subsequent tax period remaining in the eligibility period,
16 provided that the business maintains the minimum number of new or
17 retained full-time jobs required to be eligible pursuant to subsection c.
18 of section 3 of P.L.2011, c.149 (C.34:1B-244). The reduction in
19 employment shall first apply to the number of new full-time
20 employees, and then shall apply to the number of retained full-time
21 employees.

22 The authority shall calculate a new tax credit total amount for the
23 2020 tax period and the remainder of the eligibility period based on the
24 reduced employment and shall amend the incentive agreement to
25 reflect the recalculated award amount. In no event shall the
26 modification result in an increase in employment or tax credit amount.

27 i. Following the termination of the public health emergency
28 declared by the Governor pursuant to Executive Order No. 103 of
29 2020, as extended, a business that has entered into an incentive
30 agreement may elect, before March 31, 2024, to waive, for the period
31 beginning on July 1, 2022 and ending on March 31, 2024, the
32 requirement that a full-time employee who is employed by the
33 business shall spend at least 60 percent of the employee's time at the
34 qualified business facility; provided, however, that a business that
35 makes such an election shall satisfy the following criteria:

36 (1) any full-time employee employed by the business shall spend
37 at least 10 percent of the employee's time at the qualified business
38 facility for the 2023 tax period ¹and, if elected by the business, the
39 2024 tax period¹ through March 31, 2024; and

40 (2) following the receipt by the business of its tax credit certificate
41 or tax credit transfer certificate for the 2022 tax period, the business
42 shall make a payment of an amount equal to five percent of the amount
43 of tax credit the business receives for the 2022 tax period through
44 March 31, 2024, which payment shall be made to the authority, and
45 which payment the authority shall hold and make available for the
46 provision of loans, guarantees, equity investments, and grants, or other
47 forms of financing to support small business and downtown or
48 commercial corridor activation activities within the municipality in

1 which the qualified business facility is located, as may be designated
2 by the chief executive officer of the authority. ¹Such funds shall be
3 deployed by the authority within 12 months of the authority's receipt
4 of the funds, and the authority shall issue a report each fiscal year to
5 the Legislature, pursuant to section 2 of P.L.1991, c.164 (C.52:14-
6 19.1), detailing how the funds were distributed.¹

7 j. ¹~~For the period~~ Notwithstanding the provisions of section 2
8 of P.L.2011, c.149 (C.34:1B-243) or any other law or regulation to the
9 contrary,¹ beginning on April 1, 2024, and for all subsequent tax
10 periods, ¹~~the authority may authorize~~¹ a business ²located outside
11 an enhanced area or government-restricted municipality, as those
12 terms are defined in section 69 of P.L.2020, c.156 (C.34:1B-337)²
13 that has entered into an ¹~~amended~~¹ incentive agreement with the
14 authority ¹may elect¹ to waive the requirement that a full-time
15 employee who is employed by the business shall spend at least 60
16 percent of the employee's time at the qualified business facility;
17 provided, however, that a business that makes this election shall satisfy
18 the following criteria:

19 (1) ²¹(a) for a qualified business facility located in an enhanced
20 area or government-restricted municipality, as those terms are defined
21 in section 69 of P.L.2020, c.156 (C.34:1B-337), any full-time
22 employee employed by the business shall spend at least 50 percent of
23 the employee's time at the qualified business facility during the tax
24 period;

25 (b)² for a qualified business facility located ²~~anywhere else in~~
26 the State] outside an enhanced area or government-restricted
27 municipality, as those terms are defined in section 69 of P.L.2020,
28 c.156 (C.34:1B-337)^{2, 1} any full-time employee employed by the
29 business shall spend at least 40 percent of the employee's time at the
30 qualified business facility during the tax period; ¹~~and~~¹

31 (2) ¹~~following the receipt by the business of its tax credit~~
32 certificate or tax credit transfer certificate for the tax period, the
33 business shall make a payment of an amount equal to 20 percent of the
34 amount of the tax credit the business receives for the tax period, which
35 payment shall be made to the municipal affordable housing trust fund
36 in the municipality in which the qualified business facility is located]
37 the business shall extend by two years the term of its commitment
38 period beyond the time set forth in the incentive agreement; and

39 (3) at the time the business submits its tax credit certificate
40 certification for the tax period, the business shall make a non-
41 refundable payment of an amount equal to 10 percent of the amount of
42 the maximum annual tax credit that the business is eligible to receive
43 for the tax period, which payment shall be made to the authority, and
44 which payment the authority shall hold and make available for the
45 provision of loans, guarantees, equity investments, and grants, or other
46 forms of financing to support small business and downtown or
47 commercial corridor activation activities within enhanced areas or

1 government-restricted municipalities, as those terms are defined in
2 section 69 of P.L.2020, c.156 (C.34:1B-337), as may be designated by
3 the chief executive officer of the authority. Such funds shall be
4 deployed by the authority within 12 months of the authority's receipt
5 of the funds, and the authority shall issue a report each fiscal year to
6 the Legislature, pursuant to section 2 of P.L.1991, c.164 (C.52:14-
7 19.1), detailing how the funds were distributed¹.

8 k. ¹【The authority, in consultation with the Division of Taxation
9 in the Department of the Treasury, may authorize a tax certificate
10 holder to carry forward tax credits for an additional period specified by
11 the authority, subject to the provisions of this section. The】
12 Notwithstanding the provisions of any law to the contrary, the¹ credit
13 amount may ¹first¹ be taken by the tax certificate holder for the tax
14 period for which it was issued ¹, for the tax period in which it was
15 issued,¹ or ¹【may be carried forward for use by the tax certificate
16 holder in any of the next 20 successive tax periods, and shall expire
17 thereafter】 in any tax period during the commitment period set forth in
18 the incentive agreement¹ . The tax certificate holder may transfer the
19 tax credit amount on or after the date of issuance ¹【or at any time after
20 the date of issuance】¹ for use by the transferee in the tax period for
21 which it was issued ¹, for the tax period in which it was issued,¹ or
22 ¹【within a period to be determined by the authority, in consultation
23 with the Division of Taxation, but not to exceed the 20 tax periods
24 immediately succeeding the tax period for which it was issued. In the
25 case of a tax certificate received after the end of the tax period for
26 which the tax certificate was issued, whether by transfer or original
27 issuance, a tax certificate holder or transferee shall not be required to
28 amend the tax return for the tax period for which the tax certificate
29 was issued or any successive tax period to first apply the credit】 in any
30 of the next three successive tax periods¹ . The tax certificate holder or
31 transferee may first ¹【claim】 use¹ the credit ¹against tax liabilities¹ in
32 ¹【any】 the¹ tax period ¹【that is on or after the date of issuance】 in
33 which it was issued or in a succeeding tax period, as authorized in this
34 subsection, without being required to amend the tax return for the
35 taxpayer for which the credit was issued¹ , subject to the ¹【carry-
36 forward provision in】 provisions of¹ this section. Notwithstanding the
37 foregoing, no more than the amount of tax credits equal to the total
38 credit amount ¹,¹ divided by the duration of the ¹【eligibility period】
39 tax credit term,¹ in years ¹,¹ may be taken in any tax period.

40 ¹1. Notwithstanding the provisions of subsection b. of this section
41 or any law or regulation to the contrary, a business that has elected to
42 modify its obligations under an incentive agreement pursuant to
43 P.L.2022, c.134 may request, before December 31, 2024, to reduce the
44 number of Statewide employees specified in the incentive agreement,
45 provided the business certifies that all Statewide employment specified
46 in the incentive agreement is assigned to the qualified business facility

1 and the business is requesting to reduce the number of new or retained
2 full-time jobs specified in the incentive agreement commencing with
3 the 2020 tax period and, at the discretion of the business, whether the
4 reduction shall continue for each subsequent tax period remaining in
5 the eligibility period.¹

6 (cf: P.L.2023, c.261, s.4)

7

8 5. This act shall take effect immediately.

SENATE BUDGET AND APPROPRIATIONS COMMITTEE

STATEMENT TO

[Second Reprint] **ASSEMBLY, No. 4046**

with committee amendments

STATE OF NEW JERSEY

DATED: JUNE 26, 2024

The Senate Budget and Appropriations Committee reports favorably and with committee amendments Assembly Bill No. 4046 (2R).

As amended and reported, this bill provides certain accommodations to businesses participating in the Business Employment Incentive Program, the Business Retention and Relocation Assistance Grant Program, the Grow New Jersey Assistance Program, and the Urban Transit Hub Program, each of which is administered by the New Jersey Economic Development Authority (EDA).

Under current law, a business that participates in any of these programs is awarded an economic development incentive in the form of tax credits after meeting certain program requirements. Under each program, the business is required to create or retain a certain number of full-time jobs at a qualified business facility, with the number of jobs created or retained varying depending on the program and the location of the qualified business facility. However, in order for a full-time job to be counted towards satisfying the requirements of each program, current law requires full-time employees to spend at least 60 percent of their time at the qualified business facility.

Current law allows a business participating in any of these programs to waive this requirement through March 31, 2024, provided that: (1) any full-time employee employed by the business spends at least 10 percent of the employee's time at the qualified business facility for the 2023 tax period through March 31, 2024; and (2) the business makes a payment of an amount equal to five percent of the amount of the tax credit that the business receives for the 2022 tax period.

The bill would extend this authorization for the tax period beginning on April 1, 2024, and for all subsequent tax periods, for any business located outside an enhanced area or government-restricted municipality that has entered into an incentive agreement, provided that: (1) for a qualified business facility located outside an enhanced area or government-restricted municipality, any full-time employee

employed by the business spends at least 40 percent of the employee's time at the qualified business facility during the tax period; (2) the business extends by two years the term of its commitment period beyond the time set forth in the incentive agreement; and (3) the business makes a non-refundable payment to the EDA in an amount equal to 10 percent of the maximum amount of the tax credit that the business may receive for the tax period. Under the bill, the EDA would be required to use these payments to provide loans, guarantees, equity investments, grants, or other forms of financing to support small business and downtown or commercial corridor activation activities within enhanced areas or government-restricted municipalities to be used within 12 months following the EDA's receipt of those funds. The EDA would further be required to issue a report each fiscal year detailing how the funds were distributed.

The bill also provides that the credit amount received by a business may first be taken by the tax certificate holder for the tax period for which it was issued, for the tax period in which it was issued, or in any tax period during the time the business is required to maintain the project at a location in New Jersey set forth in the incentive agreement. The bill permits the tax certificate holder to transfer the tax credit amount on or after the date of issuance for use by the transferee in the tax period for which it was issued, for the tax period in which it was issued, or in any of the next three successive tax periods. The bill permits the tax credit holder or transferee to first use the credit against tax liabilities in the tax period in which it was issued or in a succeeding tax period, as authorized by the bill, without being required to amend the tax return for the tax period for which the credit was issued. The bill provides that for certain programs no more than the amount of tax credits equal to the total credit amount, divided by the duration of the tax credit term, in years, may be taken in any tax period.

Additionally, the bill permits a business that participates in the Grow New Jersey Assistance Program or the Urban Transit Hub Program, and which has elected to modify its obligations under an incentive agreement pursuant to P.L.2022, c.134, to request, before December 31, 2024, to reduce the number of Statewide employees specified in the incentive agreement. However, the bill would require the business to certify that the business is requesting to reduce the number of new or retained full-time jobs specified in the incentive agreement commencing with the 2020 tax period and, at the discretion of the business, whether the reduction would continue for each subsequent tax period remaining in the eligibility period.

As amended and reported by the committee, Assembly Bill No. 4046 (2R) is identical to Senate Bill No. 3303 (1R), which was also amended and reported by the committee on this date.

COMMITTEE AMENDMENTS:

The committee amendments remove a provision of the bill that requires a business participating in the Grow New Jersey Assistance Program and Urban Transit Hub Program to certify that all Statewide employment specified in the incentive agreement is assigned to the qualified business facility when that business elects to modify its obligations under an incentive agreement in certain circumstances to reduce the number of Statewide employees specified in the incentive agreement.

FISCAL IMPACT:

The Office of Legislative Services (OLS) concludes that the bill will result in an indeterminate increase in State expenditures and have an indeterminate net impact on State revenues over a multi-year period. The OLS lacks the informational basis to project the magnitude and direction of the bill's countervailing State revenue effects.

The bill will result in a State revenue decrease to the extent that businesses participating in certain State economic development programs choose to waive the on-site requirement for full-time employees at qualified business facilities because the waiver will allow businesses to remain eligible for tax credits which they could not receive under current law.

The bill will result in a State revenue decrease associated with payments made by businesses equal to 10 percent of maximum annual tax credit the business is eligible to receive for a tax period, depending on certain circumstances. These revenues will be offset by increased State expenditures because the bill requires the Economic Development Authority to distribute these payments to support certain economic development activities.

The bill's one-year extension of the deadline by which business participating in the Grow New Jersey Assistance (GROW) Program and the Urban Transit Hub Tax Credit (HUB) Program can terminate incentive agreements may result in State revenue increases to the extent that these businesses would no longer receive tax credits for which they otherwise might have qualified.

The modification of incentive agreements by businesses participating in the GROW and HUB programs will result in an increase in State revenues. Lowering the number of new and retained full-time employees retained by these businesses will cause their tax credits to be reduced.

The provisions of the bill allowing businesses to suspend their obligations under the GROW and HUB programs will result in an increase in State revenues. The overall impact of these provisions on State revenues will be driven by taxpayer decisions to claim tax credits in future tax years. The OLS cannot predict how individual taxpayer decisions will impact State finances in this regard.

The provisions of the bill concerning the timing of tax credit utilization will have an indeterminate impact on State revenues. The overall impact of this provision will be driven by taxpayer decisions to claim tax credits in future years. The OLS cannot predict how individual taxpayer decisions will impact State finances in this regard.

The requirement to utilize certain tax credits in equal installments will also have an indeterminate impact on State revenues. While this requirement may limit State revenue losses in certain fiscal years, the bill may cause the State to experience revenue losses over a longer period of time than it otherwise would under current law.

ASSEMBLY STATE AND LOCAL GOVERNMENT
COMMITTEE

STATEMENT TO

ASSEMBLY, No. 4046

STATE OF NEW JERSEY

DATED: MARCH 11, 2024

The Assembly State and Local Government Committee reports favorably Assembly Bill No. 4046.

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

Under current law, a business that participates in any of these programs is awarded an economic development incentive in the form of tax credits after meeting certain program requirements. Under each program, the business is required to create or retain a certain number of full-time jobs at a qualified business facility, with the number of jobs created or retained varying depending on the program and the location of the qualified business facility. However, in order for a full-time job to be counted towards satisfying the requirements of each program, current law requires full-time employees to spend at least 60 percent of their time at the qualified business facility.

Current law allows a business participating in any of these programs to waive this requirement through March 31, 2024, provided that: (1) any full-time employee employed by the business spends at least 10 percent of the employee's time at the qualified business facility for the 2023 tax period through March 31, 2024; and (2) the business makes a payment of an amount equal to five percent of the amount of the tax credit that the business receives for the 2022 tax period.

The bill would extend this authorization for the tax period beginning on April 1, 2024, and for all subsequent tax periods, for any business that has entered into an amended incentive agreement, provided that: (1) any full-time employee employed by the business spends at least 40 percent of the employee's time at the qualified business facility during the tax period; and (2) the business makes a payment of an amount equal to 20 percent of the amount of the tax credit that the business receives for the tax period, which payment is to be made to the municipal affordable housing trust fund in the municipality in which the qualified business facility is located.

The bill allows the New Jersey Economic Development Authority (“authority”), in consultation with the Division of Taxation in the Department of the Treasury, to authorize a tax certificate holder to carry forward the tax credit issued to the holder pursuant to the bill, for a period to be determined by the authority, in consultation with the Division of Taxation, but not to exceed the 20 tax periods immediately succeeding the tax period for which it was issued. The tax credit will expire thereafter. The bill permits the tax certificate holder to transfer the tax credit amount on or after the date of issuance or at any time after the date of issuance for use by the transferee in the tax period for which it was issued or within a period to be determined by the authority, in consultation with the Division of Taxation, but not to exceed the 20 tax periods immediately succeeding the tax period for which it was issued. The tax certificate holder or transferee may first claim the credit in any tax period that is on or after the date of issuance subject to the carry-forward provision in the bill. The bill provides that no more than the amount of tax credits equal to the total credit amount divided by the duration of the eligibility period in years may be taken in any tax period.

ASSEMBLY APPROPRIATIONS COMMITTEE

STATEMENT TO

ASSEMBLY, No. 4046

with committee amendments

STATE OF NEW JERSEY

DATED: MARCH 14, 2024

The Assembly Appropriations Committee reports favorably and with committee amendments Assembly Bill No. 4046.

As amended, this bill provides certain accommodations to businesses participating in the Business Employment Incentive Program, the Business Retention and Relocation Assistance Grant Program, the Grow New Jersey Assistance Program, and the Urban Transit Hub Program, each of which is administered by the New Jersey Economic Development Authority (EDA).

Under current law, a business that participates in any of these programs is awarded an economic development incentive in the form of tax credits after meeting certain program requirements. Under each program, the business is required to create or retain a certain number of full-time jobs at a qualified business facility, with the number of jobs created or retained varying depending on the program and the location of the qualified business facility. However, in order for a full-time job to be counted towards satisfying the requirements of each program, current law requires full-time employees to spend at least 60 percent of their time at the qualified business facility.

Current law allows a business participating in any of these programs to waive this requirement through March 31, 2024, provided that: (1) any full-time employee employed by the business spends at least 10 percent of the employee's time at the qualified business facility for the 2023 tax period through March 31, 2024; and (2) the business makes a payment of an amount equal to five percent of the amount of the tax credit that the business receives for the 2022 tax period.

The bill would extend this authorization for the tax period beginning on April 1, 2024, and for all subsequent tax periods, for any business that has entered into an incentive agreement, provided that: (1) for a qualified business facility located in an enhanced area or government restricted municipality, any full-time employee employed by the business spends at least 50 percent of the employee's time at the qualified business facility during the tax period; (2) for a qualified business facility located anywhere else in the State, any full-time employee employed by the business spends at least 40 percent of the employee's time at the qualified business facility during the tax period;

(3) the business extends by two years the term of its commitment period beyond the time set forth in the incentive agreement; and (4) the business makes a non-refundable payment to the EDA in an amount equal to 10 percent of the maximum amount of the tax credit that the business may receive for the tax period. Under the bill, the EDA would be required to use these payments to provide loans, guarantees, equity investments, grants, or other forms of financing to support small business and downtown or commercial corridor activation activities within enhanced areas or government-restricted municipalities to be used within 12 months following the EDA's receipt of those funds. The EDA would further be required to issue a report each fiscal year detailing how the funds were distributed.

The bill also provides that the credit amount received by a business may first be taken by the tax certificate holder for the tax period for which it was issued, for the tax period in which it was issued, or in any tax period during the time the business is required to maintain the project at a location in New Jersey set forth in the incentive agreement. The bill permits the tax certificate holder to transfer the tax credit amount on or after the date of issuance for use by the transferee in the tax period for which it was issued, for the tax period in which it was issued, or in any of the next three successive tax periods. The bill permits the tax credit holder or transferee to first use the credit against tax liabilities in the tax period in which it was issued or in a succeeding tax period, as authorized by the bill, without being required to amend the tax return for the tax period for which the credit was issued. The bill provides that no more than the amount of tax credits equal to the total credit amount, divided by the duration of the tax credit term, in years, may be taken in any tax period.

Additionally, the bill permits a business that participates in the Grow New Jersey Assistance Program or the Urban Transit Hub Program, and which has elected to modify its obligations under an incentive agreement pursuant to P.L.2022, c.134, to request, before December 31, 2024, to reduce the number of Statewide employees specified in the incentive agreement. However, the bill would require the business to certify that all Statewide employment specified in the incentive agreement is assigned to the qualified business facility and the business is requesting to reduce the number of new or retained full-time jobs specified in the incentive agreement commencing with the 2020 tax period and, at the discretion of the business, whether the reduction would continue for each subsequent tax period remaining in the eligibility period.

COMMITTEE AMENDMENTS:

The committee amendments revise the requirements imposed on businesses to qualify for the extended accommodations provided under the bill. Specifically, the committee amendments require a business to satisfy the following conditions to qualify for the extended

accommodations beginning on April 1, 2024 and for all subsequent tax periods: (1) for a qualified business facility located in an enhanced area or government restricted municipality, any full-time employee employed by the business spends at least 50 percent of the employee's time at the qualified business facility during the tax period; (2) for a qualified business facility located anywhere else in the State, any full-time employee employed by the business spends at least 40 percent of the employee's time at the qualified business facility during the tax period; (3) the business extends by two years the term of its commitment period beyond the time set forth in the incentive agreement; and (4) the business makes a payment to the EDA of an amount equal to 10 percent of the maximum amount of the tax credit that the business may receive for the tax period.

As introduced, the bill would have required businesses to satisfy the following conditions to qualify for the extended accommodations: (1) any full-time employee employed by the business spends at least 40 percent of the employee's time at the qualified business facility during the tax period; and (2) the business makes a payment of an amount equal to 20 percent of the amount of the tax credit that the business received for the tax period, which payment would have been deposited into a municipal affordable housing trust fund.

The committee amendments also require the EDA to use the payment received from businesses to provide loans, guarantees, equity investments, grants, or other forms of financing to support small business and downtown or commercial corridor activation activities within enhanced areas or government-restricted municipalities. The committee amendments require the EDA to deploy these monies within 12 months of the date of receipt, and the EDA would be required to issue an annual report to the Legislature detailing how the monies were distributed.

The committee amendments also clarify the tax periods in which tax credits may be used under each program. Specifically, the amendments provide that the credit amount received by a business may first be taken by the tax certificate holder for the tax period for which it was issued, for the tax period in which it was issued, or in any tax period during the time the business is required to maintain the project at a location in New Jersey set forth in the incentive agreement. The committee amendments permit the tax certificate holder to transfer the tax credit amount on or after the date of issuance for use by the transferee in the tax period for which it was issued, for the tax period in which it was issued, or in any of the next three successive tax periods. The committee amendments also permit the tax credit holder or transferee to first use the credit against tax liabilities in the tax period in which it was issued or in a succeeding tax period, as authorized by the bill, without being required to amend the tax return for the tax period for which the credit was issued. The committee amendments also permit a business participating in the Grow New

Jersey Assistance Program or the Urban Transit Hub Program that has elected to modify its obligations under an incentive agreement pursuant to P.L.2022, c.134 to request, before December 31, 2024, to reduce the number of Statewide employees specified in the incentive agreement, provided the business certifies that all Statewide employment specified in the incentive agreement is assigned to the qualified business facility and the business is requesting to reduce the number of new or retained full-time jobs specified in the incentive agreement commencing with the 2020 tax period and, at the discretion of the business, whether the reduction would continue for each subsequent tax period remaining in the eligibility period.

FISCAL IMPACT:

Fiscal information for this bill is currently unavailable.

SENATE ECONOMIC GROWTH COMMITTEE

STATEMENT TO

[First Reprint]

ASSEMBLY, No. 4046

with committee amendments

STATE OF NEW JERSEY

DATED: JUNE 10, 2024

The Senate Economic Growth Committee reports favorably and with committee amendments Assembly Bill No. 4046 (1R).

As amended and reported, this bill provides certain accommodations to businesses participating in the Business Employment Incentive Program, the Business Retention and Relocation Assistance Grant Program, the Grow New Jersey Assistance Program, and the Urban Transit Hub Program, each of which is administered by the New Jersey Economic Development Authority (EDA).

Under current law, a business that participates in any of these programs is awarded an economic development incentive in the form of tax credits after meeting certain program requirements. Under each program, the business is required to create or retain a certain number of full-time jobs at a qualified business facility, with the number of jobs created or retained varying depending on the program and the location of the qualified business facility. However, in order for a full-time job to be counted towards satisfying the requirements of each program, current law requires full-time employees to spend at least 60 percent of their time at the qualified business facility.

Current law allows a business participating in any of these programs to waive this requirement through March 31, 2024, provided that: (1) any full-time employee employed by the business spends at least 10 percent of the employee's time at the qualified business facility for the 2023 tax period through March 31, 2024; and (2) the business makes a payment of an amount equal to five percent of the amount of the tax credit that the business receives for the 2022 tax period.

The bill would extend this authorization for the tax period beginning on April 1, 2024, and for all subsequent tax periods, for any business located outside an enhanced area or government-restricted municipality that has entered into an incentive agreement, provided that: (1) for a qualified business facility located outside an enhanced area or government-restricted municipality, any full-time employee employed by the business spends at least 40 percent of the employee's

time at the qualified business facility during the tax period; (2) the business extends by two years the term of its commitment period beyond the time set forth in the incentive agreement; and (3) the business makes a non-refundable payment to the EDA in an amount equal to 10 percent of the maximum amount of the tax credit that the business may receive for the tax period. Under the bill, the EDA would be required to use these payments to provide loans, guarantees, equity investments, grants, or other forms of financing to support small business and downtown or commercial corridor activation activities within enhanced areas or government-restricted municipalities to be used within 12 months following the EDA's receipt of those funds. The EDA would further be required to issue a report each fiscal year detailing how the funds were distributed.

The bill also provides that the credit amount received by a business may first be taken by the tax certificate holder for the tax period for which it was issued, for the tax period in which it was issued, or in any tax period during the time the business is required to maintain the project at a location in New Jersey set forth in the incentive agreement. The bill permits the tax certificate holder to transfer the tax credit amount on or after the date of issuance for use by the transferee in the tax period for which it was issued, for the tax period in which it was issued, or in any of the next three successive tax periods. The bill permits the tax credit holder or transferee to first use the credit against tax liabilities in the tax period in which it was issued or in a succeeding tax period, as authorized by the bill, without being required to amend the tax return for the tax period for which the credit was issued. The bill provides that no more than the amount of tax credits equal to the total credit amount, divided by the duration of the tax credit term, in years, may be taken in any tax period.

Additionally, the bill permits a business that participates in the Grow New Jersey Assistance Program or the Urban Transit Hub Program, and which has elected to modify its obligations under an incentive agreement pursuant to P.L.2022, c.134, to request, before December 31, 2024, to reduce the number of Statewide employees specified in the incentive agreement. However, the bill would require the business to certify that all Statewide employment specified in the incentive agreement is assigned to the qualified business facility and the business is requesting to reduce the number of new or retained full-time jobs specified in the incentive agreement commencing with the 2020 tax period and, at the discretion of the business, whether the reduction would continue for each subsequent tax period remaining in the eligibility period.

As amended and reported by the committee, Assembly Bill No. 4046 (1R) is identical to Senate Bill No. 3303, which was also amended and reported by the committee on this date.

COMMITTEE AMENDMENTS:

The committee amended the bill to remove a provision that authorized certain qualified business facilities located in enhanced areas or government-restricted municipalities to waive the requirement that a full-time employee who is employed by the business is required to spend at least 60 percent of the employee's time at the qualified business. The committee amendments provide that this waiver is only applicable to certain qualified businesses located outside an enhanced area or government-restricted municipality that otherwise meet the requirements of the bill.

SENATE BUDGET AND APPROPRIATIONS COMMITTEE

STATEMENT TO

[Second Reprint] **ASSEMBLY, No. 4046**

with committee amendments

STATE OF NEW JERSEY

DATED: JUNE 26, 2024

The Senate Budget and Appropriations Committee reports favorably and with committee amendments Assembly Bill No. 4046 (2R).

As amended and reported, this bill provides certain accommodations to businesses participating in the Business Employment Incentive Program, the Business Retention and Relocation Assistance Grant Program, the Grow New Jersey Assistance Program, and the Urban Transit Hub Program, each of which is administered by the New Jersey Economic Development Authority (EDA).

Under current law, a business that participates in any of these programs is awarded an economic development incentive in the form of tax credits after meeting certain program requirements. Under each program, the business is required to create or retain a certain number of full-time jobs at a qualified business facility, with the number of jobs created or retained varying depending on the program and the location of the qualified business facility. However, in order for a full-time job to be counted towards satisfying the requirements of each program, current law requires full-time employees to spend at least 60 percent of their time at the qualified business facility.

Current law allows a business participating in any of these programs to waive this requirement through March 31, 2024, provided that: (1) any full-time employee employed by the business spends at least 10 percent of the employee's time at the qualified business facility for the 2023 tax period through March 31, 2024; and (2) the business makes a payment of an amount equal to five percent of the amount of the tax credit that the business receives for the 2022 tax period.

The bill would extend this authorization for the tax period beginning on April 1, 2024, and for all subsequent tax periods, for any business located outside an enhanced area or government-restricted municipality that has entered into an incentive agreement, provided that: (1) for a qualified business facility located outside an enhanced area or government-restricted municipality, any full-time employee

employed by the business spends at least 40 percent of the employee's time at the qualified business facility during the tax period; (2) the business extends by two years the term of its commitment period beyond the time set forth in the incentive agreement; and (3) the business makes a non-refundable payment to the EDA in an amount equal to 10 percent of the maximum amount of the tax credit that the business may receive for the tax period. Under the bill, the EDA would be required to use these payments to provide loans, guarantees, equity investments, grants, or other forms of financing to support small business and downtown or commercial corridor activation activities within enhanced areas or government-restricted municipalities to be used within 12 months following the EDA's receipt of those funds. The EDA would further be required to issue a report each fiscal year detailing how the funds were distributed.

The bill also provides that the credit amount received by a business may first be taken by the tax certificate holder for the tax period for which it was issued, for the tax period in which it was issued, or in any tax period during the time the business is required to maintain the project at a location in New Jersey set forth in the incentive agreement. The bill permits the tax certificate holder to transfer the tax credit amount on or after the date of issuance for use by the transferee in the tax period for which it was issued, for the tax period in which it was issued, or in any of the next three successive tax periods. The bill permits the tax credit holder or transferee to first use the credit against tax liabilities in the tax period in which it was issued or in a succeeding tax period, as authorized by the bill, without being required to amend the tax return for the tax period for which the credit was issued. The bill provides that for certain programs no more than the amount of tax credits equal to the total credit amount, divided by the duration of the tax credit term, in years, may be taken in any tax period.

Additionally, the bill permits a business that participates in the Grow New Jersey Assistance Program or the Urban Transit Hub Program, and which has elected to modify its obligations under an incentive agreement pursuant to P.L.2022, c.134, to request, before December 31, 2024, to reduce the number of Statewide employees specified in the incentive agreement. However, the bill would require the business to certify that the business is requesting to reduce the number of new or retained full-time jobs specified in the incentive agreement commencing with the 2020 tax period and, at the discretion of the business, whether the reduction would continue for each subsequent tax period remaining in the eligibility period.

As amended and reported by the committee, Assembly Bill No. 4046 (2R) is identical to Senate Bill No. 3303 (1R), which was also amended and reported by the committee on this date.

COMMITTEE AMENDMENTS:

The committee amendments remove a provision of the bill that requires a business participating in the Grow New Jersey Assistance Program and Urban Transit Hub Program to certify that all Statewide employment specified in the incentive agreement is assigned to the qualified business facility when that business elects to modify its obligations under an incentive agreement in certain circumstances to reduce the number of Statewide employees specified in the incentive agreement.

FISCAL IMPACT:

The Office of Legislative Services (OLS) concludes that the bill will result in an indeterminate increase in State expenditures and have an indeterminate net impact on State revenues over a multi-year period. The OLS lacks the informational basis to project the magnitude and direction of the bill's countervailing State revenue effects.

The bill will result in a State revenue decrease to the extent that businesses participating in certain State economic development programs choose to waive the on-site requirement for full-time employees at qualified business facilities because the waiver will allow businesses to remain eligible for tax credits which they could not receive under current law.

The bill will result in a State revenue decrease associated with payments made by businesses equal to 10 percent of maximum annual tax credit the business is eligible to receive for a tax period, depending on certain circumstances. These revenues will be offset by increased State expenditures because the bill requires the Economic Development Authority to distribute these payments to support certain economic development activities.

The bill's one-year extension of the deadline by which business participating in the Grow New Jersey Assistance (GROW) Program and the Urban Transit Hub Tax Credit (HUB) Program can terminate incentive agreements may result in State revenue increases to the extent that these businesses would no longer receive tax credits for which they otherwise might have qualified.

The modification of incentive agreements by businesses participating in the GROW and HUB programs will result in an increase in State revenues. Lowering the number of new and retained full-time employees retained by these businesses will cause their tax credits to be reduced.

The provisions of the bill allowing businesses to suspend their obligations under the GROW and HUB programs will result in an increase in State revenues. The overall impact of these provisions on State revenues will be driven by taxpayer decisions to claim tax credits in future tax years. The OLS cannot predict how individual taxpayer decisions will impact State finances in this regard.

The provisions of the bill concerning the timing of tax credit utilization will have an indeterminate impact on State revenues. The overall impact of this provision will be driven by taxpayer decisions to claim tax credits in future years. The OLS cannot predict how individual taxpayer decisions will impact State finances in this regard.

The requirement to utilize certain tax credits in equal installments will also have an indeterminate impact on State revenues. While this requirement may limit State revenue losses in certain fiscal years, the bill may cause the State to experience revenue losses over a longer period of time than it otherwise would under current law.

LEGISLATIVE FISCAL ESTIMATE

[First Reprint]

ASSEMBLY, No. 4046

STATE OF NEW JERSEY 221st LEGISLATURE

DATED: MARCH 21, 2024

SUMMARY

- Synopsis:** Extends certain accommodations for businesses participating in State economic development programs.
- Type of Impact:** Multi-year increase in State expenditures.
Multi-year net impact on State revenues.
- Agencies Affected:** New Jersey Economic Development Authority.

Office of Legislative Services Estimate

Fiscal Impact	<u>FY 2024 & Annually Thereafter</u>
State Expenditure Increase	Indeterminate
State Revenue Net Impact	Indeterminate

- The Office of Legislative Services (OLS) concludes that the bill will result in an indeterminate increase in State expenditures and have an indeterminate net impact on State revenues over a multi-year period. The OLS lacks the informational basis to project the magnitude and direction of the bill's countervailing State revenue effects.
- The bill will result in a State revenue decrease to the extent that businesses participating in certain State economic development programs choose to waive the on-site requirements for full-time employees at qualified business facilities because the waiver will allow businesses to remain eligible for tax credits which they could not receive under current law.
- The bill will result in a State revenue increase associated with payments made by businesses equal to 10 percent of maximum annual tax credit the business is eligible to receive for a tax period, depending on certain circumstances. These revenues will be offset by increased State expenditures because the bill requires the New Jersey Economic Development Authority to distribute these payments to support certain economic development activities.
- The bill's one-year extension of the deadline by which businesses participating in the Grow New Jersey Assistance (GROW) Program and the Urban Transit Hub Tax Credit (HUB)

Program can terminate incentive agreements may result in State revenue increases to the extent that these businesses would no longer receive tax credits for which they otherwise might have qualified.

- The modification of incentive agreements by businesses participating in the GROW and HUB programs will result in an increase in State revenues. Lowering the number of new and retained full-time employees retained by these business will cause their tax credit awards to be reduced.
- The provisions of the bill allowing businesses to suspend their obligations under the GROW and HUB programs will have an indeterminate impact on State revenues. The overall impact of these provisions on State revenues will be driven by taxpayer decisions to claim tax credits in future tax years. The OLS cannot predict how individual taxpayer decisions will impact State finances in this regard.
- The provisions of the bill concerning the timing of tax credit utilization will have an indeterminate impact on State revenues. The overall impact of this provision will be driven by taxpayer decisions to claim tax credits in future tax years. The OLS cannot predict how individual taxpayer decisions will impact State finances in this regard.
- The requirement to utilize certain tax credits in equal installments will also have an indeterminate impact on State revenues. While this requirement may limit State revenue losses in certain fiscal years, the bill may cause the State to experience revenue losses over a longer period of time that it otherwise would under current law.

BILL DESCRIPTION

The bill provides certain accommodations to businesses participating in the Business Retention and Relocation Assistance Grant Program, the Business Employment Incentive Program, the GROW Program, and the HUB Program, each of which is administered by the Economic Development Authority. Some provisions of the bill apply to all four programs, while others apply only to the GROW and HUB programs.

FISCAL ANALYSIS

EXECUTIVE BRANCH

None received.

OFFICE OF LEGISLATIVE SERVICES

The OLS concludes that the bill will result in an indeterminate multi-year increase in State expenditures and have an indeterminate multi-year net impact on State revenues.

Suspension of On-Site Attendance Requirements. Under current law, businesses participating in the Business Employment Incentive Program, Business Retention and Relocation Assistance Grant Program, and the GROW and HUB programs are awarded economic development incentives in the form of tax credits for meeting certain program thresholds. One of these program thresholds

is the creation or retention of certain number of full-time jobs at a qualified business facility. The number of jobs created or retained varies depending on the program and the location of the qualified business facility. In order for a full-time job to be counted towards satisfying the program requirements under current law, a full-time employee must spend at least 60 percent of their time at a qualified business facility.

P.L.2022, c.134 allowed businesses to waive, for the period beginning July 1, 2022 and ending on December 31, 2023, the requirement that a full-time employee who is employee by the business must spend at least 60 percent of the employee's time at a qualified business facility. A business that elected the waiver must satisfy two criteria. First, any full-time employee employed by the business was required to spend at least ten percent of the employee's time at the qualified business facility through the 2023 tax period. Second, the business was required to make a payment to the Economic Development Authority in an amount equal to five percent of the amount of the tax credit the business received for the 2022 tax period. The authority was required to use funds received via these payments to support small business activities and downtown activation or commercial corridor activities. P.L.2023, c.261 extended the deadline for choosing the waiver option to March 31, 2024.

The bill allows a business to waive the on-site attendance requirements for any tax period beginning on or after April 1, 2024. Under the bill, a business that elects to waive these requirements the must satisfy three criteria. First, if a qualified business facility is located in an enhanced area or government restricted-municipality, any full-time employee employed the business must spend at least 50 percent of the employee's time at the qualified business facility. If a qualified business facility is located anywhere else in the State, any full-time employee employed by the business must spend at least 40 percent of the employee's time at the qualified business facility. Second, the business is required to extend by two years the term of its commitment period beyond the time set forth in the incentive agreement. Third, the business is required to make a payment to the Economic Development Authority equal to 10 percent of the maximum amount of the tax credit that the business may receive for the tax period. As under current law, the bill requires to use funds received via these payments to support small business activities and downtown activation or commercial corridor activities.

The OLS concludes that these allowances will result in a decrease in State revenues. Without the changes to the on-site attendance requirement, these businesses would likely not be eligible to receive tax credits because they would not satisfy all of the current statutory requirements of each program; in this situation, a business could not use a previously authorized tax credit, thereby increasing their State tax liabilities. Because the bill allows a business that elects to use the waiver provision to remain eligible to earn the full amount of the tax credit awards, State revenues would be lower than they otherwise would be under current law. The OLS cannot predict how many businesses will use the waiver, or the total amount of tax credits that would be foregone if the waiver were not allowed.

The OLS notes that these provisions will also increase State revenues because the bill requires businesses that waive the on-site attendance requirements beginning April 1, 2024 to make a payment to the Economic Development Authority equal to equal to 10 percent of the maximum amount of the tax credit that the business may receive for the tax period. However, these revenues will be offset by an increase in State expenditures because the bill requires the authority to use these payments to provide loans, guarantees, equity investments, and other forms of financing to support certain economic development activities with municipalities that qualify as an enhanced area or a government-restricted municipality pursuant to the Emerge Program Act. According to the authority, Atlantic City, Paterson, and Trenton are considered to be "government-restricted municipalities," while Camden, East Orange, Elizabeth, Hoboken, Jersey City, Newark, New Brunswick, Passaic, Paulsboro, and Salem City are considered to be "enhanced areas."

Termination of Incentive Agreements. During the COVID-19 public health emergency, the Economic Development Authority allowed businesses participating in the GROW program to terminate their program agreements any time before December 31, 2022 without the authority recapturing previously distributed tax credits. P.L.2022, c.134 extended this accommodation to December 31, 2023, commencing with the 2020 tax period or any subsequent tax period ending on or before December 31, 2023 and provided this same benefit to a business that executed an approval letter under the HUB program. The bill extends the deadline for terminating a program agreement to December 31, 2024.

The OLS concludes that these provisions of the bill will result in an indeterminate increase in State revenues. Exercising this option would prevent businesses that have been awarded tax credits through the GROW and HUB programs from claiming any credits not issued prior to termination. Any requested, but uncertified or unissued, tax credits would be forfeited in consideration of the termination. Assuming these businesses remain New Jersey taxpayers, they would have increased tax liabilities in the tax years or privilege periods following termination of the incentive agreement. Information available through the Economic Development Authority indicates that about 30 program agreements have been terminated through the end of calendar year 2023.

Incentive agreement termination is available for all projects demonstrating changes to their business model, real estate decision making, and job declines related to the COVID-19 pandemic. Businesses may terminate their incentive agreement with no ongoing compliance requirements. Tax credits already awarded to businesses are not subject to recapture. Applicants must explain that the impact of the public health emergency result in changes to the business, business model, or the continued to desire to participate in GROW or HUB. Once executed, a termination agreement cannot be amended by the authority or the business. Incentive termination agreements include a provision allowing the Economic Development Authority to seek recapture of any tax credits if it is determined that a business' decision to leave the program was made without consideration of COVID-19.

Temporary Suspension of Program Obligations. The bill extends the time allowed under current law for a business to suspend its obligations under a GROW tax credit, and to extend the term of eligibility for the same period of time. Current law allows a suspension of a business's obligations for the 2020, 2021, 2022, and 2023 tax periods. The bill extends this provision to include the 2024 tax period as well. The bill also extends the ability of a business to suspend its obligations under the HUB program for the same period of time being afforded to GROW program participants.

The OLS concludes that these provisions of the bill would have an indeterminate impact on State revenues. Although the bill allows for the suspension of participants' eligibility for tax credits during certain tax periods, it also extends the period of time for which a business that makes this election is eligible for tax credits. This extension would allow businesses to remain eligible to receive tax credits for a longer period of time than allowed under current law. The overall impact of this provision on State revenues will be driven by taxpayer decisions to claim tax credits in future tax years. The OLS cannot predict how individual taxpayer decisions will impact State finances in this regard. Information available through the Economic Development Authority indicates about 40 requests to suspend program obligations were approved through December 31, 2023.

Businesses participating in the GROW and HUB programs may receive tax credits for a period of up to ten years. Under current law, businesses participating in the GROW and HUB programs may carry forward unused tax credits for 20 successive tax periods. Given that current law allows these businesses to suspend GROW and HUB program requirements for four years and the bill allows the suspension period to be extended for one additional year, the tax credit carry forward

period for businesses that elect to suspend the GROW and HUB programs may be extended for up to five additional years.

Application of Tax Credits. The bill provides that a tax credit may first be taken by the tax certificate holder for the tax period for which it was issued, for the tax period in which it was issued, or any tax period during the time the business is required to maintain the project at a location in New Jersey set forth in the incentive agreement. A tax credit that is transferred may first be taken by the tax certificate holder for the tax period for which it was issued, for the tax period in which it was issued, or in any of the next three successive tax periods. The bill permits a tax credit holder or transferee to first use a tax credit in the tax period in which it was issued or in succeeding tax period without being required to file an amended tax return for the tax period for which the tax credit was issued.

The OLS concludes that these provisions of the bill would have an indeterminate impact on State revenues. Generally, these provisions allow taxpayers to begin applying tax credits later than currently allowed. The Economic Development Authority currently requires taxpayers to begin applying their tax credits in the tax credit “vintage year,” which is the tax period in which the authority approves a tax credit application. However, there is generally a lag between the year in which a tax credit application is approved and the year in which a taxpayer receives a tax credit certificate because the authority determines that the taxpayer qualifies for the tax credit because they met the requirements of the incentive agreement. In order to begin utilizing their tax credits, a taxpayer would have to file an amended tax return for the tax credit vintage year. The bill allows taxpayers to start utilizing tax credits in the in tax periods after the vintage year. The overall impact of these provisions on State revenues will be driven by taxpayer decisions to claim tax credits in future tax years.

Utilization of Tax Credits in Equal Installments. The bill also amends the statutes governing the Business Retention and Relocation Assistance Program and the HUB program to provide that no more than the amount of tax credits equal to the total credit amount divided by the duration of the eligibility period in years may be taken in any period. This restriction on the application of tax credits under GROW was added by P.L.2014, c.63.

Current law includes constraints on the application of tax credits, which constraints vary by program. The regulations governing the Business Retention and Relocation Assistance Program provide that tax credits awarded through the program are to be applied over a period of one to six years, depending on the number of full-time employees relocated or retained. Current law requires HUB tax credits to be taken in equal installments over a ten-year period. The amount of a HUB tax credit that exceeds a business’s tax liabilities for the tax period may be carried forward for use in the next 20 successive tax periods.

The OLS concludes that these provisions will have an indeterminate impact on State revenues. The bill does not increase or decrease the total amount of tax credits that may be applied against tax liabilities; instead, the bill limits the amount of tax credits that may be utilized in a tax period. While these provisions may limit the State revenue loss in a fiscal year due to the application of these tax credits against tax liabilities, they may cause the State to experience revenue losses over a longer period of time that it otherwise would under current law. The OLS cannot provide a specific estimate of the difference in the amount of tax credits that may be applied in a tax period under current law and the maximum amount of tax credits that may applied in a tax period in a tax year due to these limitations.

Additional Modifications to Incentive Agreements. P.L.2020, c.156 allowed a business that entered into an incentive agreement under the GROW program to reduce the number of new or retained full-time jobs specified in the incentive agreement based on a certification by the business of the eligible positions at the qualified business facility commencing with the 2020 tax period and each subsequent tax period remaining in the tax credit eligibility period. The authority is required

to calculate a new tax credit amount for the remainder of the eligibility period based on the reduced number employees. The deadline to make this request was originally December 31, 2020; however, subsequent enactments extended the deadline to make this election to December 31, 2023.

The bill renews this option for a business participating in the GROW program and extends this privilege to businesses participating in HUB program elected to modify its incentive agreement pursuant to P.L.2022, c.134 to reduce the number of Statewide employees specified in the incentive agreement. The business is required to certify that all Statewide employment specified in the incentive agreement is assigned to a qualified business facility and that the business is requesting to reduce the number of new or retained full-time jobs specified in the incentive agreement commencing with the 2020 tax period and whether the reduction will continue for each subsequent tax period remaining in the eligibility period. The election to modify an incentive agreement must be made before December 31, 2024.

The OLS concludes that these provisions will result in an indeterminate increase in State tax revenues. The amount of a tax credit awarded through either GROW and HUB is based, in part, on the number of new or retained full-time jobs employed at a qualified business facility. A reduction in the number of new or retained full-time jobs will require the authority to recalculate a business's GROW or HUB tax credit award. It is likely that the new tax credit amount will be lower than the original tax credit award. Assuming that businesses that make this election remain New Jersey taxpayers, they would have increased tax liabilities in tax periods following modification of the incentive agreement because they will be able to claim a lesser amount of tax credits against those obligations.

Section: Revenue, Finance, and Appropriations
Analyst: Scott A. Brodsky
Staff Fiscal & Budget Analyst
Approved: Thomas Koenig
Legislative Budget and Finance Officer

This legislative fiscal estimate has been produced by the Office of Legislative Services due to the failure of the Executive Branch to respond to our request for a fiscal note.

This fiscal estimate has been prepared pursuant to P.L.1980, c.67 (C.52:13B-6 et seq.).

LEGISLATIVE FISCAL ESTIMATE

[Third Reprint]

ASSEMBLY, No. 4046

STATE OF NEW JERSEY 221st LEGISLATURE

DATED: JULY 3, 2024

SUMMARY

- Synopsis:** Extends certain accommodations for businesses participating in State economic development programs.
- Type of Impact:** Multi-year increase in State expenditures.
Multi-year net impact on State revenues.
- Agencies Affected:** New Jersey Economic Development Authority.

Office of Legislative Services Estimate

Fiscal Impact	<u>FY 2025 & Annually Thereafter</u>
State Expenditure Increase	Indeterminate
State Revenue Net Impact	Indeterminate

- The Office of Legislative Services (OLS) concludes that the bill will result in an indeterminate increase in State expenditures and have an indeterminate net impact on State revenues over a multi-year period. The OLS lacks the informational basis to project the magnitude and direction of the bill's countervailing State revenue effects.
- The bill will result in a State revenue decrease to the extent that businesses participating in certain State economic development programs choose to waive the on-site requirements for full-time employees at qualified business facilities because the waiver will allow businesses to remain eligible for tax credits which they could not receive under current law.
- The bill will result in a State revenue increase associated with payments made by businesses equal to 10 percent of maximum annual tax credit the business is eligible to receive for a tax period, depending on certain circumstances. These revenues will be offset by increased State expenditures because the bill requires the New Jersey Economic Development Authority to distribute these payments to support certain economic development activities.
- The bill's one-year extension of the deadline by which businesses participating in the Grow New Jersey Assistance (GROW) Program and the Urban Transit Hub Tax Credit (HUB)

Program can terminate incentive agreements may result in State revenue increases to the extent that these businesses would no longer receive tax credits for which they otherwise might have qualified.

- The modification of incentive agreements by businesses participating in the GROW and HUB programs will result in an increase in State revenues. Lowering the number of new and retained full-time employees retained by these business will cause their tax credit awards to be reduced.
- The provisions of the bill allowing businesses to suspend their obligations under the GROW and HUB programs will have an indeterminate impact on State revenues. The overall impact of these provisions on State revenues will be driven by taxpayer decisions to claim tax credits in future tax years. The OLS cannot predict how individual taxpayer decisions will impact State finances in this regard.
- The provisions of the bill concerning the timing of tax credit utilization will have an indeterminate impact on State revenues. The overall impact of this provision will be driven by taxpayer decisions to claim tax credits in future tax years. The OLS cannot predict how individual taxpayer decisions will impact State finances in this regard.
- The requirement to utilize certain tax credits in equal installments will also have an indeterminate impact on State revenues. While this requirement may limit State revenue losses in certain fiscal years, the bill may cause the State to experience revenue losses over a longer period of time that it otherwise would under current law.

BILL DESCRIPTION

The bill provides certain accommodations to businesses participating in the Business Retention and Relocation Assistance Grant Program, the Business Employment Incentive Program, the GROW Program, and the HUB Program, each of which is administered by the Economic Development Authority. Some provisions of the bill apply to all four programs, while others apply only to the GROW and HUB programs.

FISCAL ANALYSIS

EXECUTIVE BRANCH

None received.

OFFICE OF LEGISLATIVE SERVICES

The OLS concludes that the bill will result in an indeterminate multi-year increase in State expenditures and have an indeterminate multi-year net impact on State revenues.

Suspension of On Site Attendance Requirements. Under current law, businesses participating in the Business Employment Incentive Program, Business Retention and Relocation Assistance Grant Program, and the GROW and HUB programs are awarded economic development incentives in the form of tax credits for meeting certain program thresholds. One of these program thresholds

is the creation or retention of certain number of full-time jobs at a qualified business facility. The number of jobs created or retained varies depending on the program and the location of the qualified business facility. In order for a full-time job to be counted towards satisfying the program requirements under current law, a full-time employee must spend at least 60 percent of their time at a qualified business facility.

P.L.2022, c.134 allowed businesses to waive, for the period beginning July 1, 2022 and ending on December 31, 2023, the requirement that a full-time employee who is employee by the business must spend at least 60 percent of the employee's time at a qualified business facility. A business that elected the waiver must satisfy two criteria. First, any full-time employee employed by the business was required to spend at least ten percent of the employee's time at the qualified business facility through the 2023 tax period. Second, the business was required to make a payment to the Economic Development Authority in an amount equal to five percent of the amount of the tax credit the business received for the 2022 tax period. The authority was required to use funds received via these payments to support small business activities and downtown activation or commercial corridor activities. P.L.2023, c.261 extended the deadline for choosing the waiver option to March 31, 2024.

The bill allows a business to waive the on-site attendance requirements for any tax period beginning on or after April 1, 2024. Under the bill, a business that elects to waive these requirements the must satisfy three criteria. First, if a qualified business facility is located outside of an enhanced area or a government-restricted municipality, any full-time employee employed by the business must spend at least 40 percent of the employee's time at the qualified business facility. Second, the business is required to extend by two years the term of its commitment period beyond the time set forth in the incentive agreement. Third, the business is required to make a payment to the Economic Development Authority equal to 10 percent of the maximum amount of the tax credit that the business may receive for the tax period. As under current law, the bill requires to use funds received via these payments to support small business activities and downtown activation or commercial corridor activities.

The OLS concludes that these allowances will result in a decrease in State revenues. Without the changes to the on-site attendance requirement, these businesses would likely not be eligible to receive tax credits because they would not satisfy all of the current statutory requirements of each program; in this situation, a business could not use a previously authorized tax credit, thereby increasing their State tax liabilities. Because the bill allows a business that elects to use the waiver provision to remain eligible to earn the full amount of the tax credit awards, State revenues would be lower than they otherwise would be under current law. The OLS cannot predict how many businesses will use the waiver, or the total amount of tax credits that would be foregone if the waiver were not allowed.

The OLS notes that these provisions will also increase State revenues because the bill requires businesses that waive the on-site attendance requirements beginning April 1, 2024 to make a payment to the Economic Development Authority equal to 10 percent of the maximum amount of the tax credit that the business may receive for the tax period. However, these revenues will be offset by an increase in State expenditures because the bill requires the authority to use these payments to provide loans, guarantees, equity investments, and other forms of financing to support certain economic development activities with municipalities that qualify as an enhanced area or a government-restricted municipality pursuant to the Emerge Program Act. According to the authority, Atlantic City, Paterson, and Trenton are considered to be "government-restricted municipalities," while Camden, East Orange, Elizabeth, Hoboken, Jersey City, Newark, New Brunswick, Passaic, Paulsboro, and Salem City are considered to be "enhanced areas."

Termination of Incentive Agreements. During the COVID-19 public health emergency, the Economic Development Authority allowed businesses participating in the GROW program to terminate their program agreements any time before December 31, 2022 without the authority recapturing previously distributed tax credits. P.L.2022, c.134 extended this accommodation to December 31, 2023, commencing with the 2020 tax period or any subsequent tax period ending on or before December 31, 2023 and provided this same benefit to a business that executed an approval letter under the HUB program. The bill extends the deadline for terminating a program agreement to December 31, 2024.

The OLS concludes that these provisions of the bill will result in an indeterminate increase in State revenues. Exercising this option would prevent businesses that have been awarded tax credits through the GROW and HUB programs from claiming any credits not issued prior to termination. Any requested, but uncertified or unissued, tax credits would be forfeited in consideration of the termination. Assuming these businesses remain New Jersey taxpayers, they would have increased tax liabilities in the tax years or privilege periods following termination of the incentive agreement. Information available through the Economic Development Authority indicates that about 30 program agreements have been terminated through the end of calendar year 2023.

Incentive agreement termination is available for all projects demonstrating changes to their business model, real estate decision making, and job declines related to the COVID-19 pandemic. Businesses may terminate their incentive agreement with no ongoing compliance requirements. Tax credits already awarded to businesses are not subject to recapture. Applicants must explain that the impact of the public health emergency result in changes to the business, business model, or the continued to desire to participate in GROW or HUB. Once executed, a termination agreement cannot be amended by the authority or the business. Incentive termination agreements include a provision allowing the Economic Development Authority to seek recapture of any tax credits if it is determined that a business' decision to leave the program was made without consideration of COVID-19.

Temporary Suspension of Program Obligations. The bill extends the time allowed under current law for a business to suspend its obligations under a GROW tax credit, and to extend the term of eligibility for the same period of time. Current law allows a suspension of a business's obligations for the 2020, 2021, 2022, and 2023 tax periods. The bill extends this provision to include the 2024 tax period as well. The bill also extends the ability of a business to suspend its obligations under the HUB program for the same period of time being afforded to GROW program participants.

The OLS concludes that these provisions of the bill would have an indeterminate impact on State revenues. Although the bill allows for the suspension of participants' eligibility for tax credits during certain tax periods, it also extends the period of time for which a business that makes this election is eligible for tax credits. This extension would allow businesses to remain eligible to receive tax credits for a longer period of time than allowed under current law. The overall impact of this provision on State revenues will be driven by taxpayer decisions to claim tax credits in future tax years. The OLS cannot predict how individual taxpayer decisions will impact State finances in this regard. Information available through the Economic Development Authority indicates about 40 requests to suspend program obligations were approved through December 31, 2023.

Businesses participating in the GROW and HUB programs may receive tax credits for a period of up to ten years. Under current law, businesses participating in the GROW and HUB programs may carry forward unused tax credits for 20 successive tax periods. Given that current law allows these businesses to suspend GROW and HUB program requirements for four years and the bill allows the suspension period to be extended for one additional year, the tax credit carry forward

period for businesses that elect to suspend the GROW and HUB programs may be extended for up to five additional years.

Application of Tax Credits. The bill provides that a tax credit may first be taken by the tax certificate holder for the tax period for which it was issued, for the tax period in which it was issued, or any tax period during the time the business is required to maintain the project at a location in New Jersey set forth in the incentive agreement. A tax credit that is transferred may first be taken by the tax certificate holder for the tax period for which it was issued, for the tax period in which it was issued, or in any of the next three successive tax periods. The bill permits a tax credit holder or transferee to first use a tax credit in the tax period in which it was issued or in succeeding tax period without being required to file an amended tax return for the tax period for which the tax credit was issued.

The OLS concludes that these provisions of the bill would have an indeterminate impact on State revenues. Generally, these provisions allow taxpayers to begin applying tax credits later than currently allowed. The Economic Development Authority currently requires taxpayers to begin applying their tax credits in the tax credit “vintage year,” which is the tax period in which the authority approves a tax credit application. However, there is generally a lag between the year in which a tax credit application is approved and the year in which a taxpayer receives a tax credit certificate because the authority determines that the taxpayer qualifies for the tax credit because they met the requirements of the incentive agreement. In order to begin utilizing their tax credits, a taxpayer would have to file an amended tax return for the tax credit vintage year. The bill allows taxpayers to start utilizing tax credits in the in tax periods after the vintage year. The overall impact of these provisions on State revenues will be driven by taxpayer decisions to claim tax credits in future tax years.

Utilization of Tax Credits in Equal Installments. The bill also amends the statutes governing the Business Retention and Relocation Assistance Program and the HUB program to provide that no more than the amount of tax credits equal to the total credit amount divided by the duration of the eligibility period in years may be taken in any period. This restriction on the application of tax credits under GROW was added by P.L.2014, c.63.

Current law includes constraints on the application of tax credits, which constraints vary by program. The regulations governing the Business Retention and Relocation Assistance Program provide that tax credits awarded through the program are to be applied over a period of one to six years, depending on the number of full-time employees relocated or retained. Current law requires HUB tax credits to be taken in equal installments over a ten-year period. The amount of a HUB tax credit that exceeds a business’s tax liabilities for the tax period may be carried forward for use in the next 20 successive tax periods.

The OLS concludes that these provisions will have an indeterminate impact on State revenues. The bill does not increase or decrease the total amount of tax credits that may be applied against tax liabilities; instead, the bill limits the amount of tax credits that may be utilized in a tax period. While these provisions may limit the State revenue loss in a fiscal year due to the application of these tax credits against tax liabilities, they may cause the State to experience revenue losses over a longer period of time that it otherwise would under current law. The OLS cannot provide a specific estimate of the difference in the amount of tax credits that may be applied in a tax period under current law and the maximum amount of tax credits that may applied in a tax period in a tax year due to these limitations.

Additional Modifications to Incentive Agreements. P.L.2020, c.156 allowed a business that entered into an incentive agreement under the GROW program to reduce the number of new or retained full-time jobs specified in the incentive agreement based on a certification by the business of the eligible positions at the qualified business facility commencing with the 2020 tax period and each subsequent tax period remaining in the tax credit eligibility period. The authority is required

to calculate a new tax credit amount for the remainder of the eligibility period based on the reduced number employees. The deadline to make this request was originally December 31, 2020; however, subsequent enactments extended the deadline to make this election to December 31, 2023.

The bill renews this option for a business participating in the GROW program and extends this privilege to businesses participating in HUB program elected to modify its incentive agreement pursuant to P.L.2022, c.134 to reduce the number of Statewide employees specified in the incentive agreement. The business is required to certify that the business is requesting to reduce the number of new or retained full-time jobs specified in the incentive agreement commencing with the 2020 tax period and whether the reduction will continue for each subsequent tax period remaining in the eligibility period. The election to modify an incentive agreement must be made before December 31, 2024.

The OLS concludes that these provisions will result in an indeterminate increase in State tax revenues. The amount of a tax credit awarded through either GROW and HUB is based, in part, on the number of new or retained full-time jobs employed at a qualified business facility. A reduction in the number of new or retained full-time jobs will require the authority to recalculate a business's GROW or HUB tax credit award. It is likely that the new tax credit amount will be lower than the original tax credit award. Assuming that businesses that make this election remain New Jersey taxpayers, they would have increased tax liabilities in tax periods following modification of the incentive agreement because they will be able to claim a lesser amount of tax credits against those obligations.

Section: Revenue, Finance, and Appropriations
Analyst: Scott A. Brodsky
Staff Fiscal & Budget Analyst
Approved: Thomas Koenig
Legislative Budget and Finance Officer

This legislative fiscal estimate has been produced by the Office of Legislative Services due to the failure of the Executive Branch to respond to our request for a fiscal note.

This fiscal estimate has been prepared pursuant to P.L.1980, c.67 (C.52:13B-6 et seq.).

SENATE, No. 3303

STATE OF NEW JERSEY

221st LEGISLATURE

INTRODUCED MAY 20, 2024

Sponsored by:

Senator NELLIE POU

District 35 (Bergen and Passaic)

SYNOPSIS

Extends certain accommodations for businesses participating in State 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 9 of P.L.1996, c.25 (C.34:1B-120) is amended to
8 read as follows:

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

35 b. Following the termination of the public health emergency
36 declared by the Governor pursuant to Executive Order No. 103 of
37 2020, as extended, a business that has entered into an incentive
38 agreement may elect, before March 31, 2024, to waive, for the
39 period beginning on July 1, 2022 and ending on March 31, 2024,
40 the requirement that a full-time employee who is employed by the
41 business shall spend at least 60 percent of the employee's time at
42 the qualified business facility; provided, however, that a business
43 that makes such an election shall satisfy the following criteria:

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

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.

S3303 POU

1 business facility for the 2023 tax period through March 31, 2024;
2 and

3 (2) following the receipt by the business of its tax credit
4 certificate or tax credit transfer certificate for the 2022 tax period,
5 the business shall make a payment of an amount equal to five
6 percent of the amount of tax credit the business receives for the
7 2022 tax period through March 31, 2024, which payment shall be
8 made to the authority, and which payment the authority shall hold
9 and make available for the provision of loans, guarantees, equity
10 investments, and grants, or other forms of financing to support
11 small business and downtown or commercial corridor activation
12 activities within the municipality in which the qualified business
13 facility is located, as may be designated by the chief executive
14 officer of the authority.

15 c. For the period beginning on April 1, 2024, and for all
16 subsequent tax periods, the authority may authorize a business that
17 has entered into an amended incentive agreement with the authority
18 to waive the requirement that a full-time employee who is employed
19 by the business shall spend at least 60 percent of the employee's
20 time at the qualified business facility; provided, however, that a
21 business that makes this election shall satisfy the following criteria:

22 (1) any full-time employee employed by the business shall
23 spend at least 40 percent of the employee's time at the qualified
24 business facility during the tax period; and

25 (2) following the receipt by the business of its tax credit
26 certificate or tax credit transfer certificate for the tax period, the
27 business shall make a payment of an amount equal to 20 percent of
28 the amount of the tax credit the business receives for the tax period,
29 which payment shall be made to the municipal affordable housing
30 trust fund in the municipality in which the qualified business
31 facility is located.

32 d. The authority, in consultation with the Division of Taxation
33 in the Department of the Treasury, may authorize a tax certificate
34 holder to carry forward tax credits for an additional period specified
35 by the authority, subject to the provisions of this section. The credit
36 amount may be taken by the tax certificate holder for the tax period
37 for which it was issued or may be carried forward for use by the tax
38 certificate holder in any of the next 20 successive tax periods, and
39 shall expire thereafter. The tax certificate holder may transfer the
40 tax credit amount on or after the date of issuance or at any time
41 after the date of issuance for use by the transferee in the tax period
42 for which it was issued or within a period to be determined by the
43 authority, in consultation with the Division of Taxation, but not to
44 exceed the 20 tax periods immediately succeeding the tax period for
45 which it was issued. In the case of a tax certificate received after
46 the end of the tax period for which the tax certificate was issued,
47 whether by transfer or original issuance, a tax certificate holder or
48 transferee shall not be required to amend the tax return for the tax

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1 period for which the tax certificate was issued or any successive tax
2 period to first apply the credit. The tax certificate holder or
3 transferee may first claim the credit in any tax period on or after the
4 date of issuance, subject to the carry-forward provision in this
5 section. Notwithstanding the foregoing, no more than the amount
6 of tax credits equal to the total credit amount divided by the
7 duration of the tax credit term, in years, may be taken in any tax
8 period.

9 (cf: P.L.2023, c.261, s.1)

10

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

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

29 (1) The number of eligible positions to be created;

30 (2) The expected duration of those positions;

31 (3) The type of contribution the business can make to the long-
32 term growth of the State's economy;

33 (4) The amount of other financial assistance the business will
34 receive from the State for the project;

35 (5) The total dollar investment the business is making in the
36 project;

37 (6) Whether the business is a designated industry;

38 (7) Impact of the business on State tax revenues; and

39 (8) Such other related factors determined by the authority.

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

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

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

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

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

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

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

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

46 (5) For a grant accrued but not paid during calendar year 2017,
47 the tax credit shall be equal to any approved amount and shall be
48 issued in three equal installments over a three-year period

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1 beginning in the 2020 tax accounting or privilege period of the
2 business or tax credit transferee;

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

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

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

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

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

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

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

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

41 f. The amount of the credit allowed pursuant to this section
42 shall be applied against the tax otherwise due under section 5 of
43 P.L.1945, c.162 (C.54:10A-5), sections 2 and 3 of P.L.1945, c.132
44 (C.54:18A-2 and C.54:18A-3), section 1 of P.L.1950, c.231
45 (C.17:32-15), or N.J.S.17B:23-5, prior to all other credits and
46 payments. If the credit exceeds the amount of tax liability otherwise
47 due from a business that pays taxes under section 5 of P.L.1945,
48 c.162 (C.54:10A-5), sections 2 and 3 of P.L.1945, c.132 (C.54:18A-

1 2 and C.54:18A-3), section 1 of P.L.1950, c.231 (C.17:32-15), or
2 N.J.S.17B:23-5, that amount of excess shall be an overpayment for
3 the purposes of R.S.54:49-15, provided, however, that section 7 of
4 P.L.1992, c.175 (C.54:49-15.1) shall not apply.

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

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

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

41 h. Following the termination of the public health emergency
42 declared by the Governor pursuant to Executive Order No. 103 of
43 2020, as extended, a business that has entered into an incentive
44 agreement may elect, before March 31, 2024, to waive, for the
45 period beginning on July 1, 2022 and ending on March 31, 2024,
46 the requirement that a full-time employee who is employed by the
47 business shall spend at least 60 percent of the employee's time at

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1 the qualified business facility; provided, however, that a business
2 that makes such an election shall satisfy the following criteria:

3 (1) any full-time employee employed by the business shall spend
4 at least 10 percent of the employee's time at the qualified business
5 facility for the 2023 tax period through March 31, 2024; and

6 (2) following the receipt by the business of its tax credit
7 certificate or tax credit transfer certificate for the 2022 tax period,
8 the business shall make a payment of an amount equal to five
9 percent of the amount of tax credit the business receives for the
10 2022 tax period through March 31, 2024, which payment shall be
11 made to the authority, and which payment the authority shall hold
12 and make available for the provision of loans, guarantees, equity
13 investments, and grants, or other forms of financing to support
14 small business and downtown or commercial corridor activation
15 activities within the municipality in which the qualified business
16 facility is located, as may be designated by the chief executive
17 officer of the authority.

18 i. For the period beginning on April 1, 2024, and for all
19 subsequent tax periods, the authority may authorize a business that
20 has entered into an amended incentive agreement with the authority
21 to waive the requirement that a full-time employee who is employed
22 by the business shall spend at least 60 percent of the employee's
23 time at the qualified business facility; provided, however, that a
24 business that makes this election shall satisfy the following criteria:

25 (1) any full-time employee employed by the business shall
26 spend at least 40 percent of the employee's time at the qualified
27 business facility during the tax period; and

28 (2) following the receipt by the business of its tax credit
29 certificate or tax credit transfer certificate for the tax period, the
30 business shall make a payment of an amount equal to 20 percent of
31 the amount of the tax credit the business receives for the tax period,
32 which payment shall be made to the municipal affordable housing
33 trust fund in the municipality in which the qualified business
34 facility is located.

35 j. The authority, in consultation with the Division of Taxation
36 in the Department of the Treasury, may authorize a tax certificate
37 holder to carry forward tax credits for an additional period specified
38 by the authority, subject to the provisions of this section. The credit
39 amount may be taken by the tax certificate holder for the tax period
40 for which it was issued or may be carried forward for use by the tax
41 certificate holder in any of the next 20 successive tax periods, and
42 shall expire thereafter. The tax certificate holder may transfer the
43 tax credit amount on or after the date of issuance or at any time
44 after the date of issuance for use by the transferee in the tax period
45 for which it was issued or within a period to be determined by the
46 authority, in consultation with the Division of Taxation, but not to
47 exceed the 20 tax periods immediately succeeding the tax period for
48 which it was issued. In the case of a tax certificate received after

1 the end of the tax period for which the tax certificate was issued,
2 whether by transfer or original issuance, a tax certificate holder or
3 transferee shall not be required to amend the tax return for the tax
4 period for which the tax certificate was issued or any successive tax
5 period to first apply the credit. The tax certificate holder or
6 transferee may first claim the credit in any tax period on or after the
7 date of issuance, subject to the carry-forward provision in this
8 section. Notwithstanding the foregoing, no more than the amount
9 of tax credits equal to the total credit amount, divided by the
10 number of years in which the credits may be claimed, not including
11 carried-forward use, may be taken in any tax period.

12 (cf: P.L.2023, c.261, s.2)

13

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

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

33 (2) A business, other than a tenant eligible pursuant to
34 paragraph (3) of this subsection, shall make or acquire capital
35 investments totaling not less than \$50,000,000 in a qualified
36 business facility, at which the business shall employ not fewer than
37 250 full-time employees to be eligible for a credit under this
38 section. A business that acquires a qualified business facility shall
39 also be deemed to have acquired the capital investment made or
40 acquired by the seller.

41 (3) A business that is a tenant in a qualified business facility, the
42 owner of which has made or acquired capital investments in the
43 facility totaling not less than \$50,000,000, shall occupy a leased
44 area of the qualified business facility that represents at least
45 \$17,500,000 of the capital investment in the facility at which the
46 tenant business and up to two other tenants in the qualified business
47 facility shall employ not fewer than 250 full-time employees in the
48 aggregate to be eligible for a credit under this section. The amount

1 of capital investment in a facility that a leased area represents shall
2 be equal to that percentage of the owner's total capital investment in
3 the facility that the percentage of net leasable area leased by the
4 tenant is of the total net leasable area of the qualified business
5 facility. Capital investments made by a tenant shall be deemed to be
6 included in the calculation of the capital investment made or
7 acquired by the owner, but only to the extent necessary to meet the
8 owner's minimum capital investment of \$50,000,000. Capital
9 investments made by a tenant and not allocated to meet the owner's
10 minimum capital investment threshold of \$50,000,000 shall be
11 added to the amount of capital investment represented by the
12 tenant's leased area in the qualified business facility.

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

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

30 (6) The capital investment of the owner of a qualified business
31 facility is that percentage of the capital investment made or
32 acquired by the owner of the building that the percentage of net
33 leasable area of the qualified business facility not leased to tenants
34 is of the total net leasable area of the qualified business facility.

35 (7) A business shall be allowed a tax credit of 100 percent of its
36 capital investment, made after the effective date of P.L.2011, c.89
37 but prior to its submission of documentation pursuant to subsection
38 c. of this section, in a qualified business facility that is part of a
39 mixed use project, provided that (a) the qualified business facility
40 represents at least \$17,500,000 of the total capital investment in the
41 mixed use project, (b) the business employs not fewer than 250 full-
42 time employees in the qualified business facility, and (c) the total
43 capital investment in the mixed use project of which the qualified
44 business facility is a part is not less than \$50,000,000. The
45 allowance of credits under this paragraph shall be subject to the
46 restrictions and requirements, to the extent that those are not
47 inconsistent with the provisions of this paragraph, set forth in
48 paragraphs (1) through (6) of this subsection, including, but not

1 limited to, the requirement that the business shall demonstrate to the
2 authority, at the time of application, that the State's financial
3 support of the proposed capital investment in a qualified business
4 facility will yield a net positive benefit to both the State and the
5 eligible municipality.

6 (8) In determining whether a proposed capital investment will
7 yield a net positive benefit, the authority shall not consider the
8 transfer of an existing job from one location in the State to another
9 location in the State as the creation of a new job, unless (a) the
10 business proposes to transfer existing jobs to a municipality in the
11 State as part of a consolidation of business operations from two or
12 more other locations that are not in the same municipality whether
13 in-State or out-of-State, or (b) the business's chief executive officer,
14 or equivalent officer, submits a certification to the authority
15 indicating that the existing jobs are at risk of leaving the State and
16 that the business's chief executive officer, or equivalent officer, has
17 reviewed the information submitted to the authority and that the
18 representations contained therein are accurate, and the business
19 intends to employ not fewer than 500 full-time employees in the
20 qualified business facility. In the event that this certification by the
21 business's chief executive officer, or equivalent officer, is found to
22 be willfully false, the authority may revoke any award of tax credits
23 in their entirety, which revocation shall be in addition to any other
24 criminal or civil penalties that the business and the officer may be
25 subject to. When considering an application involving intra-State
26 job transfers, the authority shall require the company to submit the
27 following information as part of its application: a full economic
28 analysis of all locations under consideration by the company; all
29 lease agreements, ownership documents, or substantially similar
30 documentation for the business's current in-State locations; and all
31 lease agreements, ownership documents, or substantially similar
32 documentation for the potential out-of-State location alternatives, to
33 the extent they exist. Based on this information, and any other
34 information deemed relevant by the authority, the authority shall
35 independently verify and confirm, by way of making a factual
36 finding by separate vote of the authority's board, the business's
37 assertion that the jobs are actually at risk of leaving the State,
38 before a business may be awarded any tax credits under this section.

39 b. (1) If applications under this section have been received by
40 the authority prior to the effective date of the "New Jersey
41 Economic Opportunity Act of 2013," P.L.2013, c.161 (C.52:27D-
42 489p et al.), then, to the extent that there remains sufficient
43 financial authorization for the award of a tax credit, the authority is
44 authorized to consider those applications and to make awards of tax
45 credits to eligible applicants, provided that the authority shall take
46 final action on those applications no later than December 31, 2013.

47 (2) A business shall apply for the credit under this section prior
48 to the effective date of the "New Jersey Economic Opportunity Act

1 of 2013," P.L.2013, c.161 (C.52:27D-489p et al.), and shall submit
2 its documentation for approval of its credit amount no later than
3 December 31, 2023.

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

11 (4) Tax credits awarded pursuant to P.L.2007, c.346 (C.34:1B-
12 207 et seq.) for applications submitted to and approved by the
13 authority prior to the effective date of the "New Jersey Economic
14 Opportunity Act of 2013," P.L.2013, c.161 (C.52:27D-489p et al.),
15 shall be administered by the authority in the manner established
16 prior to that date.

17 (5) With respect to an application received by the authority prior
18 to the effective date of the "New Jersey Economic Opportunity Act
19 of 2013," P.L.2013, c.161 (C.52:27D-489p et al.) for a qualified
20 business facility that is located on or adjacent to the campus of an
21 acute care medical facility, (a) the minimum number of full-time
22 employees required for eligibility under the program may be
23 employed by any number of tenants or other occupants of the
24 facility, in the aggregate, and the initial satisfaction of the
25 requirement following completion of the project shall be deemed to
26 satisfy the employment requirements of the program in all respects,
27 and (b) if the capital investment in the facility exceeds
28 \$100,000,000, the determination of the net positive benefit yield
29 shall be based on the benefits generated during a period of up to 30
30 years following the completion of the project, as determined by the
31 authority.

32 c. (1) The amount of credit allowed shall, except as otherwise
33 provided, be equal to the capital investment made by the business,
34 or the capital investment represented by the business's leased area,
35 or area owned by the business as a condominium, and shall be taken
36 over a 10-year period, at the rate of one-tenth of the total amount of
37 the business's credit for each tax accounting or privilege period of
38 the business, beginning with the tax period in which the business is
39 first certified by the authority as having met the investment capital
40 and employment qualifications, subject to any reduction or
41 disqualification as provided by subsection d. of this section as
42 determined by annual review by the authority. In conducting its
43 annual review, the authority may require a business to submit any
44 information determined by the authority to be necessary and
45 relevant to its review.

46 The credit amount that may be taken for a tax period of the
47 business that exceeds the final liabilities of the business for the tax
48 period may be carried forward for use by the business in the next 20

1 successive tax periods, and shall expire thereafter, provided that the
2 value of all credits approved by the authority against tax liabilities
3 pursuant to P.L.2007, c.346 (C.34:1B-207 et seq.) in any fiscal year
4 shall not exceed \$260,000,000.

5 The amount of credit allowed for a tax period to a business that
6 is a tenant in a qualified business facility shall not exceed the
7 business's total lease payments for occupancy of the qualified
8 business facility for the tax period.

9 A business may elect to suspend its obligations for the 2020,
10 2021, 2022, **[or]** 2023, or 2024 tax period, or any combination
11 thereof, due to the COVID-19 pandemic, provided that the business
12 shall make such election in writing to the authority before the
13 issuance of the tax credit for the corresponding tax year and such
14 suspension shall extend the term of the eligibility period by a
15 corresponding amount of time. The authority shall modify the
16 approval letter, and the business shall execute the modification
17 within the time period provided by the authority. The modification
18 shall provide that the failure to submit the annual report due to the
19 suspension shall not be a forfeiture or an uncertified tax period.

20 (2) A business that is a partnership shall not be allowed a credit
21 under this section directly, but the amount of credit of an owner of a
22 business shall be determined by allocating to each owner of the
23 partnership that proportion of the credit of the business that is equal
24 to the owner of the partnership's share, whether or not distributed,
25 of the total distributive income or gain of the partnership for its tax
26 period ending within or at the end of the owner's tax period, or that
27 proportion that is allocated by an agreement, if any, among the
28 owners of the partnership that has been provided to the Director of
29 the Division of Taxation in the Department of the Treasury by the
30 time and accompanied by the additional information as the director
31 may require.

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

37 d. (1) If, in any tax period, fewer than 200 full-time employees
38 of the business at the qualified business facility are employed in
39 new full-time positions, the amount of the credit otherwise
40 determined pursuant to final calculation of the award of tax credits
41 pursuant to subsection c. of this section shall be reduced by 20
42 percent for that tax period and each subsequent tax period until the
43 first period for which documentation demonstrating the restoration
44 of the 200 full-time employees employed in new full-time positions
45 at the qualified business facility has been reviewed and approved by
46 the authority, for which tax period and each subsequent tax period
47 the full amount of the credit shall be allowed; provided, however,
48 that for businesses applying before January 1, 2010, there shall be

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1 no reduction if a business relocates to an urban transit hub from
2 another location or other locations in the same municipality. For the
3 purposes of this paragraph, a "new full-time position" means a
4 position created by the business at the qualified business facility
5 that did not previously exist in this State.

6 (2) If, in any tax period, the business reduces the total number
7 of full-time employees in its Statewide workforce by more than 20
8 percent from the number of full-time employees in its Statewide
9 workforce in the last tax accounting or privilege period prior to the
10 credit amount approval under subsection a. of this section, then the
11 business shall forfeit its credit amount for that tax period and each
12 subsequent tax period, until the first tax period for which
13 documentation demonstrating the restoration of the business's
14 Statewide workforce to the threshold levels required by this
15 paragraph has been reviewed and approved by the authority, for
16 which tax period and each subsequent tax period the full amount of
17 the credit shall be allowed.

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

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

42 (ii) If a tenant subleases its tenancy in whole or in part during
43 the 10-year eligibility period, the new tenant shall not acquire the
44 credit of the sublessor, and the sublessor tenant shall forfeit all
45 credits for the tax period of its sublease and all subsequent tax
46 periods.

47 (5) Following the termination of the public health emergency
48 declared by the Governor pursuant to Executive Order No. 103 of

1 2020, as extended, a business that has entered into an incentive
2 agreement may elect, before March 31, 2024, to waive, for the
3 period beginning on July 1, 2022 and ending on March 31, 2024,
4 the requirement that a full-time employee who is employed by the
5 business shall spend at least 60 percent of the employee's time at
6 the qualified business facility; provided, however, that a business
7 that makes such an election shall satisfy the following criteria:

8 (i) any full-time employee employed by the business shall
9 spend at least 10 percent of the employee's time at the qualified
10 business facility for the 2023 tax period through March 31, 2024;
11 and

12 (ii) following the receipt by the business of its tax credit
13 certificate or tax credit transfer certificate for the 2022 tax period,
14 the business shall make a payment of an amount equal to five
15 percent of the amount of tax credit the business receives for the
16 2022 tax period through March 31, 2024, which payment shall be
17 made to the authority, and which payment the authority shall hold
18 and make available for the provision of loans, guarantees, equity
19 investments, and grants, or other forms of financing to support
20 small business and downtown or commercial corridor activation
21 activities within the municipality in which the qualified business
22 facility is located, as may be designated by the chief executive
23 officer of the authority.

24 (6) For the period beginning on April 1, 2024, and for all
25 subsequent tax periods, the authority may authorize a business that
26 has entered into an amended incentive agreement with the authority
27 to waive the requirement that a full-time employee who is employed
28 by the business shall spend at least 60 percent of the employee's
29 time at the qualified business facility; provided, however, that a
30 business that makes this election shall satisfy the following criteria:

31 (i) any full-time employee employed by the business shall
32 spend at least 40 percent of the employee's time at the qualified
33 business facility during the tax period; and

34 (ii) following the receipt by the business of its tax credit
35 certificate or tax credit transfer certificate for the tax period, the
36 business shall make a payment of an amount equal to 20 percent of
37 the amount of the tax credit the business receives for the tax period,
38 which payment shall be made to the municipal affordable housing
39 trust fund in the municipality in which the qualified business
40 facility is located.

41 (7) The authority, in consultation with the Division of Taxation
42 in the Department of the Treasury, may authorize a tax certificate
43 holder to carry forward tax credits for an additional period specified
44 by the authority, subject to the provisions of this section. The
45 credit amount may be taken by the tax certificate holder for the tax
46 period for which it was issued or may be carried forward for use by
47 the tax certificate holder in any of the next 20 successive tax
48 periods, and shall expire thereafter. The tax certificate holder may

1 transfer the tax credit amount on or after the date of issuance or at
2 any time after the date of issuance for use by the transferee in the
3 tax period for which it was issued or within a period to be
4 determined by the authority, in consultation with the Division of
5 Taxation, but not to exceed the 20 tax periods immediately
6 succeeding the tax period for which it was issued. In the case of a
7 tax certificate received after the end of the tax period for which the
8 tax certificate was issued, whether by transfer or original issuance,
9 a tax certificate holder or transferee shall not be required to amend
10 the tax return for the tax period for which the tax certificate was
11 issued or any successive tax period to first apply the credit. The tax
12 certificate holder or transferee may first claim the credit in any tax
13 period on or after the date of issuance, subject to the carry-forward
14 provision in this section. Notwithstanding the foregoing, no more
15 than the amount of tax credits equal to the total credit amount,
16 divided by the number of years in which the credits may be
17 claimed, not including carried-forward use, may be taken in any tax
18 period.

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

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

42 f. A business that has executed an approval letter may request
43 before December 31, **[2023]** 2024 to terminate the award,
44 commencing with the 2020 tax period or any subsequent tax period
45 ending on or before December 31, **[2023]** 2024, due to the COVID-
46 19 public health emergency; provided that the business shall submit
47 a certification from the business's chief executive officer or
48 equivalent officer stating that the termination is due, directly or

1 indirectly, to the public health emergency and describing the impact
2 of the public health emergency on the business. All credits for the
3 tax period in which the termination is requested and all subsequent
4 tax periods shall be forfeited, provided however that any credits of
5 the business shall remain unaffected. A termination agreement
6 executed by the authority and business shall not be amended.
7 (cf: P.L.2023, c.261, s.3)

8
9 4. Section 6 of P.L.2011, c.149 (C.34:1B-247) is amended to
10 read as follows:

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

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

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

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

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

26 b. (1) A business shall submit an application for tax credits
27 prior to July 1, 2019. The authority shall not approve an application
28 for tax credits unless the application was submitted prior to July 1,
29 2019.

30 (2) (a) A business shall submit its documentation indicating
31 that it has met the capital investment and employment requirements
32 and all conditions of approvals specified in the incentive agreement
33 for certification of its tax credit amount, to the authority's
34 satisfaction, within three years following the date of approval of its
35 application by the authority. The authority shall have the discretion
36 to grant two six-month extensions of this deadline. If the authority
37 accepts the documentation, the authority shall request that the
38 Division of Taxation in the Department of the Treasury issue a tax
39 credit based on the approved documentation to be used by the
40 business during the eligibility period. Except as provided in
41 subparagraphs (b) and (c) of this paragraph, in no event shall the
42 incentive effective date occur later than four years following the
43 date of approval of an application by the authority.

44 (b) As of the effective date of P.L.2017, c.314, a business which
45 applied for the tax credit prior to July 1, 2014 under P.L.2011,
46 c.149 (C.34:1B-242 et al.), shall submit its documentation to the
47 authority no later than July 28, 2019, indicating that it has met the

1 capital investment and employment requirements specified in the
2 incentive agreement for certification of its tax credit amount.

3 (c) If the Governor declares an emergency, then the chief
4 executive officer of the authority shall have the discretion to grant
5 an extension for the duration of the emergency and the board of the
6 authority, upon recommendation of the chief executive officer, may
7 grant two additional six-month extensions; provided that (i) the
8 extensions are due to the economic disruption caused by the
9 emergency; (ii) the project is delayed due to unforeseeable acts
10 related to the project beyond the eligible business's control and
11 without its fault or negligence; (iii) the eligible business is using
12 best efforts, with all due diligence, to proceed with the completion
13 of the project and the submission of the certification; and (iv) the
14 eligible business has made, and continues to make, all reasonable
15 efforts to prevent, avoid, mitigate, and overcome the delay.

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

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

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

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

31 The credit amount may be taken by the tax certificate holder for
32 the tax period for which it was issued or may be carried forward for
33 use by the tax certificate holder in any of the next 20 successive tax
34 periods, and shall expire thereafter. The tax certificate holder may
35 transfer the tax credit amount on or after the date of issuance or at
36 any time **【within three years of】** after the date of issuance for use
37 by the transferee in the tax period for which it was issued or in any
38 of the next 20 successive tax periods. In the case of a tax certificate
39 received after the end of the tax period for which the tax certificate
40 was issued, whether by transfer or original issuance, a tax
41 certificate holder or transferee shall not be required to amend the
42 tax return for the tax period for which the tax certificate was issued
43 or any successive tax period to first apply the credit. The tax
44 certificate holder or transferee may first claim the credit in any tax
45 period that is on or after the date of issuance, subject to the carry-
46 forward provision in this section. Notwithstanding the foregoing,
47 no more than the amount of tax credits equal to the total credit

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

3 A business may elect to suspend its obligations for the 2020,
4 2021, 2022, **【or】** 2023, or 2024 tax period, or any combination
5 thereof, due to the COVID-19 pandemic, provided that the business
6 shall make such election in writing to the authority before the
7 issuance of the tax credit for the corresponding tax year and such
8 suspension shall extend the term of the eligibility period by a
9 corresponding amount of time. The authority shall amend the
10 incentive agreement, and the business shall execute the amended
11 incentive agreement within the time period provided by the
12 authority. The amended incentive agreement shall provide that the
13 failure to submit the annual report due to the suspension shall not be
14 a forfeiture or an uncertified tax period.

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

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

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

36 d. (1) If, in any tax period, the business reduces the total
37 number of full-time employees in its Statewide workforce by more
38 than 20 percent from the number of full-time employees in its
39 Statewide workforce in the last tax period prior to the credit amount
40 approval under section 3 of P.L.2011, c.149 (C.34:1B-244), then the
41 business shall forfeit its credit amount for that tax period and each
42 subsequent tax period, until the first tax period for which
43 documentation demonstrating the restoration of the business's
44 Statewide workforce to the threshold levels required by the
45 incentive agreement has been reviewed and approved by the
46 authority, for which tax period and each subsequent tax period the
47 full amount of the credit shall be allowed.

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

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

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

40 (4) (a) For a project located within a Garden State Growth
41 Zone, if, in any tax period, the number of full-time employees
42 employed by the business at the qualified business facility located
43 within a qualified incentive area increases above the number of full-
44 time employees specified in the incentive agreement, then the
45 business shall be entitled to an increased base credit amount for that
46 tax period and each subsequent tax period, for each additional full-
47 time employee added above the number of full-time employees
48 specified in the incentive agreement, until the first tax period for

1 which documentation demonstrating a reduction of the number of
2 full-time employees employed by the business at the qualified
3 business facility, at which time the tax credit amount will be
4 adjusted accordingly pursuant to this section.

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

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

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

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

43 f. A business which has already applied for a tax credit
44 incentive award prior to the effective date of the "New Jersey
45 Economic Opportunity Act of 2013," P.L.2013, c.161 (C.52:27D-
46 489p et al.), but who has not yet been approved for the tax credits,
47 or has not executed an agreement with the authority, may proceed
48 under that application or seek to amend the application or reapply

1 for a tax credit incentive award for the same project or any part
2 thereof for the purpose of availing itself of any more favorable
3 provisions of the program.

4 g. A business that has entered into an incentive agreement may
5 request before December 31, **[2023]** 2024 to terminate the
6 incentive agreement, commencing with the 2020 tax period or any
7 subsequent tax period ending on or before December 31, **[2023]**
8 2024, due to the COVID-19 public health emergency; provided that
9 the business shall submit a certification from the business's chief
10 executive officer or equivalent officer stating that the termination is
11 due, directly or indirectly, to the public health emergency and
12 describing the impact of the public health emergency on the
13 business. All credits for the tax period in which the termination
14 occurs and all subsequent tax periods shall be forfeited, provided
15 however that any credits of the business shall remain unaffected. A
16 termination agreement executed by the authority and business shall
17 not be amended.

18 h. A business that has entered into an incentive agreement may
19 request, before December 31, **[2023]** 2024, to reduce the number of
20 new or retained full-time jobs specified in the incentive agreement
21 based on a certification of the business of the eligible positions at
22 the qualified business facility commencing with the 2020 tax period
23 and, at the discretion of the business, whether the reduction shall
24 continue for each subsequent tax period remaining in the eligibility
25 period, provided that the business maintains the minimum number
26 of new or retained full-time jobs required to be eligible pursuant to
27 subsection c. of section 3 of P.L.2011, c.149 (C.34:1B-244). The
28 reduction in employment shall first apply to the number of new full-
29 time employees, and then shall apply to the number of retained full-
30 time employees.

31 The authority shall calculate a new tax credit total amount for the
32 2020 tax period and the remainder of the eligibility period based on
33 the reduced employment and shall amend the incentive agreement
34 to reflect the recalculated award amount. In no event shall the
35 modification result in an increase in employment or tax credit
36 amount.

37 i. Following the termination of the public health emergency
38 declared by the Governor pursuant to Executive Order No. 103 of
39 2020, as extended, a business that has entered into an incentive
40 agreement may elect, before March 31, 2024, to waive, for the
41 period beginning on July 1, 2022 and ending on March 31, 2024,
42 the requirement that a full-time employee who is employed by the
43 business shall spend at least 60 percent of the employee's time at
44 the qualified business facility; provided, however, that a business
45 that makes such an election shall satisfy the following criteria:

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

1 business facility for the 2023 tax period through March 31, 2024;
2 and

3 (2) following the receipt by the business of its tax credit
4 certificate or tax credit transfer certificate for the 2022 tax period,
5 the business shall make a payment of an amount equal to five
6 percent of the amount of tax credit the business receives for the
7 2022 tax period through March 31, 2024, which payment shall be
8 made to the authority, and which payment the authority shall hold
9 and make available for the provision of loans, guarantees, equity
10 investments, and grants, or other forms of financing to support
11 small business and downtown or commercial corridor activation
12 activities within the municipality in which the qualified business
13 facility is located, as may be designated by the chief executive
14 officer of the authority.

15 j. For the period beginning on April 1, 2024, and for all
16 subsequent tax periods, the authority may authorize a business that
17 has entered into an amended incentive agreement with the authority
18 to waive the requirement that a full-time employee who is employed
19 by the business shall spend at least 60 percent of the employee's
20 time at the qualified business facility; provided, however, that a
21 business that makes this election shall satisfy the following criteria:

22 (1) any full-time employee employed by the business shall
23 spend at least 40 percent of the employee's time at the qualified
24 business facility during the tax period; and

25 (2) following the receipt by the business of its tax credit
26 certificate or tax credit transfer certificate for the tax period, the
27 business shall make a payment of an amount equal to 20 percent of
28 the amount of the tax credit the business receives for the tax period,
29 which payment shall be made to the municipal affordable housing
30 trust fund in the municipality in which the qualified business
31 facility is located.

32 k. The authority, in consultation with the Division of Taxation
33 in the Department of the Treasury, may authorize a tax certificate
34 holder to carry forward tax credits for an additional period specified
35 by the authority, subject to the provisions of this section. The
36 credit amount may be taken by the tax certificate holder for the tax
37 period for which it was issued or may be carried forward for use by
38 the tax certificate holder in any of the next 20 successive tax
39 periods, and shall expire thereafter. The tax certificate holder may
40 transfer the tax credit amount on or after the date of issuance or at
41 any time after the date of issuance for use by the transferee in the
42 tax period for which it was issued or within a period to be
43 determined by the authority, in consultation with the Division of
44 Taxation, but not to exceed the 20 tax periods immediately
45 succeeding the tax period for which it was issued. In the case of a
46 tax certificate received after the end of the tax period for which the
47 tax certificate was issued, whether by transfer or original issuance,
48 a tax certificate holder or transferee shall not be required to amend

1 the tax return for the tax period for which the tax certificate was
2 issued or any successive tax period to first apply the credit. The tax
3 certificate holder or transferee may first claim the credit in any tax
4 period that is on or after the date of issuance, subject to the carry-
5 forward provision in this section. Notwithstanding the foregoing,
6 no more than the amount of tax credits equal to the total credit
7 amount divided by the duration of the eligibility period in years
8 may be taken in any tax period.

9 (cf: P.L.2023, c.261, s.4)

10

11 5. This act shall take effect immediately.

12

13

14

STATEMENT

15

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

21 Under current law, a business that participates in any of these
22 programs is awarded an economic development incentive in the
23 form of tax credits after meeting certain program requirements.
24 Under each program, the business is required to create or retain a
25 certain number of full-time jobs at a qualified business facility, with
26 the number of jobs created or retained varying depending on the
27 program and the location of the qualified business facility.
28 However, in order for a full-time job to be counted towards
29 satisfying the requirements of each program, current law requires
30 full-time employees to spend at least 60 percent of their time at the
31 qualified business facility.

32 Current law allows a business participating in any of these
33 programs to waive this requirement through March 31, 2024,
34 provided that: (1) any full-time employee employed by the business
35 spends at least 10 percent of the employee's time at the qualified
36 business facility for the 2023 tax period through March 31, 2024;
37 and (2) the business makes a payment of an amount equal to five
38 percent of the amount of the tax credit that the business receives for
39 the 2022 tax period.

40 The bill would extend this authorization for the tax period
41 beginning on April 1, 2024, and for all subsequent tax periods, for
42 any business that has entered into an amended incentive agreement,
43 provided that: (1) any full-time employee employed by the business
44 spends at least 40 percent of the employee's time at the qualified
45 business facility during the tax period; and (2) the business makes a
46 payment of an amount equal to 20 percent of the amount of the tax
47 credit that the business receives for the tax period, which payment

S3303 POU

25

1 is to be made to the municipal affordable housing trust fund in the
2 municipality in which the qualified business facility is located.

3 The bill allows the New Jersey Economic Development
4 Authority (“authority”), in consultation with the Division of
5 Taxation in the Department of the Treasury, to authorize a tax
6 certificate holder to carry forward the tax credit issued to the holder
7 pursuant to the bill, for a period to be determined by the authority,
8 in consultation with the Division of Taxation, but not to exceed the
9 20 tax periods immediately succeeding the tax period for which it
10 was issued. The tax credit will expire thereafter. The bill permits
11 the tax certificate holder to transfer the tax credit amount on or after
12 the date of issuance or at any time after the date of issuance for use
13 by the transferee in the tax period for which it was issued or within
14 a period to be determined by the authority, in consultation with the
15 Division of Taxation, but not to exceed the 20 tax periods
16 immediately succeeding the tax period for which it was issued. The
17 tax certificate holder or transferee may first claim the credit in any
18 tax period that is on or after the date of issuance subject to the
19 carry-forward provision in the bill. The bill provides that no more
20 than the amount of tax credits equal to the total credit amount
21 divided by the duration of the eligibility period in years may be
22 taken in any tax period.

[First Reprint]

SENATE, No. 3303

STATE OF NEW JERSEY

221st LEGISLATURE

INTRODUCED MAY 20, 2024

Sponsored by:

Senator NELLIE POU

District 35 (Bergen and Passaic)

SYNOPSIS

Extends certain accommodations for businesses participating in State economic development programs.

CURRENT VERSION OF TEXT

As reported by the Senate Economic Growth Committee on June 10, 2024, with amendments.



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

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

35 b. Following the termination of the public health emergency
36 declared by the Governor pursuant to Executive Order No. 103 of
37 2020, as extended, a business that has entered into an incentive
38 agreement may elect, before March 31, 2024, to waive, for the
39 period beginning on July 1, 2022 and ending on March 31, 2024,
40 the requirement that a full-time employee who is employed by the
41 business shall spend at least 60 percent of the employee's time at
42 the qualified business facility; provided, however, that a business
43 that makes such an election shall satisfy the following criteria:

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

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

Matter underlined thus is new matter.

Matter enclosed in superscript numerals has been adopted as follows:

¹Senate SEG committee amendments adopted June 10, 2024.

1 business facility for the 2023 tax period ¹and, if elected by the
2 business, the 2024 tax period¹ through March 31, 2024; and

3 (2) following the receipt by the business of its tax credit
4 certificate or tax credit transfer certificate for the 2022 tax period,
5 the business shall make a payment of an amount equal to five
6 percent of the amount of tax credit the business receives for the
7 2022 tax period through March 31, 2024, which payment shall be
8 made to the authority, and which payment the authority shall hold
9 and make available for the provision of loans, guarantees, equity
10 investments, and grants, or other forms of financing to support
11 small business and downtown or commercial corridor activation
12 activities within the municipality in which the qualified business
13 facility is located, as may be designated by the chief executive
14 officer of the authority. ¹Such funds shall be deployed by the
15 authority within 12 months of the authority's receipt of the funds,
16 and the authority shall issue a report each fiscal year to the
17 Legislature, pursuant to section 2 of P.L.1991, c.164 (C.52:14-
18 19.1), detailing how the funds were distributed.¹

19 c. ¹For the period Notwithstanding the provisions of section
20 2 of P.L.1996, c.25 (C.34:1B-113) or any other law or regulation to
21 the contrary,¹ beginning on April 1, 2024, and for all subsequent tax
22 periods, ¹the authority may authorize¹ a business ¹located outside
23 an enhanced area or government-restricted municipality, as those
24 terms are defined in section 69 of P.L.2020, c.156 (C.34:1B-337),¹
25 that has entered into an ¹amended¹ incentive agreement with the
26 authority ¹may elect¹ to waive the requirement that a full-time
27 employee who is employed by the business shall spend at least 60
28 percent of the employee's time at the qualified business facility;
29 provided, however, that a business that makes this election shall
30 satisfy the following criteria:

31 (1) ¹for a qualified business facility located outside an enhanced
32 area or government-restricted municipality, as those terms are
33 defined in section 69 of P.L.2020, c.156 (C.34:1B-337),¹ any full-
34 time employee employed by the business shall spend at least 40
35 percent of the employee's time at the qualified business facility
36 during the tax period; ¹and¹

37 (2) ¹following the receipt by the business of its tax credit
38 certificate or tax credit transfer certificate for the tax period, the
39 business shall make a payment of an amount equal to 20 percent of
40 the amount of the tax credit the business receives for the tax period,
41 which payment shall be made to the municipal affordable housing
42 trust fund in the municipality in which the qualified business
43 facility is located the business shall extend by two years the term
44 of its commitment duration beyond the time set forth in the project
45 agreement; and

46 (3) at the time the business submits its tax credit certificate
47 certification for the tax period, the business shall make a non-

1 refundable payment of an amount equal to 10 percent of the amount
2 of the maximum annual tax credit that the business is eligible to
3 receive for the tax period, which payment shall be made to the
4 authority, and which payment the authority shall hold and make
5 available for the provision of loans, guarantees, equity investments,
6 and grants, or other forms of financing to support small business
7 and downtown or commercial corridor activation activities within
8 enhanced areas or government-restricted municipalities, as those
9 terms are defined in section 69 of P.L.2020, c.156 (C.34:1B-337),
10 as may be designated by the chief executive officer of the authority.
11 Such funds shall be deployed by the authority within 12 months of
12 the authority's receipt of the funds, and the authority shall issue a
13 report each fiscal year to the Legislature, pursuant to section 2 of
14 P.L.1991, c.164 (C.52:14-19.1), detailing how the funds were
15 distributed¹.

16 d. ¹【The authority, in consultation with the Division of
17 Taxation in the Department of the Treasury, may authorize a tax
18 certificate holder to carry forward tax credits for an additional
19 period specified by the authority, subject to the provisions of this
20 section. The】 Notwithstanding the provisions of any law to the
21 contrary, the¹ credit amount may ¹first¹ be taken by the tax
22 certificate holder for the tax period for which it was issued ¹, for the
23 tax period in which it was issued,¹ or ¹【may be carried forward for
24 use by the tax certificate holder in any of the next 20 successive tax
25 periods, and shall expire thereafter】 in any tax period during the
26 commitment duration set forth in the project agreement¹ . The tax
27 certificate holder may transfer the tax credit amount on or after the
28 date of issuance ¹【or at any time after the date of issuance】¹ for use
29 by the transferee in the tax period for which it was issued ¹, for the
30 tax period in which it was issued,¹ or ¹【within a period to be
31 determined by the authority, in consultation with the Division of
32 Taxation, but not to exceed the 20 tax periods immediately
33 succeeding the tax period for which it was issued. In the case of a
34 tax certificate received after the end of the tax period for which the
35 tax certificate was issued, whether by transfer or original issuance,
36 a tax certificate holder or transferee shall not be required to amend
37 the tax return for the tax period for which the tax certificate was
38 issued or any successive tax period to first apply the credit】 in any
39 of the next three successive tax periods¹ . The tax certificate holder
40 or transferee may first ¹【claim】 use¹ the credit ¹【in any tax period
41 on or after the date of issuance】 against tax liabilities in the tax
42 period in which it was issued or in a succeeding tax period, as
43 authorized in this subsection, without the need for amending the tax
44 return for the tax period for which the credit was issued¹ , subject to
45 the ¹【carry-forward provision in】 provisions of¹ this section.
46 Notwithstanding the foregoing, no more than the amount of tax

1 credits equal to the total credit amount ^{1,1} divided by the duration of
2 the tax credit term, in years, may be taken in any tax period.

3 (cf: P.L.2023, c.261, s.1)

4

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

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

23 (1) The number of eligible positions to be created;

24 (2) The expected duration of those positions;

25 (3) The type of contribution the business can make to the long-
26 term growth of the State's economy;

27 (4) The amount of other financial assistance the business will
28 receive from the State for the project;

29 (5) The total dollar investment the business is making in the
30 project;

31 (6) Whether the business is a designated industry;

32 (7) Impact of the business on State tax revenues; and

33 (8) Such other related factors determined by the authority.

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

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

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

47 e. Within 180 days of the date of enactment of P.L.2015, c.194
48 (C.34:1B-137.1 et al.), a business that was approved for a grant

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

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

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

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

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

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

45 (6) For a grant accrued but not paid during calendar year 2018,
46 the tax credit shall be equal to any approved amount and shall be
47 issued in two equal installments over a two-year period beginning

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

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

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

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

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

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

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

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

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

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

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

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

37 h. Following the termination of the public health emergency
38 declared by the Governor pursuant to Executive Order No. 103 of
39 2020, as extended, a business that has entered into an incentive
40 agreement may elect, before March 31, 2024, to waive, for the
41 period beginning on July 1, 2022 and ending on March 31, 2024,
42 the requirement that a full-time employee who is employed by the
43 business shall spend at least 60 percent of the employee's time at
44 the qualified business facility; provided, however, that a business
45 that makes such an election shall satisfy the following criteria:

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

1 facility for the 2023 tax period ¹and, if elected by the business, the
2 2024 tax period¹ through March 31, 2024; and

3 (2) following the receipt by the business of its tax credit
4 certificate or tax credit transfer certificate for the 2022 tax period,
5 the business shall make a payment of an amount equal to five
6 percent of the amount of tax credit the business receives for the
7 2022 tax period through March 31, 2024, which payment shall be
8 made to the authority, and which payment the authority shall hold
9 and make available for the provision of loans, guarantees, equity
10 investments, and grants, or other forms of financing to support
11 small business and downtown or commercial corridor activation
12 activities within the municipality in which the qualified business
13 facility is located, as may be designated by the chief executive
14 officer of the authority. ¹Such funds shall be deployed by the
15 authority within 12 months of the authority's receipt of the funds,
16 and the authority shall issue a report each fiscal year to the
17 Legislature, pursuant to section 2 of P.L.1991, c.164 (C.52:14-
18 19.1), detailing how the funds were distributed.¹

19 i. ¹For the period Notwithstanding the provisions of section
20 2 of P.L.1996, c.26 (C.34:1B-125) or any other law or regulation to
21 the contrary,¹ beginning on April 1, 2024, and for all subsequent tax
22 periods, ¹the authority may authorize¹ a business ¹located outside
23 an enhanced area or government-restricted municipality, as those
24 terms are defined in section 69 of P.L.2020, c.156 (C.34:1B-337),¹
25 that has entered into an ¹amended¹ incentive agreement with the
26 authority ¹may elect¹ to waive the requirement that a full-time
27 employee who is employed by the business shall spend at least 60
28 percent of the employee's time at the qualified business facility;
29 provided, however, that a business that makes this election shall
30 satisfy the following criteria:

31 (1) ¹for a qualified business facility located outside an enhanced
32 area or government-restricted municipality, as those terms are
33 defined in section 69 of P.L.2020, c.156 (C.34:1B-337),¹ any full-
34 time employee employed by the business shall spend at least 40
35 percent of the employee's time at the qualified business facility
36 during the tax period; ¹and¹

37 (2) ¹following the receipt by the business of its tax credit
38 certificate or tax credit transfer certificate for the tax period, the
39 business shall make a payment of an amount equal to 20 percent of
40 the amount of the tax credit the business receives for the tax period,
41 which payment shall be made to the municipal affordable housing
42 trust fund in the municipality in which the qualified business
43 facility is located the business shall extend by two years the time it
44 is required to maintain the project at a location in New Jersey
45 beyond the time set forth in the incentive agreement; and

46 (3) at the time the business submits its tax credit certificate
47 certification for the tax period, the business shall make a non-

1 refundable payment of an amount equal to 10 percent of the amount
2 of the maximum annual tax credit that the business is eligible to
3 receive for the tax period, which payment shall be made to the
4 authority, and which payment the authority shall hold and make
5 available for the provision of loans, guarantees, equity investments,
6 and grants, or other forms of financing to support small business
7 and downtown or commercial corridor activation activities within
8 enhanced areas or government-restricted municipalities, as those
9 terms are defined in section 69 of P.L.2020, c.156 (C.34:1B-337),
10 as may be designated by the chief executive officer of the authority.
11 Such funds shall be deployed by the authority within 12 months of
12 the authority's receipt of the funds, and the authority shall issue a
13 report each fiscal year to the Legislature, pursuant to section 2 of
14 P.L.1991, c.164 (C.52:14-19.1), detailing how the funds were
15 distributed¹.

16 j. ¹【The authority, in consultation with the Division of
17 Taxation in the Department of the Treasury, may authorize a tax
18 certificate holder to carry forward tax credits for an additional
19 period specified by the authority, subject to the provisions of this
20 section. The】 Notwithstanding the provisions of any law to the
21 contrary, the¹ credit amount may ¹first¹ be taken by the tax
22 certificate holder for the tax period for which it was issued ¹, for the
23 tax period in which it was issued,¹ or ¹【may be carried forward for
24 use by the tax certificate holder in any of the next 20 successive tax
25 periods, and shall expire thereafter】 in any tax period during the
26 time the business is required to maintain the project at a location in
27 New Jersey, as set forth in the incentive agreement¹ . The tax
28 certificate holder may transfer the tax credit amount on or after the
29 date of issuance ¹【or at any time after the date of issuance】¹ for use
30 by the transferee in the tax period for which it was issued ¹, for the
31 tax period in which it was issued,¹ or ¹【within a period to be
32 determined by the authority, in consultation with the Division of
33 Taxation, but not to exceed the 20 tax periods immediately
34 succeeding the tax period for which it was issued. In the case of a
35 tax certificate received after the end of the tax period for which the
36 tax certificate was issued, whether by transfer or original issuance,
37 a tax certificate holder or transferee shall not be required to amend
38 the tax return for the tax period for which the tax certificate was
39 issued or any successive tax period to first apply the credit】 in any
40 of the next three successive tax periods¹ . The tax certificate holder
41 or transferee may first ¹【claim】 use¹ the credit ¹【in any tax period
42 on or after the date of issuance】 against tax liabilities in the tax
43 period in which it was issued or in a succeeding tax period, as
44 authorized in this subsection, without the need for amending the tax
45 return for the tax period for which the credit was issued¹ , subject to
46 the ¹【carry-forward provision in】 provisions of¹ this section.

1 ¹【Notwithstanding the foregoing, no more than the amount of tax
2 credits equal to the total credit amount, divided by the number of
3 years in which the credits may be claimed, not including carried-
4 forward use, may be taken in any tax period.】¹

5 (cf: P.L.2023, c.261, s.2)

6
7 3. Section 3 of P.L.2007, c.346 (C.34:1B-209) is amended to
8 read as follows:

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

26 (2) A business, other than a tenant eligible pursuant to
27 paragraph (3) of this subsection, shall make or acquire capital
28 investments totaling not less than \$50,000,000 in a qualified
29 business facility, at which the business shall employ not fewer than
30 250 full-time employees to be eligible for a credit under this
31 section. A business that acquires a qualified business facility shall
32 also be deemed to have acquired the capital investment made or
33 acquired by the seller.

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

1 owner's minimum capital investment of \$50,000,000. Capital
2 investments made by a tenant and not allocated to meet the owner's
3 minimum capital investment threshold of \$50,000,000 shall be
4 added to the amount of capital investment represented by the
5 tenant's leased area in the qualified business facility.

6 (4) A business shall not be allowed tax credits under this section
7 if the business participates in a business employment incentive
8 agreement, pursuant to P.L.1996, c.26 (C.34:1B-124 et seq.),
9 relating to the same capital and employees that qualify the business
10 for this credit, or if the business receives assistance pursuant to
11 P.L.1996, c.25 (C.34:1B-112 et seq.). A business that is allowed a
12 tax credit under this section shall not be eligible for incentives
13 authorized pursuant to P.L.2002, c.43 (C.52:27BBB-1 et al.). A
14 business shall not qualify for a tax credit under this section, based
15 upon its capital investment and the employment of full-time
16 employees, if that capital investment or employment was the basis
17 for which a grant was provided to the business pursuant to the
18 "InvestNJ Business Grant Program Act," P.L.2008, c.112 (C.34:1B-
19 237 et seq.).

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

23 (6) The capital investment of the owner of a qualified business
24 facility is that percentage of the capital investment made or
25 acquired by the owner of the building that the percentage of net
26 leasable area of the qualified business facility not leased to tenants
27 is of the total net leasable area of the qualified business facility.

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

47 (8) In determining whether a proposed capital investment will
48 yield a net positive benefit, the authority shall not consider the

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

32 b. (1) If applications under this section have been received by
33 the authority prior to the effective date of the "New Jersey
34 Economic Opportunity Act of 2013," P.L.2013, c.161 (C.52:27D-
35 489p et al.), then, to the extent that there remains sufficient
36 financial authorization for the award of a tax credit, the authority is
37 authorized to consider those applications and to make awards of tax
38 credits to eligible applicants, provided that the authority shall take
39 final action on those applications no later than December 31, 2013.

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

45 (3) If a business has submitted an application under this section
46 and that application has not been approved for any reason, the lack
47 of approval shall not serve to prejudice in any way the
48 consideration of a new application as may be submitted for the

1 qualified business facility for the provision of incentives offered
2 pursuant to the "New Jersey Economic Opportunity Act of 2013,"
3 P.L.2013, c.161 (C.52:27D-489p et al.).

4 (4) Tax credits awarded pursuant to P.L.2007, c.346 (C.34:1B-
5 207 et seq.) for applications submitted to and approved by the
6 authority prior to the effective date of the "New Jersey Economic
7 Opportunity Act of 2013," P.L.2013, c.161 (C.52:27D-489p et al.),
8 shall be administered by the authority in the manner established
9 prior to that date.

10 (5) With respect to an application received by the authority prior
11 to the effective date of the "New Jersey Economic Opportunity Act
12 of 2013," P.L.2013, c.161 (C.52:27D-489p et al.) for a qualified
13 business facility that is located on or adjacent to the campus of an
14 acute care medical facility, (a) the minimum number of full-time
15 employees required for eligibility under the program may be
16 employed by any number of tenants or other occupants of the
17 facility, in the aggregate, and the initial satisfaction of the
18 requirement following completion of the project shall be deemed to
19 satisfy the employment requirements of the program in all respects,
20 and (b) if the capital investment in the facility exceeds
21 \$100,000,000, the determination of the net positive benefit yield
22 shall be based on the benefits generated during a period of up to 30
23 years following the completion of the project, as determined by the
24 authority.

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

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

46 The amount of credit allowed for a tax period to a business that
47 is a tenant in a qualified business facility shall not exceed the

1 business's total lease payments for occupancy of the qualified
2 business facility for the tax period.

3 A business may elect to suspend its obligations for the 2020,
4 2021, 2022, **[or]** 2023, or 2024 tax period, or any combination
5 thereof, due to the COVID-19 pandemic, provided that the business
6 shall make such election in writing to the authority before the
7 issuance of the tax credit for the corresponding tax year and such
8 suspension shall extend the term of the eligibility period by a
9 corresponding amount of time. The authority shall modify the
10 approval letter, and the business shall execute the modification
11 within the time period provided by the authority. The modification
12 shall provide that the failure to submit the annual report due to the
13 suspension shall not be a forfeiture or an uncertified tax period.

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

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

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

1 (2) If, in any tax period, the business reduces the total number
2 of full-time employees in its Statewide workforce by more than 20
3 percent from the number of full-time employees in its Statewide
4 workforce in the last tax accounting or privilege period prior to the
5 credit amount approval under subsection a. of this section, then the
6 business shall forfeit its credit amount for that tax period and each
7 subsequent tax period, until the first tax period for which
8 documentation demonstrating the restoration of the business's
9 Statewide workforce to the threshold levels required by this
10 paragraph has been reviewed and approved by the authority, for
11 which tax period and each subsequent tax period the full amount of
12 the credit shall be allowed.

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

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

37 (ii) If a tenant subleases its tenancy in whole or in part during
38 the 10-year eligibility period, the new tenant shall not acquire the
39 credit of the sublessor, and the sublessor tenant shall forfeit all
40 credits for the tax period of its sublease and all subsequent tax
41 periods.

42 (5) Following the termination of the public health emergency
43 declared by the Governor pursuant to Executive Order No. 103 of
44 2020, as extended, a business that has entered into an incentive
45 agreement may elect, before March 31, 2024, to waive, for the
46 period beginning on July 1, 2022 and ending on March 31, 2024,
47 the requirement that a full-time employee who is employed by the
48 business shall spend at least 60 percent of the employee's time at

1 the qualified business facility; provided, however, that a business
2 that makes such an election shall satisfy the following criteria:

3 (i) any full-time employee employed by the business shall
4 spend at least 10 percent of the employee's time at the qualified
5 business facility for the 2023 tax period ¹and, if elected by the
6 business, the 2024 tax period¹ through March 31, 2024; and

7 (ii) following the receipt by the business of its tax credit
8 certificate or tax credit transfer certificate for the 2022 tax period,
9 the business shall make a payment of an amount equal to five
10 percent of the amount of tax credit the business receives for the
11 2022 tax period through March 31, 2024, which payment shall be
12 made to the authority, and which payment the authority shall hold
13 and make available for the provision of loans, guarantees, equity
14 investments, and grants, or other forms of financing to support
15 small business and downtown or commercial corridor activation
16 activities within the municipality in which the qualified business
17 facility is located, as may be designated by the chief executive
18 officer of the authority. ¹Such funds shall be deployed by the
19 authority within 12 months of the authority's receipt of the funds,
20 and the authority shall issue a report each fiscal year to the
21 Legislature, pursuant to section 2 of P.L.1991, c.164 (C.52:14-
22 19.1), detailing how the funds were distributed.¹

23 (6) ¹**For the period** Notwithstanding the provisions of section
24 2 of P.L.2007, c.346 (C.34:1B-208) or any other law or regulation
25 to the contrary,¹ beginning on April 1, 2024, and for all subsequent
26 tax periods, ¹**the authority may authorize**¹ a business ¹located
27 outside an enhanced area or government-restricted municipality, as
28 those terms are defined in section 69 of P.L.2020, c.156 (C.34:1B-
29 337),¹ that has entered into an ¹**amended**¹ incentive agreement
30 with the authority ¹may elect¹ to waive the requirement that a full-
31 time employee who is employed by the business shall spend at least
32 60 percent of the employee's time at the qualified business facility;
33 provided, however, that a business that makes this election shall
34 satisfy the following criteria:

35 (i) ¹for a qualified business facility located outside an enhanced
36 area or government-restricted municipality, as those terms are
37 defined in section 69 of P.L.2020, c.156 (C.34:1B-337),¹ any full-
38 time employee employed by the business shall spend at least 40
39 percent of the employee's time at the qualified business facility
40 during the tax period; ¹**and**¹

41 (ii) ¹**following the receipt by the business of its tax credit**
42 certificate or tax credit transfer certificate for the tax period, the
43 business shall make a payment of an amount equal to 20 percent of
44 the amount of the tax credit the business receives for the tax period,
45 which payment shall be made to the municipal affordable housing
46 trust fund in the municipality in which the qualified business
47 facility is located **the business shall extend by two years the time it**

1 is required to maintain the project at a location in New Jersey
2 beyond the time set forth in the incentive agreement; and
3 (iii) at the time the business submits its tax credit certificate
4 certification for the tax period, the business shall make a non-
5 refundable payment of an amount equal to 10 percent of the amount
6 of the maximum annual tax credit that the business is eligible to
7 receive for the tax period, which payment shall be made to the
8 authority, and which payment the authority shall hold and make
9 available for the provision of loans, guarantees, equity investments,
10 and grants, or other forms of financing to support small business
11 and downtown or commercial corridor activation activities within
12 enhanced areas or government-restricted municipalities, as those
13 terms are defined in section 69 of P.L.2020, c.156 (C.34:1B-337),
14 as may be designated by the chief executive officer of the authority.
15 Such funds shall be deployed by the authority within 12 months of
16 the authority's receipt of the funds, and the authority shall issue a
17 report each fiscal year to the Legislature, pursuant to section 2 of
18 P.L.1991, c.164 (C.52:14-19.1), detailing how the funds were
19 distributed¹.

20 (7) ¹【The authority, in consultation with the Division of
21 Taxation in the Department of the Treasury, may authorize a tax
22 certificate holder to carry forward tax credits for an additional
23 period specified by the authority, subject to the provisions of this
24 section. The】 Notwithstanding the provisions of any law to the
25 contrary, the¹ credit amount may ¹first¹ be taken by the tax
26 certificate holder for the tax period for which it was issued ¹, for the
27 tax period in which it was issued,¹ or ¹【may be carried forward for
28 use by the tax certificate holder in any of the next 20 successive tax
29 periods, and shall expire thereafter】 in any tax period during the
30 time the business is required to maintain the project at a location in
31 New Jersey, as set forth in the incentive agreement¹ . The tax
32 certificate holder may transfer the tax credit amount on or after the
33 date of issuance ¹【or at any time after the date of issuance】¹ for use
34 by the transferee in the tax period for which it was issued ¹, for the
35 tax period in which it was issued,¹ or ¹【within a period to be
36 determined by the authority, in consultation with the Division of
37 Taxation, but not to exceed the 20 tax periods immediately
38 succeeding the tax period for which it was issued. In the case of a
39 tax certificate received after the end of the tax period for which the
40 tax certificate was issued, whether by transfer or original issuance,
41 a tax certificate holder or transferee shall not be required to amend
42 the tax return for the tax period for which the tax certificate was
43 issued or any successive tax period to first apply the credit】 in any
44 of the next three successive tax periods¹ . The tax certificate holder
45 or transferee may first ¹【claim】 use¹ the credit ¹against tax
46 liabilities¹ in ¹【any】 the¹ tax period ¹【on or after the date of

1 issuance] in which it was issued or in a succeeding tax period, as
2 authorized in this subsection, without being required to amend the
3 tax return for the tax period for which the credit was issued¹ .
4 subject to the ¹[carry-forward provision in] provisions of¹ this
5 section. Notwithstanding the foregoing, no more than the amount
6 of tax credits equal to the total credit amount, divided by the
7 ¹[number of] duration of the tax credit term, in¹ years ¹[in which
8 the credits may be claimed, not including carried-forward use]¹ .
9 may be taken in any tax period.

10 ¹(8) Notwithstanding the provisions of this subsection or any law
11 or regulation to the contrary, a business that has elected to modify
12 its obligations under an incentive agreement pursuant to P.L.2022,
13 c.134 may request, before December 31, 2024, to reduce the
14 number of Statewide employees specified in the incentive
15 agreement, provided the business certifies that all Statewide
16 employment specified in the incentive agreement is assigned to the
17 qualified business facility and the business is requesting to reduce
18 the number of new or retained full-time jobs specified in the
19 incentive agreement commencing with the 2020 tax period and, at
20 the discretion of the business, whether the reduction shall continue
21 for each subsequent tax period remaining in the eligibility period.¹

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

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

45 f. A business that has executed an approval letter may request
46 before December 31, **[2023]** 2024 to terminate the award,
47 commencing with the 2020 tax period or any subsequent tax period

1 ending on or before December 31, **[2023]** 2024, due to the COVID-
2 19 public health emergency; provided that the business shall submit
3 a certification from the business's chief executive officer or
4 equivalent officer stating that the termination is due, directly or
5 indirectly, to the public health emergency and describing the impact
6 of the public health emergency on the business. All credits for the
7 tax period in which the termination is requested and all subsequent
8 tax periods shall be forfeited, provided however that any credits of
9 the business shall remain unaffected. A termination agreement
10 executed by the authority and business shall not be amended.

11 (cf: P.L.2023, c.261, s.3)

12

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

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

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

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

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

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

30 b. (1) A business shall submit an application for tax credits
31 prior to July 1, 2019. The authority shall not approve an application
32 for tax credits unless the application was submitted prior to July 1,
33 2019.

34 (2) (a) A business shall submit its documentation indicating
35 that it has met the capital investment and employment requirements
36 and all conditions of approvals specified in the incentive agreement
37 for certification of its tax credit amount, to the authority's
38 satisfaction, within three years following the date of approval of its
39 application by the authority. The authority shall have the discretion
40 to grant two six-month extensions of this deadline. If the authority
41 accepts the documentation, the authority shall request that the
42 Division of Taxation in the Department of the Treasury issue a tax
43 credit based on the approved documentation to be used by the
44 business during the eligibility period. Except as provided in
45 subparagraphs (b) and (c) of this paragraph, in no event shall the
46 incentive effective date occur later than four years following the
47 date of approval of an application by the authority.

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

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

20 (3) Full-time employment for an accounting or privilege period
21 shall be determined as the average of the monthly full-time
22 employment for the period.

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

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

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

35 The credit amount may be taken by the tax certificate holder for
36 the tax period for which it was issued or may be carried forward for
37 use by the tax certificate holder in any of the next 20 successive tax
38 periods, and shall expire thereafter. The tax certificate holder may
39 transfer the tax credit amount on or after the date of issuance or at
40 any time **【within three years of】** after the date of issuance for use
41 by the transferee in the tax period for which it was issued or in any
42 of the next 20 successive tax periods. In the case of a tax certificate
43 received after the end of the tax period for which the tax certificate
44 was issued, whether by transfer or original issuance, a tax
45 certificate holder or transferee shall not be required to amend the
46 tax return for the tax period for which the tax certificate was issued
47 or any successive tax period **1【to first apply】 if¹ the credit** **1【. The**
48 **tax certificate holder or transferee may first claim the credit】 is first**

1 applied¹ in ¹[any] the¹ tax period ¹[that is on or after the date of
2 issuance] in which it was issued or in a succeeding tax period, as
3 authorized in subsection k. of this section¹ , ¹and¹ subject to the
4 carry-forward provision in this section. Notwithstanding the
5 foregoing, no more than the amount of tax credits equal to the total
6 credit amount ¹, ¹divided by the duration of the eligibility period ¹, ¹
7 in years ¹, ¹may be taken in any tax period.

8 A business may elect to suspend its obligations for the 2020,
9 2021, 2022, **[or]** 2023, or 2024 tax period, or any combination
10 thereof, due to the COVID-19 pandemic, provided that the business
11 shall make such election in writing to the authority before the
12 issuance of the tax credit for the corresponding tax year and such
13 suspension shall extend the term of the eligibility period by a
14 corresponding amount of time. The authority shall amend the
15 incentive agreement, and the business shall execute the amended
16 incentive agreement within the time period provided by the
17 authority. The amended incentive agreement shall provide that the
18 failure to submit the annual report due to the suspension shall not be
19 a forfeiture or an uncertified tax period.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

10 g. A business that has entered into an incentive agreement may
11 request before December 31, **[2023]** 2024 to terminate the
12 incentive agreement, commencing with the 2020 tax period or any
13 subsequent tax period ending on or before December 31, **[2023]**
14 2024, due to the COVID-19 public health emergency; provided that
15 the business shall submit a certification from the business's chief
16 executive officer or equivalent officer stating that the termination is
17 due, directly or indirectly, to the public health emergency and
18 describing the impact of the public health emergency on the
19 business. All credits for the tax period in which the termination
20 occurs and all subsequent tax periods shall be forfeited, provided
21 however that any credits of the business shall remain unaffected. A
22 termination agreement executed by the authority and business shall
23 not be amended.

24 h. A business that has entered into an incentive agreement may
25 request, before December 31, **[2023]** 2024, to reduce the number of
26 new or retained full-time jobs specified in the incentive agreement
27 based on a certification of the business of the eligible positions at
28 the qualified business facility commencing with the 2020 tax period
29 and, at the discretion of the business, whether the reduction shall
30 continue for each subsequent tax period remaining in the eligibility
31 period, provided that the business maintains the minimum number
32 of new or retained full-time jobs required to be eligible pursuant to
33 subsection c. of section 3 of P.L.2011, c.149 (C.34:1B-244). The
34 reduction in employment shall first apply to the number of new full-
35 time employees, and then shall apply to the number of retained full-
36 time employees.

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

43 i. Following the termination of the public health emergency
44 declared by the Governor pursuant to Executive Order No. 103 of
45 2020, as extended, a business that has entered into an incentive
46 agreement may elect, before March 31, 2024, to waive, for the
47 period beginning on July 1, 2022 and ending on March 31, 2024,
48 the requirement that a full-time employee who is employed by the

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

4 (1) any full-time employee employed by the business shall
5 spend at least 10 percent of the employee's time at the qualified
6 business facility for the 2023 tax period ¹and, if elected by the
7 business, the 2024 tax period¹ through March 31, 2024; and

8 (2) following the receipt by the business of its tax credit
9 certificate or tax credit transfer certificate for the 2022 tax period,
10 the business shall make a payment of an amount equal to five
11 percent of the amount of tax credit the business receives for the
12 2022 tax period through March 31, 2024, which payment shall be
13 made to the authority, and which payment the authority shall hold
14 and make available for the provision of loans, guarantees, equity
15 investments, and grants, or other forms of financing to support
16 small business and downtown or commercial corridor activation
17 activities within the municipality in which the qualified business
18 facility is located, as may be designated by the chief executive
19 officer of the authority. ¹Such funds shall be deployed by the
20 authority within 12 months of the authority's receipt of the funds,
21 and the authority shall issue a report each fiscal year to the
22 Legislature, pursuant to section 2 of P.L.1991, c.164 (C.52:14-
23 19.1), detailing how the funds were distributed.¹

24 j. ¹For the period **Notwithstanding the provisions of section**
25 **2 of P.L.2011, c.149 (C.34:1B-243) or any other law or regulation**
26 **to the contrary,**¹ **beginning on April 1, 2024, and for all subsequent**
27 **tax periods,** ¹**the authority may authorize**¹ **a business** ¹**located**
28 **outside an enhanced area or government-restricted municipality, as**
29 **those terms are defined in section 69 of P.L.2020, c.156 (C.34:1B-**
30 **337),**¹ **that has entered into an** ¹**amended**¹ **incentive agreement**
31 **with the authority** ¹**may elect**¹ **to waive the requirement that a full-**
32 **time employee who is employed by the business shall spend at least**
33 **60 percent of the employee's time at the qualified business facility;**
34 **provided, however, that a business that makes this election shall**
35 **satisfy the following criteria:**

36 (1) ¹for a qualified business facility located outside an enhanced
37 area or government-restricted municipality, as those terms are
38 defined in section 69 of P.L.2020, c.156 (C.34:1B-337),¹ any full-
39 time employee employed by the business shall spend at least 40
40 percent of the employee's time at the qualified business facility
41 during the tax period; ¹**and**¹

42 (2) ¹following the receipt by the business of its tax credit
43 certificate or tax credit transfer certificate for the tax period, the
44 business shall make a payment of an amount equal to 20 percent of
45 the amount of the tax credit the business receives for the tax period,
46 which payment shall be made to the municipal affordable housing
47 trust fund in the municipality in which the qualified business

1 facility is located] the business shall extend by two years the term
2 of its commitment period beyond the time set forth in the incentive
3 agreement; and

4 (3) at the time the business submits its tax credit certificate
5 certification for the tax period, the business shall make a non-
6 refundable payment of an amount equal to 10 percent of the amount
7 of the maximum annual tax credit that the business is eligible to
8 receive for the tax period, which payment shall be made to the
9 authority, and which payment the authority shall hold and make
10 available for the provision of loans, guarantees, equity investments,
11 and grants, or other forms of financing to support small business
12 and downtown or commercial corridor activation activities within
13 enhanced areas or government-restricted municipalities, as those
14 terms are defined in section 69 of P.L.2020, c.156 (C.34:1B-337),
15 as may be designated by the chief executive officer of the authority.
16 Such funds shall be deployed by the authority within 12 months of
17 the authority's receipt of the funds, and the authority shall issue a
18 report each fiscal year to the Legislature, pursuant to section 2 of
19 P.L.1991, c.164 (C.52:14-19.1), detailing how the funds were
20 distributed¹.

21 k. ¹[The authority, in consultation with the Division of
22 Taxation in the Department of the Treasury, may authorize a tax
23 certificate holder to carry forward tax credits for an additional
24 period specified by the authority, subject to the provisions of this
25 section. The] Notwithstanding the provisions of any law to the
26 contrary, the¹ credit amount may ¹first¹ be taken by the tax
27 certificate holder for the tax period for which it was issued ¹, for the
28 tax period in which it was issued,¹ or ¹[may be carried forward for
29 use by the tax certificate holder in any of the next 20 successive tax
30 periods, and shall expire thereafter] in any tax period during the
31 commitment period set forth in the incentive agreement¹ . The tax
32 certificate holder may transfer the tax credit amount on or after the
33 date of issuance ¹[or at any time after the date of issuance]¹ for use
34 by the transferee in the tax period for which it was issued ¹, for the
35 tax period in which it was issued,¹ or ¹[within a period to be
36 determined by the authority, in consultation with the Division of
37 Taxation, but not to exceed the 20 tax periods immediately
38 succeeding the tax period for which it was issued. In the case of a
39 tax certificate received after the end of the tax period for which the
40 tax certificate was issued, whether by transfer or original issuance,
41 a tax certificate holder or transferee shall not be required to amend
42 the tax return for the tax period for which the tax certificate was
43 issued or any successive tax period to first apply the credit] in any
44 of the next three successive tax periods¹ . The tax certificate holder
45 or transferee may first ¹[claim] use¹ the credit ¹against tax
46 liabilities¹ in ¹[any] the¹ tax period ¹[that is on or after the date of

1 issuance] in which it was issued or in a succeeding tax period, as
2 authorized in this subsection, without being required to amend the
3 tax return for the taxpayer for which the credit was issued¹, subject
4 to the ¹[carry-forward provision in] provisions of¹ this section.
5 Notwithstanding the foregoing, no more than the amount of tax
6 credits equal to the total credit amount ¹,¹ divided by the duration of
7 the ¹[eligibility period] tax credit term,¹ in years ¹,¹ may be taken
8 in any tax period.

9 ¹1. Notwithstanding the provisions of subsection b. of this
10 section or any law or regulation to the contrary, a business that has
11 elected to modify its obligations under an incentive agreement
12 pursuant to P.L.2022, c.134 may request, before December 31,
13 2024, to reduce the number of Statewide employees specified in the
14 incentive agreement, provided the business certifies that all
15 Statewide employment specified in the incentive agreement is
16 assigned to the qualified business facility and the business is
17 requesting to reduce the number of new or retained full-time jobs
18 specified in the incentive agreement commencing with the 2020 tax
19 period and, at the discretion of the business, whether the reduction
20 shall continue for each subsequent tax period remaining in the
21 eligibility period.¹

22 (cf: P.L.2023, c.261, s.4)

23

24 5. This act shall take effect immediately.

[Second Reprint]

SENATE, No. 3303

STATE OF NEW JERSEY

221st LEGISLATURE

INTRODUCED MAY 20, 2024

Sponsored by:

Senator NELLIE POU

District 35 (Bergen and Passaic)

Senator RAJ MUKHERJI

District 32 (Hudson)

SYNOPSIS

Extends certain accommodations for businesses participating in State economic development programs.

CURRENT VERSION OF TEXT

As reported by the Senate Budget and Appropriations Committee on June 26, 2024, with amendments.



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

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

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

35 b. Following the termination of the public health emergency
36 declared by the Governor pursuant to Executive Order No. 103 of
37 2020, as extended, a business that has entered into an incentive
38 agreement may elect, before March 31, 2024, to waive, for the
39 period beginning on July 1, 2022 and ending on March 31, 2024,
40 the requirement that a full-time employee who is employed by the
41 business shall spend at least 60 percent of the employee's time at
42 the qualified business facility; provided, however, that a business
43 that makes such an election shall satisfy the following criteria:

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

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

Matter underlined thus is new matter.

Matter enclosed in superscript numerals has been adopted as follows:

¹Senate SEG committee amendments adopted June 10, 2024.

²Senate SBA committee amendments adopted June 26, 2024.

1 business facility for the 2023 tax period ¹and, if elected by the
2 business, the 2024 tax period¹ through March 31, 2024; and

3 (2) following the receipt by the business of its tax credit
4 certificate or tax credit transfer certificate for the 2022 tax period,
5 the business shall make a payment of an amount equal to five
6 percent of the amount of tax credit the business receives for the
7 2022 tax period through March 31, 2024, which payment shall be
8 made to the authority, and which payment the authority shall hold
9 and make available for the provision of loans, guarantees, equity
10 investments, and grants, or other forms of financing to support
11 small business and downtown or commercial corridor activation
12 activities within the municipality in which the qualified business
13 facility is located, as may be designated by the chief executive
14 officer of the authority. ¹Such funds shall be deployed by the
15 authority within 12 months of the authority's receipt of the funds,
16 and the authority shall issue a report each fiscal year to the
17 Legislature, pursuant to section 2 of P.L.1991, c.164 (C.52:14-
18 19.1), detailing how the funds were distributed.¹

19 c. ¹For the period Notwithstanding the provisions of section
20 2 of P.L.1996, c.25 (C.34:1B-113) or any other law or regulation to
21 the contrary,¹ beginning on April 1, 2024, and for all subsequent tax
22 periods, ¹the authority may authorize¹ a business ¹located outside
23 an enhanced area or government-restricted municipality, as those
24 terms are defined in section 69 of P.L.2020, c.156 (C.34:1B-337),¹
25 that has entered into an ¹amended¹ incentive agreement with the
26 authority ¹may elect¹ to waive the requirement that a full-time
27 employee who is employed by the business shall spend at least 60
28 percent of the employee's time at the qualified business facility;
29 provided, however, that a business that makes this election shall
30 satisfy the following criteria:

31 (1) ¹for a qualified business facility located outside an enhanced
32 area or government-restricted municipality, as those terms are
33 defined in section 69 of P.L.2020, c.156 (C.34:1B-337),¹ any full-
34 time employee employed by the business shall spend at least 40
35 percent of the employee's time at the qualified business facility
36 during the tax period; ¹and¹

37 (2) ¹following the receipt by the business of its tax credit
38 certificate or tax credit transfer certificate for the tax period, the
39 business shall make a payment of an amount equal to 20 percent of
40 the amount of the tax credit the business receives for the tax period,
41 which payment shall be made to the municipal affordable housing
42 trust fund in the municipality in which the qualified business
43 facility is located the business shall extend by two years the term
44 of its commitment duration beyond the time set forth in the project
45 agreement; and

46 (3) at the time the business submits its tax credit certificate
47 certification for the tax period, the business shall make a non-

1 refundable payment of an amount equal to 10 percent of the amount
2 of the maximum annual tax credit that the business is eligible to
3 receive for the tax period, which payment shall be made to the
4 authority, and which payment the authority shall hold and make
5 available for the provision of loans, guarantees, equity investments,
6 and grants, or other forms of financing to support small business
7 and downtown or commercial corridor activation activities within
8 enhanced areas or government-restricted municipalities, as those
9 terms are defined in section 69 of P.L.2020, c.156 (C.34:1B-337),
10 as may be designated by the chief executive officer of the authority.
11 Such funds shall be deployed by the authority within 12 months of
12 the authority's receipt of the funds, and the authority shall issue a
13 report each fiscal year to the Legislature, pursuant to section 2 of
14 P.L.1991, c.164 (C.52:14-19.1), detailing how the funds were
15 distributed¹.

16 d. ¹【The authority, in consultation with the Division of
17 Taxation in the Department of the Treasury, may authorize a tax
18 certificate holder to carry forward tax credits for an additional
19 period specified by the authority, subject to the provisions of this
20 section. The】 Notwithstanding the provisions of any law to the
21 contrary, the¹ credit amount may ¹first¹ be taken by the tax
22 certificate holder for the tax period for which it was issued ¹, for the
23 tax period in which it was issued,¹ or ¹【may be carried forward for
24 use by the tax certificate holder in any of the next 20 successive tax
25 periods, and shall expire thereafter】 in any tax period during the
26 commitment duration set forth in the project agreement¹ . The tax
27 certificate holder may transfer the tax credit amount on or after the
28 date of issuance ¹【or at any time after the date of issuance】¹ for use
29 by the transferee in the tax period for which it was issued ¹, for the
30 tax period in which it was issued,¹ or ¹【within a period to be
31 determined by the authority, in consultation with the Division of
32 Taxation, but not to exceed the 20 tax periods immediately
33 succeeding the tax period for which it was issued. In the case of a
34 tax certificate received after the end of the tax period for which the
35 tax certificate was issued, whether by transfer or original issuance,
36 a tax certificate holder or transferee shall not be required to amend
37 the tax return for the tax period for which the tax certificate was
38 issued or any successive tax period to first apply the credit】 in any
39 of the next three successive tax periods¹ . The tax certificate holder
40 or transferee may first ¹【claim】 use¹ the credit ¹【in any tax period
41 on or after the date of issuance】 against tax liabilities in the tax
42 period in which it was issued or in a succeeding tax period, as
43 authorized in this subsection, without the need for amending the tax
44 return for the tax period for which the credit was issued¹ , subject to
45 the ¹【carry-forward provision in】 provisions of¹ this section.
46 Notwithstanding the foregoing, no more than the amount of tax

1 credits equal to the total credit amount ^{1,1} divided by the duration of
2 the tax credit term, in years, may be taken in any tax period.

3 (cf: P.L.2023, c.261, s.1)

4

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

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

23 (1) The number of eligible positions to be created;

24 (2) The expected duration of those positions;

25 (3) The type of contribution the business can make to the long-
26 term growth of the State's economy;

27 (4) The amount of other financial assistance the business will
28 receive from the State for the project;

29 (5) The total dollar investment the business is making in the
30 project;

31 (6) Whether the business is a designated industry;

32 (7) Impact of the business on State tax revenues; and

33 (8) Such other related factors determined by the authority.

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

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

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

47 e. Within 180 days of the date of enactment of P.L.2015, c.194
48 (C.34:1B-137.1 et al.), a business that was approved for a grant

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

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

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

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

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

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

45 (6) For a grant accrued but not paid during calendar year 2018,
46 the tax credit shall be equal to any approved amount and shall be
47 issued in two equal installments over a two-year period beginning

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

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

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

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

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

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

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

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

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

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

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

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

37 h. Following the termination of the public health emergency
38 declared by the Governor pursuant to Executive Order No. 103 of
39 2020, as extended, a business that has entered into an incentive
40 agreement may elect, before March 31, 2024, to waive, for the
41 period beginning on July 1, 2022 and ending on March 31, 2024,
42 the requirement that a full-time employee who is employed by the
43 business shall spend at least 60 percent of the employee's time at
44 the qualified business facility; provided, however, that a business
45 that makes such an election shall satisfy the following criteria:

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

1 facility for the 2023 tax period ¹and, if elected by the business, the
2 2024 tax period¹ through March 31, 2024; and

3 (2) following the receipt by the business of its tax credit
4 certificate or tax credit transfer certificate for the 2022 tax period,
5 the business shall make a payment of an amount equal to five
6 percent of the amount of tax credit the business receives for the
7 2022 tax period through March 31, 2024, which payment shall be
8 made to the authority, and which payment the authority shall hold
9 and make available for the provision of loans, guarantees, equity
10 investments, and grants, or other forms of financing to support
11 small business and downtown or commercial corridor activation
12 activities within the municipality in which the qualified business
13 facility is located, as may be designated by the chief executive
14 officer of the authority. ¹Such funds shall be deployed by the
15 authority within 12 months of the authority's receipt of the funds,
16 and the authority shall issue a report each fiscal year to the
17 Legislature, pursuant to section 2 of P.L.1991, c.164 (C.52:14-
18 19.1), detailing how the funds were distributed.¹

19 i. ¹For the period Notwithstanding the provisions of section
20 2 of P.L.1996, c.26 (C.34:1B-125) or any other law or regulation to
21 the contrary,¹ beginning on April 1, 2024, and for all subsequent tax
22 periods, ¹the authority may authorize¹ a business ¹located outside
23 an enhanced area or government-restricted municipality, as those
24 terms are defined in section 69 of P.L.2020, c.156 (C.34:1B-337),¹
25 that has entered into an ¹amended¹ incentive agreement with the
26 authority ¹may elect¹ to waive the requirement that a full-time
27 employee who is employed by the business shall spend at least 60
28 percent of the employee's time at the qualified business facility;
29 provided, however, that a business that makes this election shall
30 satisfy the following criteria:

31 (1) ¹for a qualified business facility located outside an enhanced
32 area or government-restricted municipality, as those terms are
33 defined in section 69 of P.L.2020, c.156 (C.34:1B-337),¹ any full-
34 time employee employed by the business shall spend at least 40
35 percent of the employee's time at the qualified business facility
36 during the tax period; ¹and¹

37 (2) ¹following the receipt by the business of its tax credit
38 certificate or tax credit transfer certificate for the tax period, the
39 business shall make a payment of an amount equal to 20 percent of
40 the amount of the tax credit the business receives for the tax period,
41 which payment shall be made to the municipal affordable housing
42 trust fund in the municipality in which the qualified business
43 facility is located the business shall extend by two years the time it
44 is required to maintain the project at a location in New Jersey
45 beyond the time set forth in the incentive agreement; and

46 (3) at the time the business submits its tax credit certificate
47 certification for the tax period, the business shall make a non-

1 refundable payment of an amount equal to 10 percent of the amount
2 of the maximum annual tax credit that the business is eligible to
3 receive for the tax period, which payment shall be made to the
4 authority, and which payment the authority shall hold and make
5 available for the provision of loans, guarantees, equity investments,
6 and grants, or other forms of financing to support small business
7 and downtown or commercial corridor activation activities within
8 enhanced areas or government-restricted municipalities, as those
9 terms are defined in section 69 of P.L.2020, c.156 (C.34:1B-337),
10 as may be designated by the chief executive officer of the authority.
11 Such funds shall be deployed by the authority within 12 months of
12 the authority's receipt of the funds, and the authority shall issue a
13 report each fiscal year to the Legislature, pursuant to section 2 of
14 P.L.1991, c.164 (C.52:14-19.1), detailing how the funds were
15 distributed¹.

16 j. ¹【The authority, in consultation with the Division of
17 Taxation in the Department of the Treasury, may authorize a tax
18 certificate holder to carry forward tax credits for an additional
19 period specified by the authority, subject to the provisions of this
20 section. The】 Notwithstanding the provisions of any law to the
21 contrary, the¹ credit amount may ¹first¹ be taken by the tax
22 certificate holder for the tax period for which it was issued ¹, for the
23 tax period in which it was issued,¹ or ¹【may be carried forward for
24 use by the tax certificate holder in any of the next 20 successive tax
25 periods, and shall expire thereafter】 in any tax period during the
26 time the business is required to maintain the project at a location in
27 New Jersey, as set forth in the incentive agreement¹ . The tax
28 certificate holder may transfer the tax credit amount on or after the
29 date of issuance ¹【or at any time after the date of issuance】¹ for use
30 by the transferee in the tax period for which it was issued ¹, for the
31 tax period in which it was issued,¹ or ¹【within a period to be
32 determined by the authority, in consultation with the Division of
33 Taxation, but not to exceed the 20 tax periods immediately
34 succeeding the tax period for which it was issued. In the case of a
35 tax certificate received after the end of the tax period for which the
36 tax certificate was issued, whether by transfer or original issuance,
37 a tax certificate holder or transferee shall not be required to amend
38 the tax return for the tax period for which the tax certificate was
39 issued or any successive tax period to first apply the credit】 in any
40 of the next three successive tax periods¹ . The tax certificate holder
41 or transferee may first ¹【claim】 use¹ the credit ¹【in any tax period
42 on or after the date of issuance】 against tax liabilities in the tax
43 period in which it was issued or in a succeeding tax period, as
44 authorized in this subsection, without the need for amending the tax
45 return for the tax period for which the credit was issued¹ , subject to
46 the ¹【carry-forward provision in】 provisions of¹ this section.

1 ¹ [Notwithstanding the foregoing, no more than the amount of tax
2 credits equal to the total credit amount, divided by the number of
3 years in which the credits may be claimed, not including carried-
4 forward use, may be taken in any tax period.]¹

5 (cf: P.L.2023, c.261, s.2)

6
7 3. Section 3 of P.L.2007, c.346 (C.34:1B-209) is amended to read
8 as follows:

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

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

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

1 \$50,000,000 shall be added to the amount of capital investment
2 represented by the tenant's leased area in the qualified business
3 facility.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

43 A business may elect to suspend its obligations for the 2020, 2021,
44 2022, **[or]** 2023, or 2024 tax period, or any combination thereof, due
45 to the COVID-19 pandemic, provided that the business shall make
46 such election in writing to the authority before the issuance of the tax
47 credit for the corresponding tax year and such suspension shall extend
48 the term of the eligibility period by a corresponding amount of time.

1 The authority shall modify the approval letter, and the business shall
2 execute the modification within the time period provided by the
3 authority. The modification shall provide that the failure to submit the
4 annual report due to the suspension shall not be a forfeiture or an
5 uncertified tax period.

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

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

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

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

1 and each subsequent tax period the full amount of the credit shall be
2 allowed.

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

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

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

30 (5) Following the termination of the public health emergency
31 declared by the Governor pursuant to Executive Order No. 103 of
32 2020, as extended, a business that has entered into an incentive
33 agreement may elect, before March 31, 2024, to waive, for the period
34 beginning on July 1, 2022 and ending on March 31, 2024, the
35 requirement that a full-time employee who is employed by the
36 business shall spend at least 60 percent of the employee's time at the
37 qualified business facility; provided, however, that a business that
38 makes such an election shall satisfy the following criteria:

39 (i) any full-time employee employed by the business shall spend
40 at least 10 percent of the employee's time at the qualified business
41 facility for the 2023 tax period ¹and, if elected by the business, the
42 2024 tax period¹ through March 31, 2024; and

43 (ii) following the receipt by the business of its tax credit certificate
44 or tax credit transfer certificate for the 2022 tax period, the business
45 shall make a payment of an amount equal to five percent of the amount
46 of tax credit the business receives for the 2022 tax period through
47 March 31, 2024, which payment shall be made to the authority, and
48 which payment the authority shall hold and make available for the

1 provision of loans, guarantees, equity investments, and grants, or other
2 forms of financing to support small business and downtown or
3 commercial corridor activation activities within the municipality in
4 which the qualified business facility is located, as may be designated
5 by the chief executive officer of the authority. ¹Such funds shall be
6 deployed by the authority within 12 months of the authority's receipt
7 of the funds, and the authority shall issue a report each fiscal year to
8 the Legislature, pursuant to section 2 of P.L.1991, c.164 (C.52:14-
9 19.1), detailing how the funds were distributed.¹

10 (6) ¹【For the period】 Notwithstanding the provisions of section 2
11 of P.L.2007, c.346 (C.34:1B-208) or any other law or regulation to the
12 contrary,¹ beginning on April 1, 2024, and for all subsequent tax
13 periods, ¹【the authority may authorize】¹ a business ¹located outside an
14 enhanced area or government-restricted municipality, as those terms
15 are defined in section 69 of P.L.2020, c.156 (C.34:1B-337),¹ that has
16 entered into an ¹【amended】¹ incentive agreement with the authority
17 ¹may elect¹ to waive the requirement that a full-time employee who is
18 employed by the business shall spend at least 60 percent of the
19 employee's time at the qualified business facility; provided, however,
20 that a business that makes this election shall satisfy the following
21 criteria:

22 (i) ¹for a qualified business facility located outside an enhanced
23 area or government-restricted municipality, as those terms are defined
24 in section 69 of P.L.2020, c.156 (C.34:1B-337),¹ any full-time
25 employee employed by the business shall spend at least 40 percent of
26 the employee's time at the qualified business facility during the tax
27 period; ¹【and】¹

28 (ii) ¹【following the receipt by the business of its tax credit
29 certificate or tax credit transfer certificate for the tax period, the
30 business shall make a payment of an amount equal to 20 percent of the
31 amount of the tax credit the business receives for the tax period, which
32 payment shall be made to the municipal affordable housing trust fund
33 in the municipality in which the qualified business facility is located】
34 the business shall extend by two years the time it is required to
35 maintain the project at a location in New Jersey beyond the time set
36 forth in the incentive agreement; and

37 (iii) at the time the business submits its tax credit certificate
38 certification for the tax period, the business shall make a non-
39 refundable payment of an amount equal to 10 percent of the amount of
40 the maximum annual tax credit that the business is eligible to receive
41 for the tax period, which payment shall be made to the authority, and
42 which payment the authority shall hold and make available for the
43 provision of loans, guarantees, equity investments, and grants, or other
44 forms of financing to support small business and downtown or
45 commercial corridor activation activities within enhanced areas or
46 government-restricted municipalities, as those terms are defined in
47 section 69 of P.L.2020, c.156 (C.34:1B-337), as may be designated by

1 the chief executive officer of the authority. Such funds shall be
2 deployed by the authority within 12 months of the authority's receipt
3 of the funds, and the authority shall issue a report each fiscal year to
4 the Legislature, pursuant to section 2 of P.L.1991, c.164 (C.52:14-
5 19.1), detailing how the funds were distributed¹.

6 (7) ¹【The authority, in consultation with the Division of Taxation
7 in the Department of the Treasury, may authorize a tax certificate
8 holder to carry forward tax credits for an additional period specified by
9 the authority, subject to the provisions of this section. The】
10 Notwithstanding the provisions of any law to the contrary, the¹ credit
11 amount may ¹first¹ be taken by the tax certificate holder for the tax
12 period for which it was issued ¹, for the tax period in which it was
13 issued,¹ or ¹【may be carried forward for use by the tax certificate
14 holder in any of the next 20 successive tax periods, and shall expire
15 thereafter】 in any tax period during the time the business is required to
16 maintain the project at a location in New Jersey, as set forth in the
17 incentive agreement¹ . The tax certificate holder may transfer the tax
18 credit amount on or after the date of issuance ¹【or at any time after the
19 date of issuance】¹ for use by the transferee in the tax period for which
20 it was issued ¹, for the tax period in which it was issued,¹ or ¹【within a
21 period to be determined by the authority, in consultation with the
22 Division of Taxation, but not to exceed the 20 tax periods immediately
23 succeeding the tax period for which it was issued. In the case of a tax
24 certificate received after the end of the tax period for which the tax
25 certificate was issued, whether by transfer or original issuance, a tax
26 certificate holder or transferee shall not be required to amend the tax
27 return for the tax period for which the tax certificate was issued or any
28 successive tax period to first apply the credit】 in any of the next three
29 successive tax periods¹ . The tax certificate holder or transferee may
30 first ¹【claim】 use¹ the credit ¹against tax liabilities¹ in ¹【any】 the¹ tax
31 period ¹【on or after the date of issuance】 in which it was issued or in a
32 succeeding tax period, as authorized in this subsection, without being
33 required to amend the tax return for the tax period for which the credit
34 was issued¹ , subject to the ¹【carry-forward provision in】 provisions
35 of¹ this section. Notwithstanding the foregoing, no more than the
36 amount of tax credits equal to the total credit amount, divided by the
37 ¹【number of】 duration of the tax credit term, in¹ years ¹【in which the
38 credits may be claimed, not including carried-forward use】¹ , may be
39 taken in any tax period.

40 ¹(8) Notwithstanding the provisions of this subsection or any law
41 or regulation to the contrary, a business that has elected to modify its
42 obligations under an incentive agreement pursuant to P.L.2022, c.134
43 may request, before December 31, 2024, to reduce the number of
44 Statewide employees specified in the incentive agreement, provided
45 the business certifies that ²【all Statewide employment specified in the
46 incentive agreement is assigned to the qualified business facility and】²

1 the business is requesting to reduce the number of new or retained full-
2 time jobs specified in the incentive agreement commencing with the
3 2020 tax period and, at the discretion of the business, whether the
4 reduction shall continue for each subsequent tax period remaining in
5 the eligibility period.¹

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

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

28 f. A business that has executed an approval letter may request
29 before December 31, **[2023]** 2024 to terminate the award,
30 commencing with the 2020 tax period or any subsequent tax period
31 ending on or before December 31, **[2023]** 2024, due to the COVID-19
32 public health emergency; provided that the business shall submit a
33 certification from the business's chief executive officer or equivalent
34 officer stating that the termination is due, directly or indirectly, to the
35 public health emergency and describing the impact of the public health
36 emergency on the business. All credits for the tax period in which the
37 termination is requested and all subsequent tax periods shall be
38 forfeited, provided however that any credits of the business shall
39 remain unaffected. A termination agreement executed by the authority
40 and business shall not be amended.

41 (cf: P.L.2023, c.261, s.3)

42
43 4. Section 6 of P.L.2011, c.149 (C.34:1B-247) is amended to read
44 as follows:

45 6. a. (1) The combined value of all credits approved by the
46 authority pursuant to P.L.2007, c.346 (C.34:1B-207 et seq.) and
47 P.L.2011, c.149 (C.34:1B-242 et al.) prior to December 31, 2013 shall
48 not exceed \$1,750,000,000, except as may be increased by the

1 authority as set forth in paragraph (5) of subsection a. of section 35 of
2 P.L.2009, c.90 (C.34:1B-209.3). Following the enactment of the "New
3 Jersey Economic Opportunity Act of 2013," P.L.2013, c.161
4 (C.52:27D-489p et al.), there shall be no monetary cap on the value of
5 credits approved by the authority attributable to the program pursuant
6 to the "New Jersey Economic Opportunity Act of 2013," P.L.2013,
7 c.161 (C.52:27D-489p et al.).

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

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

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

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

12 b. (1) A business shall submit an application for tax credits prior
13 to July 1, 2019. The authority shall not approve an application for tax
14 credits unless the application was submitted prior to July 1, 2019.

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

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

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

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

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

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

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

16 The credit amount may be taken by the tax certificate holder for
17 the tax period for which it was issued or may be carried forward for
18 use by the tax certificate holder in any of the next 20 successive tax
19 periods, and shall expire thereafter. The tax certificate holder may
20 transfer the tax credit amount on or after the date of issuance or at any
21 time **【within three years of】** after the date of issuance for use by the
22 transferee in the tax period for which it was issued or in any of the
23 next 20 successive tax periods. In the case of a tax certificate received
24 after the end of the tax period for which the tax certificate was issued,
25 whether by transfer or original issuance, a tax certificate holder or
26 transferee shall not be required to amend the tax return for the tax
27 period for which the tax certificate was issued or any successive tax
28 period ¹【to first apply】 if¹ the credit ¹【. The tax certificate holder or
29 transferee may first claim the credit】 is first applied¹ in ¹【any】 the¹
30 tax period ¹【that is on or after the date of issuance】 in which it was
31 issued or in a succeeding tax period, as authorized in subsection k. of
32 this section¹ , ¹and¹ subject to the carry-forward provision in this
33 section. Notwithstanding the foregoing, no more than the amount of
34 tax credits equal to the total credit amount ^{1,1} divided by the duration
35 of the eligibility period ^{1,1} in years ^{1,1} may be taken in any tax period.

36 A business may elect to suspend its obligations for the 2020, 2021,
37 2022, **【or】** 2023, or 2024 tax period, or any combination thereof, due
38 to the COVID-19 pandemic, provided that the business shall make
39 such election in writing to the authority before the issuance of the tax
40 credit for the corresponding tax year and such suspension shall extend
41 the term of the eligibility period by a corresponding amount of time.
42 The authority shall amend the incentive agreement, and the business
43 shall execute the amended incentive agreement within the time period
44 provided by the authority. The amended incentive agreement shall
45 provide that the failure to submit the annual report due to the
46 suspension shall not be a forfeiture or an uncertified tax period.

1 (2) Credits granted to a partnership shall be passed through to the
2 partners, members, or owners, respectively, pro-rata or pursuant to an
3 executed agreement among the partners, members, or owners
4 documenting an alternate distribution method provided to the Director
5 of the Division of Taxation in the Department of the Treasury
6 accompanied by any additional information as the director may
7 require.

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

13 (4) In order to respond to the profoundly negative impact of the
14 COVID-19 pandemic on the State's economy and finances, the
15 authority may request a tax certificate holder, at the tax certificate
16 holder's discretion, to defer the application of a credit amount allowed
17 pursuant to this section to a later tax period. Upon request, the
18 authority and the tax certificate holder shall negotiate the terms of the
19 deferral, which shall hold the certificate holder harmless, which will be
20 made in the incentive agreement or as an addendum to the incentive
21 agreement.

22 d. (1) If, in any tax period, the business reduces the total number
23 of full-time employees in its Statewide workforce by more than 20
24 percent from the number of full-time employees in its Statewide
25 workforce in the last tax period prior to the credit amount approval
26 under section 3 of P.L.2011, c.149 (C.34:1B-244), then the business
27 shall forfeit its credit amount for that tax period and each subsequent
28 tax period, until the first tax period for which documentation
29 demonstrating the restoration of the business's Statewide workforce to
30 the threshold levels required by the incentive agreement has been
31 reviewed and approved by the authority, for which tax period and each
32 subsequent tax period the full amount of the credit shall be allowed.

33 (2) If, in any tax period, the number of full-time employees
34 employed by the business at the qualified business facility located
35 within a qualified incentive area drops below 80 percent of the number
36 of new and retained full-time jobs specified in the incentive
37 agreement, then the business shall forfeit its credit amount for that tax
38 period and each subsequent tax period, until the first tax period for
39 which documentation demonstrating the restoration of the number of
40 full-time employees employed by the business at the qualified business
41 facility to 80 percent of the number of jobs specified in the incentive
42 agreement.

43 (3) (a) If the qualified business facility is sold by the owner in
44 whole or in part during the eligibility period, the new owner shall not
45 acquire the capital investment of the seller and the seller shall forfeit
46 all credits for the tax period in which the sale occurs and all
47 subsequent tax periods, provided however that any credits of the
48 business shall remain unaffected.

1 (b) In connection with a regional distribution facility of foodstuffs,
2 the business entity or entities which own or lease the facility shall
3 qualify as a business regardless of: (i) the type of the business entity or
4 entities which own or lease the facility; (ii) the ownership or leasing of
5 the facility by more than one business entity; or (iii) the ownership of
6 the business entity or entities which own or lease the facility. The
7 ownership or leasing, whether by members, shareholders, partners, or
8 other owners of the business entity or entities, shall be treated as
9 ownership or leasing by affiliates. The members, shareholders,
10 partners, or other ownership or leasing participants and others that are
11 tenants in the facility shall be treated as affiliates for the purpose of
12 counting the full-time employees and capital investments in the
13 facility. The business entity or entities may distribute credits to
14 members, shareholders, partners, or other ownership or leasing
15 participants in accordance with their respective interests. If the
16 business entity or entities or their members, shareholders, partners, or
17 other ownership or leasing participants lease space in the facility to
18 members, shareholders, partners, or other ownership or leasing
19 participants or others as tenants in the facility, the leases shall be
20 treated as a lease to an affiliate, and the business entity or entities shall
21 not be subject to forfeiture of the credits. For the purposes of this
22 section, leasing shall include subleasing and tenants shall include
23 subtenants.

24 (4) (a) For a project located within a Garden State Growth Zone,
25 if, in any tax period, the number of full-time employees employed by
26 the business at the qualified business facility located within a qualified
27 incentive area increases above the number of full-time employees
28 specified in the incentive agreement, then the business shall be entitled
29 to an increased base credit amount for that tax period and each
30 subsequent tax period, for each additional full-time employee added
31 above the number of full-time employees specified in the incentive
32 agreement, until the first tax period for which documentation
33 demonstrating a reduction of the number of full-time employees
34 employed by the business at the qualified business facility, at which
35 time the tax credit amount will be adjusted accordingly pursuant to this
36 section.

37 (b) For a project located within a Garden State Growth Zone which
38 qualifies under the "Municipal Rehabilitation and Economic Recovery
39 Act," P.L.2002, c.43 (C.52:27BBB-1 et al.), or which contains a
40 Tourism District as established pursuant to section 5 of P.L.2011, c.18
41 (C.5:12-219) and regulated by the Casino Reinvestment Development
42 Authority, and which qualifies for a tax credit pursuant to
43 subsubparagraph (ii) of subparagraphs (a) through (e) of paragraph (6)
44 of subsection d. of section 5 of P.L.2011, c.149 (C.34:1B-246), if, in
45 any tax period the number of full-time employees employed by the
46 business at the qualified business facility located within a qualified
47 incentive area increases above the number of full-time employees
48 specified in the incentive agreement such that the business shall then

1 meet the minimum number of employees required in subparagraph (b),
2 (c), (d), or (e) of paragraph (6) of subsection d. of section 5 of
3 P.L.2011, c.149 (C.34:1B-246), then the authority shall recalculate the
4 total tax credit amount per full-time job by using the certified capital
5 investment of the project allowable under the applicable
6 subsubparagraph and the number of full-time jobs certified on the date
7 of the recalculation and applying those numbers to subparagraph (b),
8 (c), (d), or (e) of paragraph (6) of subsection d. of section 5 of
9 P.L.2011, c.149 (C.34:1B-246), until the first tax period for which
10 documentation demonstrating a reduction of the number of full-time
11 employees employed by the business at the qualified business facility,
12 at which time the tax credit amount shall be adjusted accordingly
13 pursuant to this section.

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

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

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

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

35 g. A business that has entered into an incentive agreement may
36 request before December 31, **[2023]** 2024 to terminate the incentive
37 agreement, commencing with the 2020 tax period or any subsequent
38 tax period ending on or before December 31, **[2023]** 2024, due to the
39 COVID-19 public health emergency; provided that the business shall
40 submit a certification from the business's chief executive officer or
41 equivalent officer stating that the termination is due, directly or
42 indirectly, to the public health emergency and describing the impact of
43 the public health emergency on the business. All credits for the tax
44 period in which the termination occurs and all subsequent tax periods
45 shall be forfeited, provided however that any credits of the business
46 shall remain unaffected. A termination agreement executed by the
47 authority and business shall not be amended.

1 h. A business that has entered into an incentive agreement may
2 request, before December 31, ~~2023~~ 2024, to reduce the number of
3 new or retained full-time jobs specified in the incentive agreement
4 based on a certification of the business of the eligible positions at the
5 qualified business facility commencing with the 2020 tax period and,
6 at the discretion of the business, whether the reduction shall continue
7 for each subsequent tax period remaining in the eligibility period,
8 provided that the business maintains the minimum number of new or
9 retained full-time jobs required to be eligible pursuant to subsection c.
10 of section 3 of P.L.2011, c.149 (C.34:1B-244). The reduction in
11 employment shall first apply to the number of new full-time
12 employees, and then shall apply to the number of retained full-time
13 employees.

14 The authority shall calculate a new tax credit total amount for the
15 2020 tax period and the remainder of the eligibility period based on the
16 reduced employment and shall amend the incentive agreement to
17 reflect the recalculated award amount. In no event shall the
18 modification result in an increase in employment or tax credit amount.

19 i. Following the termination of the public health emergency
20 declared by the Governor pursuant to Executive Order No. 103 of
21 2020, as extended, a business that has entered into an incentive
22 agreement may elect, before March 31, 2024, to waive, for the period
23 beginning on July 1, 2022 and ending on March 31, 2024, the
24 requirement that a full-time employee who is employed by the
25 business shall spend at least 60 percent of the employee's time at the
26 qualified business facility; provided, however, that a business that
27 makes such an election shall satisfy the following criteria:

28 (1) any full-time employee employed by the business shall spend
29 at least 10 percent of the employee's time at the qualified business
30 facility for the 2023 tax period ¹and, if elected by the business, the
31 2024 tax period¹ through March 31, 2024; and

32 (2) following the receipt by the business of its tax credit certificate
33 or tax credit transfer certificate for the 2022 tax period, the business
34 shall make a payment of an amount equal to five percent of the amount
35 of tax credit the business receives for the 2022 tax period through
36 March 31, 2024, which payment shall be made to the authority, and
37 which payment the authority shall hold and make available for the
38 provision of loans, guarantees, equity investments, and grants, or other
39 forms of financing to support small business and downtown or
40 commercial corridor activation activities within the municipality in
41 which the qualified business facility is located, as may be designated
42 by the chief executive officer of the authority. ¹Such funds shall be
43 deployed by the authority within 12 months of the authority's receipt
44 of the funds, and the authority shall issue a report each fiscal year to
45 the Legislature, pursuant to section 2 of P.L.1991, c.164 (C.52:14-
46 19.1), detailing how the funds were distributed.¹

1 j. ¹【For the period】 Notwithstanding the provisions of section 2
2 of P.L.2011, c.149 (C.34:1B-243) or any other law or regulation to the
3 contrary,¹ beginning on April 1, 2024, and for all subsequent tax
4 periods, ¹【the authority may authorize】¹ a business ¹located outside an
5 enhanced area or government-restricted municipality, as those terms
6 are defined in section 69 of P.L.2020, c.156 (C.34:1B-337),¹ that has
7 entered into an ¹【amended】¹ incentive agreement with the authority
8 ¹may elect¹ to waive the requirement that a full-time employee who is
9 employed by the business shall spend at least 60 percent of the
10 employee's time at the qualified business facility; provided, however,
11 that a business that makes this election shall satisfy the following
12 criteria:

13 (1) ¹for a qualified business facility located outside an enhanced
14 area or government-restricted municipality, as those terms are defined
15 in section 69 of P.L.2020, c.156 (C.34:1B-337),¹ any full-time
16 employee employed by the business shall spend at least 40 percent of
17 the employee's time at the qualified business facility during the tax
18 period; ¹【and】¹

19 (2) ¹【following the receipt by the business of its tax credit
20 certificate or tax credit transfer certificate for the tax period, the
21 business shall make a payment of an amount equal to 20 percent of the
22 amount of the tax credit the business receives for the tax period, which
23 payment shall be made to the municipal affordable housing trust fund
24 in the municipality in which the qualified business facility is located】
25 the business shall extend by two years the term of its commitment
26 period beyond the time set forth in the incentive agreement; and

27 (3) at the time the business submits its tax credit certificate
28 certification for the tax period, the business shall make a non-
29 refundable payment of an amount equal to 10 percent of the amount of
30 the maximum annual tax credit that the business is eligible to receive
31 for the tax period, which payment shall be made to the authority, and
32 which payment the authority shall hold and make available for the
33 provision of loans, guarantees, equity investments, and grants, or other
34 forms of financing to support small business and downtown or
35 commercial corridor activation activities within enhanced areas or
36 government-restricted municipalities, as those terms are defined in
37 section 69 of P.L.2020, c.156 (C.34:1B-337), as may be designated by
38 the chief executive officer of the authority. Such funds shall be
39 deployed by the authority within 12 months of the authority's receipt
40 of the funds, and the authority shall issue a report each fiscal year to
41 the Legislature, pursuant to section 2 of P.L.1991, c.164 (C.52:14-
42 19.1), detailing how the funds were distributed¹.

43 k. ¹【The authority, in consultation with the Division of Taxation
44 in the Department of the Treasury, may authorize a tax certificate
45 holder to carry forward tax credits for an additional period specified by
46 the authority, subject to the provisions of this section. The】
47 Notwithstanding the provisions of any law to the contrary, the¹ credit

1 amount may ¹first¹ be taken by the tax certificate holder for the tax
2 period for which it was issued ¹, for the tax period in which it was
3 issued,¹ or ¹~~may be carried forward for use by the tax certificate~~
4 ~~holder in any of the next 20 successive tax periods, and shall expire~~
5 ~~thereafter~~ ¹ in any tax period during the commitment period set forth in
6 the incentive agreement¹ . The tax certificate holder may transfer the
7 tax credit amount on or after the date of issuance ¹~~or at any time after~~
8 ~~the date of issuance~~¹ for use by the transferee in the tax period for
9 which it was issued ¹, for the tax period in which it was issued,¹ or
10 ¹~~within a period to be determined by the authority, in consultation~~
11 ~~with the Division of Taxation, but not to exceed the 20 tax periods~~
12 ~~immediately succeeding the tax period for which it was issued. In the~~
13 ~~case of a tax certificate received after the end of the tax period for~~
14 ~~which the tax certificate was issued, whether by transfer or original~~
15 ~~issuance, a tax certificate holder or transferee shall not be required to~~
16 ~~amend the tax return for the tax period for which the tax certificate~~
17 ~~was issued or any successive tax period to first apply the credit~~ ¹ in any
18 of the next three successive tax periods¹ . The tax certificate holder or
19 transferee may first ¹~~claim~~ ¹use¹ the credit ¹against tax liabilities¹ in
20 ¹~~any~~ ¹the¹ tax period ¹~~that is on or after the date of issuance~~ ¹ in
21 which it was issued or in a succeeding tax period, as authorized in this
22 subsection, without being required to amend the tax return for the
23 taxpayer for which the credit was issued¹ , subject to the ¹~~carry-~~
24 ~~forward provision in~~ ¹provisions of¹ this section. Notwithstanding the
25 foregoing, no more than the amount of tax credits equal to the total
26 credit amount ^{1,1} divided by the duration of the ¹~~eligibility period~~
27 tax credit term,¹ in years ^{1,1} may be taken in any tax period.

28 ¹1. Notwithstanding the provisions of subsection b. of this section
29 or any law or regulation to the contrary, a business that has elected to
30 modify its obligations under an incentive agreement pursuant to
31 P.L.2022, c.134 may request, before December 31, 2024, to reduce the
32 number of Statewide employees specified in the incentive agreement,
33 provided the business certifies that ²~~all Statewide employment~~
34 ~~specified in the incentive agreement is assigned to the qualified~~
35 ~~business facility and~~² the business is requesting to reduce the number
36 of new or retained full-time jobs specified in the incentive agreement
37 commencing with the 2020 tax period and, at the discretion of the
38 business, whether the reduction shall continue for each subsequent tax
39 period remaining in the eligibility period.¹

40 (cf: P.L.2023, c.261, s.4)

41

42 5. This act shall take effect immediately.

SENATE ECONOMIC GROWTH COMMITTEE

STATEMENT TO

SENATE, No. 3303

with committee amendments

STATE OF NEW JERSEY

DATED: JUNE 10, 2024

The Senate Economic Growth Committee reports favorably and with committee amendments Senate Bill No. 3303.

As amended and reported, this bill provides certain accommodations to businesses participating in the Business Employment Incentive Program, the Business Retention and Relocation Assistance Grant Program, the Grow New Jersey Assistance Program, and the Urban Transit Hub Program, each of which is administered by the New Jersey Economic Development Authority (EDA).

Under current law, a business that participates in any of these programs is awarded an economic development incentive in the form of tax credits after meeting certain program requirements. Under each program, the business is required to create or retain a certain number of full-time jobs at a qualified business facility, with the number of jobs created or retained varying depending on the program and the location of the qualified business facility. However, in order for a full-time job to be counted towards satisfying the requirements of each program, current law requires full-time employees to spend at least 60 percent of their time at the qualified business facility.

Current law allows a business participating in any of these programs to waive this requirement through March 31, 2024, provided that: (1) any full-time employee employed by the business spends at least 10 percent of the employee's time at the qualified business facility for the 2023 tax period through March 31, 2024; and (2) the business makes a payment of an amount equal to five percent of the amount of the tax credit that the business receives for the 2022 tax period.

The bill would extend this authorization for the tax period beginning on April 1, 2024, and for all subsequent tax periods, for any business located outside an enhanced area or government-restricted municipality that has entered into an incentive agreement, provided that: (1) for a qualified business facility located outside an enhanced area or government-restricted municipality, any full-time employee employed by the business spends at least 40 percent of the employee's

time at the qualified business facility during the tax period; (2) the business extends by two years the term of its commitment period beyond the time set forth in the incentive agreement; and (3) the business makes a non-refundable payment to the EDA in an amount equal to 10 percent of the maximum amount of the tax credit that the business may receive for the tax period. Under the bill, the EDA would be required to use these payments to provide loans, guarantees, equity investments, grants, or other forms of financing to support small business and downtown or commercial corridor activation activities within enhanced areas or government-restricted municipalities to be used within 12 months following the EDA's receipt of those funds. The EDA would further be required to issue a report each fiscal year detailing how the funds were distributed.

The bill also provides that the credit amount received by a business may first be taken by the tax certificate holder for the tax period for which it was issued, for the tax period in which it was issued, or in any tax period during the time the business is required to maintain the project at a location in New Jersey set forth in the incentive agreement. The bill permits the tax certificate holder to transfer the tax credit amount on or after the date of issuance for use by the transferee in the tax period for which it was issued, for the tax period in which it was issued, or in any of the next three successive tax periods. The bill permits the tax credit holder or transferee to first use the credit against tax liabilities in the tax period in which it was issued or in a succeeding tax period, as authorized by the bill, without being required to amend the tax return for the tax period for which the credit was issued. The bill provides that no more than the amount of tax credits equal to the total credit amount, divided by the duration of the tax credit term, in years, may be taken in any tax period.

Additionally, the bill permits a business that participates in the Grow New Jersey Assistance Program or the Urban Transit Hub Program, and which has elected to modify its obligations under an incentive agreement pursuant to P.L.2022, c.134, to request, before December 31, 2024, to reduce the number of Statewide employees specified in the incentive agreement. However, the bill would require the business to certify that all Statewide employment specified in the incentive agreement is assigned to the qualified business facility and the business is requesting to reduce the number of new or retained full-time jobs specified in the incentive agreement commencing with the 2020 tax period and, at the discretion of the business, whether the reduction would continue for each subsequent tax period remaining in the eligibility period.

As amended and reported by the committee, Senate Bill No. 3303 is identical to Assembly Bill No. 4046 (1R), which was also amended and reported by the committee on this date.

COMMITTEE AMENDMENTS:

The committee amendments revise the requirements imposed on businesses to qualify for the extended accommodations provided under the bill. Specifically, the committee amendments require a business to be located outside an enhanced area or government-restricted municipality and to satisfy the following conditions to qualify for the extended accommodations beginning on April 1, 2024 and for all subsequent tax periods: (1) for a qualified business facility located outside an enhanced area or government-restricted municipality, any full-time employee employed by the business spends at least 40 percent of the employee's time at the qualified business facility during the tax period; (2) the business extends by two years the term of its commitment period beyond the time set forth in the incentive agreement; and (3) the business makes a payment to the EDA of an amount equal to 10 percent of the maximum amount of the tax credit that the business may receive for the tax period.

As introduced, the bill would have required businesses to satisfy the following conditions to qualify for the extended accommodations: (1) any full-time employee employed by the business spends at least 40 percent of the employee's time at the qualified business facility during the tax period; and (2) the business makes a payment of an amount equal to 20 percent of the amount of the tax credit that the business received for the tax period, which payment would have been deposited into a municipal affordable housing trust fund.

The committee amendments also require the EDA to use the payment received from businesses to provide loans, guarantees, equity investments, grants, or other forms of financing to support small business and downtown or commercial corridor activation activities within enhanced areas or government-restricted municipalities. The committee amendments require the EDA to deploy these monies within 12 months of the date of receipt, and the EDA would be required to issue an annual report to the Legislature detailing how the monies were distributed.

The committee amendments also clarify the tax periods in which tax credits may be used under each program. Specifically, the amendments provide that the credit amount received by a business may first be taken by the tax certificate holder for the tax period for which it was issued, for the tax period in which it was issued, or in any tax period during the time the business is required to maintain the project at a location in New Jersey set forth in the incentive agreement. The committee amendments permit the tax certificate holder to transfer the tax credit amount on or after the date of issuance for use by the transferee in the tax period for which it was issued, for the tax period in which it was issued, or in any of the next three successive tax periods. The committee amendments also permit the tax credit holder or transferee to first use the credit against tax liabilities in the tax period in which it was issued or in a succeeding tax period, as

authorized by the bill, without being required to amend the tax return for the tax period for which the credit was issued. The committee amendments also permit a business participating in the Grow New Jersey Assistance Program or the Urban Transit Hub Program that has elected to modify its obligations under an incentive agreement pursuant to P.L.2022, c.134 to request, before December 31, 2024, to reduce the number of Statewide employees specified in the incentive agreement, provided the business certifies that all Statewide employment specified in the incentive agreement is assigned to the qualified business facility and the business is requesting to reduce the number of new or retained full-time jobs specified in the incentive agreement commencing with the 2020 tax period and, at the discretion of the business, whether the reduction would continue for each subsequent tax period remaining in the eligibility period.

SENATE BUDGET AND APPROPRIATIONS COMMITTEE

STATEMENT TO

[First Reprint]

SENATE, No. 3303

with committee amendments

STATE OF NEW JERSEY

DATED: JUNE 26, 2024

The Senate Budget and Appropriations Committee reports favorably and with committee amendments Senate Bill No. 3303 (1R).

As amended and reported, this bill provides certain accommodations to businesses participating in the Business Employment Incentive Program, the Business Retention and Relocation Assistance Grant Program, the Grow New Jersey Assistance Program, and the Urban Transit Hub Program, each of which is administered by the New Jersey Economic Development Authority (EDA).

Under current law, a business that participates in any of these programs is awarded an economic development incentive in the form of tax credits after meeting certain program requirements. Under each program, the business is required to create or retain a certain number of full-time jobs at a qualified business facility, with the number of jobs created or retained varying depending on the program and the location of the qualified business facility. However, in order for a full-time job to be counted towards satisfying the requirements of each program, current law requires full-time employees to spend at least 60 percent of their time at the qualified business facility.

Current law allows a business participating in any of these programs to waive this requirement through March 31, 2024, provided that: (1) any full-time employee employed by the business spends at least 10 percent of the employee's time at the qualified business facility for the 2023 tax period through March 31, 2024; and (2) the business makes a payment of an amount equal to five percent of the amount of the tax credit that the business receives for the 2022 tax period.

The bill would extend this authorization for the tax period beginning on April 1, 2024, and for all subsequent tax periods, for any business located outside an enhanced area or government-restricted municipality that has entered into an incentive agreement, provided that: (1) for a qualified business facility located outside an enhanced area or government-restricted municipality, any full-time employee employed by the business spends at least 40 percent of the employee's

time at the qualified business facility during the tax period; (2) the business extends by two years the term of its commitment period beyond the time set forth in the incentive agreement; and (3) the business makes a non-refundable payment to the EDA in an amount equal to 10 percent of the maximum amount of the tax credit that the business may receive for the tax period. Under the bill, the EDA would be required to use these payments to provide loans, guarantees, equity investments, grants, or other forms of financing to support small business and downtown or commercial corridor activation activities within enhanced areas or government-restricted municipalities to be used within 12 months following the EDA's receipt of those funds. The EDA would further be required to issue a report each fiscal year detailing how the funds were distributed.

The bill also provides that the credit amount received by a business may first be taken by the tax certificate holder for the tax period for which it was issued, for the tax period in which it was issued, or in any tax period during the time the business is required to maintain the project at a location in New Jersey set forth in the incentive agreement. The bill permits the tax certificate holder to transfer the tax credit amount on or after the date of issuance for use by the transferee in the tax period for which it was issued, for the tax period in which it was issued, or in any of the next three successive tax periods. The bill permits the tax credit holder or transferee to first use the credit against tax liabilities in the tax period in which it was issued or in a succeeding tax period, as authorized by the bill, without being required to amend the tax return for the tax period for which the credit was issued. The bill provides that for certain programs no more than the amount of tax credits equal to the total credit amount, divided by the duration of the tax credit term, in years, may be taken in any tax period.

Additionally, the bill permits a business that participates in the Grow New Jersey Assistance Program or the Urban Transit Hub Program, and which has elected to modify its obligations under an incentive agreement pursuant to P.L.2022, c.134, to request, before December 31, 2024, to reduce the number of Statewide employees specified in the incentive agreement. However, the bill would require the business to certify that the business is requesting to reduce the number of new or retained full-time jobs specified in the incentive agreement commencing with the 2020 tax period and, at the discretion of the business, whether the reduction would continue for each subsequent tax period remaining in the eligibility period.

As amended and reported by the committee, Senate Bill No. 3303 (1R) is identical to Assembly Bill No. 4046 (2R), which was also amended and reported by the committee on this date.

COMMITTEE AMENDMENTS:

The committee amendments remove a provision of the bill that requires a business participating in the Grow New Jersey Assistance Program and Urban Transit Hub Program to certify that all Statewide employment specified in the incentive agreement is assigned to the qualified business facility when that business elects to modify its obligations under an incentive agreement in certain circumstances to reduce the number of Statewide employees specified in the incentive agreement.

FISCAL IMPACT:

The Office of Legislative Services (OLS) concludes that the bill will result in an indeterminate increase in State expenditures and have an indeterminate net impact on State revenues over a multi-year period. The OLS lacks the informational basis to project the magnitude and direction of the bill's countervailing State revenue effects.

The bill will result in a State revenue decrease to the extent that businesses participating in certain State economic development programs choose to waive the on-site requirement for full-time employees at qualified business facilities because the waiver will allow businesses to remain eligible for tax credits which they could not receive under current law.

The bill will result in a State revenue decrease associated with payments made by businesses equal to 10 percent of maximum annual tax credit the business is eligible to receive for a tax period, depending on certain circumstances. These revenues will be offset by increased State expenditures because the bill requires the Economic Development Authority to distribute these payments to support certain economic development activities.

The bill's one-year extension of the deadline by which business participating in the Grow New Jersey Assistance (GROW) Program and the Urban Transit Hub Tax Credit (HUB) Program can terminate incentive agreements may result in State revenue increases to the extent that these businesses would no longer receive tax credits for which they otherwise might have qualified.

The modification of incentive agreements by businesses participating in the GROW and HUB programs will result in an increase in State revenues. Lowering the number of new and retained full-time employees retained by these businesses will cause their tax credits to be reduced.

The provisions of the bill allowing businesses to suspend their obligations under the GROW and HUB programs will result in an increase in State revenues. The overall impact of these provisions on State revenues will be driven by taxpayer decisions to claim tax credits in future tax years. The OLS cannot predict how individual taxpayer decisions will impact State finances in this regard.

The provisions of the bill concerning the timing of tax credit utilization will have an indeterminate impact on State revenues. The overall impact of this provision will be driven by taxpayer decisions to claim tax credits in future years. The OLS cannot predict how individual taxpayer decisions will impact State finances in this regard.

The requirement to utilize certain tax credits in equal installments will also have an indeterminate impact on State revenues. While this requirement may limit State revenue losses in certain fiscal years, the bill may cause the State to experience revenue losses over a longer period of time than it otherwise would under current law.

LEGISLATIVE FISCAL ESTIMATE

[Second Reprint]

SENATE, No. 3303 STATE OF NEW JERSEY 221st LEGISLATURE

DATED: JULY 3, 2024

SUMMARY

- Synopsis:** Extends certain accommodations for businesses participating in State economic development programs.
- Type of Impact:** Multi-year increase in State expenditures.
Multi-year net impact on State revenues.
- Agencies Affected:** New Jersey Economic Development Authority.

Office of Legislative Services Estimate

Fiscal Impact	<u>FY 2025 & Annually Thereafter</u>
State Expenditure Increase	Indeterminate
State Revenue Net Impact	Indeterminate

- The Office of Legislative Services (OLS) concludes that the bill will result in an indeterminate increase in State expenditures and have an indeterminate net impact on State revenues over a multi-year period. The OLS lacks the informational basis to project the magnitude and direction of the bill's countervailing State revenue effects.
- The bill will result in a State revenue decrease to the extent that businesses participating in certain State economic development programs choose to waive the on-site requirements for full-time employees at qualified business facilities because the waiver will allow businesses to remain eligible for tax credits which they could not receive under current law.
- The bill will result in a State revenue increase associated with payments made by businesses equal to 10 percent of maximum annual tax credit the business is eligible to receive for a tax period, depending on certain circumstances. These revenues will be offset by increased State expenditures because the bill requires the New Jersey Economic Development Authority to distribute these payments to support certain economic development activities.
- The bill's one-year extension of the deadline by which businesses participating in the Grow New Jersey Assistance (GROW) Program and the Urban Transit Hub Tax Credit (HUB)

Program can terminate incentive agreements may result in State revenue increases to the extent that these businesses would no longer receive tax credits for which they otherwise might have qualified.

- The modification of incentive agreements by businesses participating in the GROW and HUB programs will result in an increase in State revenues. Lowering the number of new and retained full-time employees retained by these business will cause their tax credit awards to be reduced.
- The provisions of the bill allowing businesses to suspend their obligations under the GROW and HUB programs will have an indeterminate impact on State revenues. The overall impact of these provisions on State revenues will be driven by taxpayer decisions to claim tax credits in future tax years. The OLS cannot predict how individual taxpayer decisions will impact State finances in this regard.
- The provisions of the bill concerning the timing of tax credit utilization will have an indeterminate impact on State revenues. The overall impact of this provision will be driven by taxpayer decisions to claim tax credits in future tax years. The OLS cannot predict how individual taxpayer decisions will impact State finances in this regard.
- The requirement to utilize certain tax credits in equal installments will also have an indeterminate impact on State revenues. While this requirement may limit State revenue losses in certain fiscal years, the bill may cause the State to experience revenue losses over a longer period of time that it otherwise would under current law.

BILL DESCRIPTION

The bill provides certain accommodations to businesses participating in the Business Retention and Relocation Assistance Grant Program, the Business Employment Incentive Program, the GROW Program, and the HUB Program, each of which is administered by the Economic Development Authority. Some provisions of the bill apply to all four programs, while others apply only to the GROW and HUB programs.

FISCAL ANALYSIS

EXECUTIVE BRANCH

None received.

OFFICE OF LEGISLATIVE SERVICES

The OLS concludes that the bill will result in an indeterminate multi-year increase in State expenditures and have an indeterminate multi-year net impact on State revenues.

Suspension of On Site Attendance Requirements. Under current law, businesses participating in the Business Employment Incentive Program, Business Retention and Relocation Assistance Grant Program, and the GROW and HUB programs are awarded economic development incentives in the form of tax credits for meeting certain program thresholds. One of these program thresholds

is the creation or retention of certain number of full-time jobs at a qualified business facility. The number of jobs created or retained varies depending on the program and the location of the qualified business facility. In order for a full-time job to be counted towards satisfying the program requirements under current law, a full-time employee must spend at least 60 percent of their time at a qualified business facility.

P.L.2022, c.134 allowed businesses to waive, for the period beginning July 1, 2022 and ending on December 31, 2023, the requirement that a full-time employee who is employee by the business must spend at least 60 percent of the employee's time at a qualified business facility. A business that elected the waiver must satisfy two criteria. First, any full-time employee employed by the business was required to spend at least ten percent of the employee's time at the qualified business facility through the 2023 tax period. Second, the business was required to make a payment to the Economic Development Authority in an amount equal to five percent of the amount of the tax credit the business received for the 2022 tax period. The authority was required to use funds received via these payments to support small business activities and downtown activation or commercial corridor activities. P.L.2023, c.261 extended the deadline for choosing the waiver option to March 31, 2024.

The bill allows a business to waive the on-site attendance requirements for any tax period beginning on or after April 1, 2024. Under the bill, a business that elects to waive these requirements the must satisfy three criteria. First, if a qualified business facility is located outside of an enhanced area or a government-restricted municipality, any full-time employee employed by the business must spend at least 40 percent of the employee's time at the qualified business facility. Second, the business is required to extend by two years the term of its commitment period beyond the time set forth in the incentive agreement. Third, the business is required to make a payment to the Economic Development Authority equal to 10 percent of the maximum amount of the tax credit that the business may receive for the tax period. As under current law, the bill requires to use funds received via these payments to support small business activities and downtown activation or commercial corridor activities.

The OLS concludes that these allowances will result in a decrease in State revenues. Without the changes to the on-site attendance requirement, these businesses would likely not be eligible to receive tax credits because they would not satisfy all of the current statutory requirements of each program; in this situation, a business could not use a previously authorized tax credit, thereby increasing their State tax liabilities. Because the bill allows a business that elects to use the waiver provision to remain eligible to earn the full amount of the tax credit awards, State revenues would be lower than they otherwise would be under current law. The OLS cannot predict how many businesses will use the waiver, or the total amount of tax credits that would be foregone if the waiver were not allowed.

The OLS notes that these provisions will also increase State revenues because the bill requires businesses that waive the on-site attendance requirements beginning April 1, 2024 to make a payment to the Economic Development Authority equal to equal to 10 percent of the maximum amount of the tax credit that the business may receive for the tax period. However, these revenues will be offset by an increase in State expenditures because the bill requires the authority to use these payments to provide loans, guarantees, equity investments, and other forms of financing to support certain economic development activities with municipalities that qualify as an enhanced area or a government-restricted municipality pursuant to the Emerge Program Act. According to the authority, Atlantic City, Paterson, and Trenton are considered to be "government-restricted municipalities," while Camden, East Orange, Elizabeth, Hoboken, Jersey City, Newark, New Brunswick, Passaic, Paulsboro, and Salem City are considered to be "enhanced areas."

Termination of Incentive Agreements. During the COVID-19 public health emergency, the Economic Development Authority allowed businesses participating in the GROW program to

terminate their program agreements any time before December 31, 2022 without the authority recapturing previously distributed tax credits. P.L.2022, c.134 extended this accommodation to December 31, 2023, commencing with the 2020 tax period or any subsequent tax period ending on or before December 31, 2023 and provided this same benefit to a business that executed an approval letter under the HUB program. The bill extends the deadline for terminating a program agreement to December 31, 2024.

The OLS concludes that these provisions of the bill will result in an indeterminate increase in State revenues. Exercising this option would prevent businesses that have been awarded tax credits through the GROW and HUB programs from claiming any credits not issued prior to termination. Any requested, but uncertified or unissued, tax credits would be forfeited in consideration of the termination. Assuming these businesses remain New Jersey taxpayers, they would have increased tax liabilities in the tax years or privilege periods following termination of the incentive agreement. Information available through the Economic Development Authority indicates that about 30 program agreements have been terminated through the end of calendar year 2023.

Incentive agreement termination is available for all projects demonstrating changes to their business model, real estate decision making, and job declines related to the COVID-19 pandemic. Businesses may terminate their incentive agreement with no ongoing compliance requirements. Tax credits already awarded to businesses are not subject to recapture. Applicants must explain that the impact of the public health emergency result in changes to the business, business model, or the continued to desire to participate in GROW or HUB. Once executed, a termination agreement cannot be amended by the authority or the business. Incentive termination agreements include a provision allowing the Economic Development Authority to seek recapture of any tax credits if it is determined that a business' decision to leave the program was made without consideration of COVID-19.

Temporary Suspension of Program Obligations. The bill extends the time allowed under current law for a business to suspend its obligations under a GROW tax credit, and to extend the term of eligibility for the same period of time. Current law allows a suspension of a business's obligations for the 2020, 2021, 2022, and 2023 tax periods. The bill extends this provision to include the 2024 tax period as well. The bill also extends the ability of a business to suspend its obligations under the HUB program for the same period of time being afforded to GROW program participants.

The OLS concludes that these provisions of the bill would have an indeterminate impact on State revenues. Although the bill allows for the suspension of participants' eligibility for tax credits during certain tax periods, it also extends the period of time for which a business that makes this election is eligible for tax credits. This extension would allow businesses to remain eligible to receive tax credits for a longer period of time than allowed under current law. The overall impact of this provision on State revenues will be driven by taxpayer decisions to claim tax credits in future tax years. The OLS cannot predict how individual taxpayer decisions will impact State finances in this regard. Information available through the Economic Development Authority indicates about 40 requests to suspend program obligations were approved through December 31, 2023.

Businesses participating in the GROW and HUB programs may receive tax credits for a period of up to ten years. Under current law, businesses participating in the GROW and HUB programs may carry forward unused tax credits for 20 successive tax periods. Given that current law allows these businesses to suspend GROW and HUB program requirements for four years and the bill allows the suspension period to be extended for one additional year, the tax credit carry forward period for businesses that elect to suspend the GROW and HUB programs may be extended for up to five additional years.

Application of Tax Credits. The bill provides that a tax credit may first be taken by the tax certificate holder for the tax period for which it was issued, for the tax period in which it was issued, or any tax period during the time the business is required to maintain the project at a location in New Jersey set forth in the incentive agreement. A tax credit that is transferred may first be taken by the tax certificate holder for the tax period for which it was issued, for the tax period in which it was issued, or in any of the next three successive tax periods. The bill permits a tax credit holder or transferee to first use a tax credit in the tax period in which it was issued or in succeeding tax period without being required to file an amended tax return for the tax period for which the tax credit was issued.

The OLS concludes that these provisions of the bill would have an indeterminate impact on State revenues. Generally, these provisions allow taxpayers to begin applying tax credits later than currently allowed. The Economic Development Authority currently requires taxpayers to begin applying their tax credits in the tax credit “vintage year,” which is the tax period in which the authority approves a tax credit application. However, there is generally a lag between the year in which a tax credit application is approved and the year in which a taxpayer receives a tax credit certificate because the authority determines that the taxpayer qualifies for the tax credit because they met the requirements of the incentive agreement. In order to begin utilizing their tax credits, a taxpayer would have to file an amended tax return for the tax credit vintage year. The bill allows taxpayers to start utilizing tax credits in the in tax periods after the vintage year. The overall impact of these provisions on State revenues will be driven by taxpayer decisions to claim tax credits in future tax years.

Utilization of Tax Credits in Equal Installments. The bill also amends the statutes governing the Business Retention and Relocation Assistance Program and the HUB program to provide that no more than the amount of tax credits equal to the total credit amount divided by the duration of the eligibility period in years may be taken in any period. This restriction on the application of tax credits under GROW was added by P.L.2014, c.63.

Current law includes constraints on the application of tax credits, which constraints vary by program. The regulations governing the Business Retention and Relocation Assistance Program provide that tax credits awarded through the program are to be applied over a period of one to six years, depending on the number of full-time employees relocated or retained. Current law requires HUB tax credits to be taken in equal installments over a ten-year period. The amount of a HUB tax credit that exceeds a business’s tax liabilities for the tax period may be carried forward for use in the next 20 successive tax periods.

The OLS concludes that these provisions will have an indeterminate impact on State revenues. The bill does not increase or decrease the total amount of tax credits that may be applied against tax liabilities; instead, the bill limits the amount of tax credits that may be utilized in a tax period. While these provisions may limit the State revenue loss in a fiscal year due to the application of these tax credits against tax liabilities, they may cause the State to experience revenue losses over a longer period of time that it otherwise would under current law. The OLS cannot provide a specific estimate of the difference in the amount of tax credits that may be applied in a tax period under current law and the maximum amount of tax credits that may applied in a tax period in a tax year due to these limitations.

Additional Modifications to Incentive Agreements. P.L.2020, c.156 allowed a business that entered into an incentive agreement under the GROW program to reduce the number of new or retained full-time jobs specified in the incentive agreement based on a certification by the business of the eligible positions at the qualified business facility commencing with the 2020 tax period and each subsequent tax period remaining in the tax credit eligibility period. The authority is required to calculate a new tax credit amount for the remainder of the eligibility period based on the reduced number employees. The deadline to make this request was originally December 31, 2020;

however, subsequent enactments extended the deadline to make this election to December 31, 2023.

The bill renews this option for a business participating in the GROW program and extends this privilege to businesses participating in HUB program elected to modify its incentive agreement pursuant to P.L.2022, c.134 to reduce the number of Statewide employees specified in the incentive agreement. The business is required to certify that the business is requesting to reduce the number of new or retained full-time jobs specified in the incentive agreement commencing with the 2020 tax period and whether the reduction will continue for each subsequent tax period remaining in the eligibility period. The election to modify an incentive agreement must be made before December 31, 2024.

The OLS concludes that these provisions will result in an indeterminate increase in State tax revenues. The amount of a tax credit awarded through either GROW and HUB is based, in part, on the number of new or retained full-time jobs employed at a qualified business facility. A reduction in the number of new or retained full-time jobs will require the authority to recalculate a business's GROW or HUB tax credit award. It is likely that the new tax credit amount will be lower than the original tax credit award. Assuming that businesses that make this election remain New Jersey taxpayers, they would have increased tax liabilities in tax periods following modification of the incentive agreement because they will be able to claim a lesser amount of tax credits against those obligations.

Section: Revenue, Finance, and Appropriations

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This legislative fiscal estimate has been produced by the Office of Legislative Services due to the failure of the Executive Branch to respond to our request for a fiscal note.

This fiscal estimate has been prepared pursuant to P.L.1980, c.67 (C.52:13B-6 et seq.).

Governor Murphy Takes Action on Legislation

07/10/2024

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

S-2792/A-3697 (Cruz-Perez, Turner/Spearman, Park, Simmons) - Appropriates \$500,000 from constitutionally dedicated CBT revenues and “2009 Farmland Preservation Fund” to State Agriculture Development Committee for municipal planning incentive grants for farmland preservation purposes

S-2793/A-3698 (Cruz-Perez, Turner/Reynolds-Jackson, Fantasia, Stanley) - Appropriates \$1.723 million from constitutionally dedicated CBT revenues and “2009 Farmland Preservation Fund” to State Agriculture Development Committee for grants to certain nonprofit organizations for farmland preservation purposes

S-2825/A-3906 (Gopal/Peterpaul, Donlon, Flynn) - Removes time limitation on issuance of additional alcoholic beverage licenses within boundaries of former federal military installations

S-3192/A-4454 (Diegnan, Moriarty/Freiman, Pintor Marin, DiMaio) - “Real Estate Consumer Protection Enhancement Act”

S-3275/A-4448 (Gopal, McKeon/Donlon, Pintor Marin, Wimberly) - Revises various provisions of film and digital media content production tax credit program

S-3371/A-4457 (Pou, Singer/Freiman) - Revises limits for net cash surrender and net cash withdrawal values for certain annuity policies and contracts from \$100,000 to \$250,000

S-3384/A-4426 (Burzichelli, Schepisi/Katz, Atkins, Drulis) - Appropriates funds to DEP for environmental infrastructure projects for FY2025

S-3385/A-4602 (Singleton/Lopez) - Concerns deadline for municipality to report certain non-residential development fee information

S-3474/A-4570 (Greenstein/Carter, Speight, Wimberly) - Appropriates \$10,067,905 to DEP from constitutionally dedicated CBT revenues for grants to certain nonprofit entities to acquire or develop lands for recreation and conservation purposes, and for certain administrative expenses

A-1677/S-3263 (Lampitt, Bagolie, Stanley/Diegnan, Turner) - Authorizes extended terms for lease and purchase contracts for electric school buses; permits New Jersey School Boards Association to serve as government aggregator to obtain energy services for local units

A-3772/S-2334 (McCann Stamato, Sampson, Lopez/Stack, McKnight) - Revises process for property tax lien holder to foreclose right to redeem property tax lien; allows property owner to protect remaining equity

A-4046/S-3303 (Pintor Marin, Spearman/Pou, Mukherji) - Extends certain accommodations for businesses participating in State economic development programs

- A-4425/S-3383 (Ramirez, Spearman, Atkins/Gopal, Mukherji)** - Authorizes NJ Infrastructure Bank to expend certain sums to make loans for environmental infrastructure projects for FY2025
- A-4458/S-3342 (Sumter, Sampson/Greenstein, Sarlo)** - Establishes exemptions and revises implementation timeline for requirement that newly constructed townhouses be installed with automatic fire sprinkler system
- A-4478/S-3367 (Calabrese, Karabinchak, Wimberly/Burzichelli)** - Authorizes NJ Infrastructure Bank to expend certain sums to make loans for transportation infrastructure projects for FY2025; makes appropriation
- A-4572/S-3473 (Donlon, Sumter, Drulis/McKeon, Space)** - Appropriates \$101,696,535 from constitutionally dedicated CBT revenues to DEP for local government open space acquisition and park development projects, and for certain administrative expenses
- A-4581/S-3471 (Haider, Sampson, Tully/Mukherji, O'Scanlon)** - Authorizes NJ Infrastructure Bank to expend certain sums to make loans for Community Hazard Assistance Mitigation Program projects for FY 2025
- A-4587/S-3451 (Stanley/Cryan, Pou)** - Increases hours required for individual to obtain licensure as teacher in cosmetology and hairstyling or as massage and bodywork therapist