



**VETO MESSAGE:** Yes

**GOVERNOR'S PRESS RELEASE ON SIGNING:** Yes

**FOLLOWING WERE PRINTED:**

To check for circulating copies, contact New Jersey State Government Publications at the State Library (609) 278-2640 ext.103 or <mailto:refdesk@njstatelib.org>

**REPORTS:** No

**HEARINGS:** No

**NEWSPAPER ARTICLES:** Yes

"Christie signs bill expanding tax incentives for businesses," The Star-Ledger, 9-19-13

"Christie signs tax-break overhaul," The Record, 9-19-13

"Christie signs business incentives overhaul into law," Burlington County Times, 9-19-13

"Christie signs tax-incentives law to lure business," The Philadelphia Inquirer, 9-19-13

"Christie signs N.J. Tax-Incentives Overhaul in Job-Growth Effort," Bloomberg Press, 9-19-13

"Christie signs bill designed to spur N.J. economy," Asbury Park Press, 9-19-13

"Christie Signs Tax-Credit Bill," The Wall Street Journal, 9-19-13

"Christie signs bill revamping biz tax breaks," Daily Record, 9-19-13

LAW/KR

P.L.2013, CHAPTER 161, *approved September 18, 2013*  
Assembly Committee Substitute (*Fourth Reprint*) for  
Assembly, No. 3680

1 AN ACT concerning incentives for certain economic development  
2 projects, amending <sup>2</sup>**[and supplementing]**<sup>2</sup> various parts of the  
3 statutory law<sup>2</sup>, and supplementing Titles 34 and 52 of the  
4 Revised Statutes<sup>2</sup> .

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

8  
9 1. (New section) This act shall be known and may be cited as  
10 the “New Jersey Economic Opportunity Act of 2013.”

11  
12 2. Section 3 of P.L.1996, c.25 (C.34:1B-114) is amended to  
13 read as follows:

14 3. a. The Business Retention and Relocation Assistance Grant  
15 Program is hereby established as a program under the jurisdiction of  
16 the New Jersey Economic Development Authority and shall be  
17 administered by the authority. The purpose of the program is to  
18 encourage economic development and job creation and to preserve  
19 jobs that currently exist in New Jersey but which are in danger of  
20 being relocated to premises outside of the State. To implement that  
21 purpose, and to the extent that funding for the program is available,  
22 the program may provide grants of tax credits. To be eligible for  
23 any grant of tax credits pursuant to P.L.1996, c.25 (C.34:1B-112 et  
24 seq.), a business shall demonstrate to the authority, at the time of  
25 application, that the grant of tax credits and resultant retention of  
26 full-time jobs and any capital investment will yield a net positive  
27 benefit to the State. The net benefit resulting from the retention of  
28 full-time jobs and any capital investment by a business that has had  
29 grant pre-application meetings with the authority and has executed  
30 contracts relating to the new business location during the period  
31 commencing May 1, 2010 until the enactment of P.L.2010, c.123,  
32 shall be calculated from the date of the initial grant pre-application  
33 meeting.

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

Matter underlined thus is new matter.

Matter enclosed in superscript numerals has been adopted as follows:

<sup>1</sup> Assembly floor amendments adopted April 29, 2013.

<sup>2</sup> Senate SBA committees amendments adopted June 24, 2013.

<sup>3</sup> Assembly floor amendments adopted June 27, 2013.

<sup>4</sup> Assembly amendments adopted in accordance with Governor's  
recommendations September 9, 2013.

1        b. (1) If an application under P.L.1996, c.25 (C.34:1B-112 et  
2 seq.) has been received by the authority prior to the effective date of  
3 the “New Jersey Economic Opportunity Act of 2013,” P.L. \_\_\_\_\_,  
4 c. (C. \_\_\_\_\_) (pending before the Legislature as this bill), then, to  
5 the extent that there remains sufficient financial authorization for  
6 the grant of tax credits, the authority is authorized to consider the  
7 application and to make a grant of tax credits to an eligible  
8 applicant, provided that the authority shall take final action on that  
9 grant of tax credits no later than <sup>2</sup>[90 calendar days after the  
10 effective date of the “New Jersey Economic Opportunity Act of  
11 2013,” P.L. \_\_\_\_\_, c. (C. \_\_\_\_\_) (pending before the Legislature as this  
12 bill)] December 31, 2013<sup>2</sup>.

13        (2) A business shall apply for a grant of tax credits under the  
14 Business Retention and Relocation Assistance Grant Program prior  
15 to the effective date of the “New Jersey Economic Opportunity Act  
16 of 2013,” P.L. \_\_\_\_\_, c. (C. \_\_\_\_\_) (pending before the Legislature as  
17 this bill), and shall submit its documentation for approval of a grant  
18 of tax credits no later than <sup>2</sup>[July 1, 2013] 90 calendar days after  
19 the effective date of the “New Jersey Economic Opportunity Act of  
20 2013,” P.L. \_\_\_\_\_, c. (C. \_\_\_\_\_) (pending before the Legislature as this  
21 bill)<sup>2</sup>.

22        (3) If a business has submitted an application under P.L.1996,  
23 c.25 (C.34:1B-112 et seq.) and that application has not been  
24 approved for any reason, the lack of approval shall not serve to  
25 prejudice in any way the consideration of a new application as may  
26 be submitted by a business for the provision of incentives offered  
27 pursuant to the “New Jersey Economic Opportunity Act of 2013,”  
28 P.L. \_\_\_\_\_, c. (C. \_\_\_\_\_) (pending before the Legislature as this bill).

29 (cf: P.L.2010, c.123, s.2)

30

31        3. Section 4 of P.L.1996, c.26 (C.34:1B-127) is amended to  
32 read as follows:

33        4. a. A business may apply to the authority for a grant for any  
34 project which:

35        (1) Will create at least 25 eligible positions in the base years; or

36        (2) Will create at least 10 eligible positions in the base years if  
37 the business is an advanced computing company, an advanced  
38 materials company, a biotechnology company, an electronic device  
39 technology company, an environmental technology company, or a  
40 medical device technology company.

41        b. In the case of a business which is a landlord, the business  
42 may apply to the authority for a grant for any project in which at  
43 least 25 eligible positions are created in the base years.

44        c. A project which consists solely of point-of-final-purchase  
45 retail facilities shall not be eligible for a grant under **[this act]**  
46 P.L.1996, c.26 (C.34:1B-124 et seq.). If a project consists of both  
47 point-of-final-purchase retail facilities and non-retail facilities, only

1 the portion of the project consisting of non-retail facilities shall be  
2 eligible for a grant, and only the withholdings from new employees  
3 which are employed in the portion of the project which represents  
4 non-retail facilities shall be used to determine the amount of the  
5 grant. If a warehouse facility is part of a point-of-final-purchase  
6 retail facility and supplies only that facility, the warehouse facility  
7 shall not be eligible for a grant. For the purposes of **[this act]**  
8 P.L.1996, c.26 (C.34:1B-124 et seq.), catalog distribution centers  
9 shall not be considered point-of-final-purchase retail facilities.

10 d. (1) If an application under P.L.1996, c.26 (C.34:1B-124 et  
11 seq.) has been received by the authority prior to the effective date of  
12 the “New Jersey Economic Opportunity Act of 2013,” P.L. ,  
13 c. (C. ) (pending before the Legislature as this bill), and, to  
14 the extent that there remains sufficient appropriations for grant  
15 issuance, then the authority is authorized to consider the application  
16 and to make a grant to an eligible applicant, provided that the  
17 authority shall take final action on that grant no later than <sup>2</sup>**[90**  
18 calendar days after the effective date of the “New Jersey Economic  
19 Opportunity Act of 2013,” P.L. , c. (C. ) (pending before the  
20 Legislature as this bill)] December 31, 2013<sup>2</sup>.

21 (2) A business shall apply for a grant under the Business  
22 Employment Incentive Program prior to the effective date of the  
23 “New Jersey Economic Opportunity Act of 2013,”  
24 P.L. , c. (C. ) (pending before the Legislature as this bill), and  
25 shall submit its documentation for approval of a grant no later than  
26 <sup>2</sup>**[July 1, 2013]** 90 calendar days after the effective date of the  
27 “New Jersey Economic Opportunity Act of 2013,” P.L. ,  
28 c. (C. ) (pending before the Legislature as this bill)<sup>2</sup>.

29 (3) If a business has submitted an application under P.L.1996,  
30 c.26 (C.34:1B-124 et seq.) and that application has not been  
31 approved for any reason, the lack of approval shall not serve to  
32 prejudice in any way the consideration of a new application as may  
33 be submitted by a business for the provision of incentives offered  
34 pursuant to the “New Jersey Economic Opportunity Act of 2013,”  
35 P.L. , c. (C. ) (pending before the Legislature as this bill).  
36 (cf: P.L.2003, c.166, s.2)

37  
38 4. Section 3 of P.L.2007, c.346 (C.34:1B-209) is amended to  
39 read as follows:

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

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

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

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

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

1 "InvestNJ Business Grant Program Act," P.L.2008, c.112 (C.34:1B-  
2 237 et seq.).

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

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

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

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

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

16 b. (1) If applications under this section have been received by  
17 the authority prior to the effective date of the “New Jersey  
18 Economic Opportunity Act of 2013,” P.L. , c. (C. ) (pending  
19 before the Legislature as this bill), then, to the extent that there  
20 remains sufficient financial authorization for the award of a tax  
21 credit, the authority is authorized to consider those applications and  
22 to make awards of tax credits to eligible applicants, provided that  
23 the authority shall take final action on those applications<sup>2</sup> [prior to  
24 the 90th day after the date of enactment of the “New Jersey  
25 Economic Opportunity Act of 2013,” P.L. , c. (C. ) (pending  
26 before the Legislature as this bill)] no later than December 31,  
27 2013<sup>2</sup>.

28 (2) A business shall apply for the credit under this section prior  
29 to **[July 1, 2014]** the effective date of the “New Jersey Economic  
30 Opportunity Act of 2013,” P.L. , c. (C. ) (pending before the  
31 Legislature as this bill), and shall submit its documentation for  
32 approval of its credit amount no later than **[July 28, 2017]** April 26,  
33 2017.

34 (3) If a business has submitted an application under this section  
35 and that application has not been approved for any reason, the lack  
36 of approval shall not serve to prejudice in any way the  
37 consideration of a new application as may be submitted for the  
38 qualified business facility for the provision of incentives offered  
39 pursuant to the “New Jersey Economic Opportunity Act of 2013,”  
40 P.L. , c. (C. ) (pending before the Legislature as this bill).

41 (4) Tax credits awarded pursuant to P.L.2007, c.346 (C.34:1B-  
42 207 et seq.) for applications submitted to and approved by the  
43 authority prior to the effective date of the “New Jersey Economic  
44 Opportunity Act of 2013,” P.L. , c. (C. ) (pending before the  
45 Legislature as this bill), shall be administered by the authority in the  
46 manner established prior to that date.



1       <sup>2</sup>(5) With respect to an application received by the authority  
2 prior to the effective date of the “New Jersey Economic  
3 Opportunity Act of 2013,” P.L. , c. (C. ) (pending before the  
4 Legislature as this bill) for a qualified business facility that is  
5 located on or adjacent to the campus of an acute care medical  
6 facility, (a) the minimum number of full-time employees required  
7 for eligibility under the program may be employed by any number  
8 of tenants or other occupants of the facility, in the aggregate, and  
9 the initial satisfaction of such requirement following completion of  
10 the project shall be deemed to satisfy the employment requirements  
11 of the program in all respects, and (b) if the capital investment in  
12 the facility exceeds \$100,000,000, the determination of the net  
13 positive benefit yield shall be based on the benefits generated  
14 during a period of up to 30 years following the completion of the  
15 project, as determined by the authority.<sup>2</sup>

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

30       The credit amount for any tax period ending after July 28, 2017  
31 during which the documentation of a business' credit amount  
32 remains uncertified shall be forfeited, although credit amounts for  
33 the remainder of the years of the 10-year credit period shall remain  
34 available to it.

35       The credit amount that may be taken for a tax period of the  
36 business that exceeds the final liabilities of the business for the tax  
37 period may be carried forward for use by the business in the next 20  
38 successive tax periods, and shall expire thereafter, provided that the  
39 value of all credits approved by the authority against tax liabilities  
40 pursuant to P.L.2007, c.346 (C.34:1B-207 et seq.) in any fiscal year  
41 shall not exceed **[\$150,000,000]** <sup>2</sup>**[\$250,000,000]** **\$260,000,000**<sup>2</sup>.

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

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

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

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

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

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

45 (3) If, in any tax period, (a) the number of full-time employees  
46 employed by the business at the qualified business facility located  
47 in an urban transit hub within an eligible municipality drops below

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

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

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

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

43 (2) Through regulation, the Economic Development Authority  
44 shall establish standards based on the green building manual  
45 prepared by the Commissioner of Community Affairs pursuant to  
46 section 1 of P.L.2007, c.132 (C.52:27D-130.6), regarding the use of  
47 renewable energy, energy-efficient technology, and non-renewable

1 resources in order to reduce environmental degradation and  
2 encourage long-term cost reduction.  
3 (cf: P.L.2012, c.35, s.1)  
4

5 5. Section 33 of P.L.2009, c.90 (C.34:1B-209.1) is amended to  
6 read as follows:

7 33. A business may apply to the Director of the Division of  
8 Taxation in the Department of the Treasury and the executive  
9 director of the authority for a tax credit transfer certificate, covering  
10 one or more years, in lieu of the business being allowed any amount  
11 of the credit against the tax liability of the business. The tax credit  
12 transfer certificate, upon receipt thereof by the business from the  
13 director and the executive director of the authority, may be sold or  
14 assigned, in full or in part, in an amount not less than \$100,000 of  
15 tax credits, although one transfer in each tax period may be in an  
16 amount less than \$100,000 to any other person that may have a tax  
17 liability pursuant to section 5 of P.L.1945, c.162 (C.54:10A-5),  
18 pursuant to sections 2 and 3 of P.L.1945, c.132 (C.54:18A-2 and  
19 54:18A-3), pursuant to section 1 of P.L.1950, c.231 (C.17:32-15),  
20 or pursuant to N.J.S.17B:23-5. The certificate provided to the  
21 business shall include a statement waiving the business's right to  
22 claim that amount of the credit against the taxes that the business  
23 has elected to sell or assign. The sale or assignment of any amount  
24 of a tax credit transfer certificate allowed under this section shall  
25 not be exchanged for consideration received by the business of less  
26 than 75 percent of the transferred credit amount before considering  
27 any further discounting to present value which shall be permitted.  
28 Any amount of a tax credit transfer certificate used by a purchaser  
29 or assignee against a tax liability shall be subject to the same  
30 limitations and conditions that apply to the use of the credit by the  
31 business that originally applied for and was allowed the credit.  
32 (cf: P.L.2009, c.90, s.33)  
33

34 6. Section 35 of P.L.2009, c.90 (C.34:1B-209.3) is amended to  
35 read as follows:

36 35. a. (1) A developer, upon application to and approval from  
37 the authority, shall be allowed a credit of up to 35 percent of its  
38 capital investment, <sup>2</sup>or up to 40 percent for a project located in a  
39 Garden State Growth Zone,<sup>2</sup> made after the effective date of  
40 P.L.2009, c.90 (C.52:27D-489a et al.) but prior to its submission of  
41 documentation pursuant to subsection c. of this section, in a  
42 qualified residential project, pursuant to the restrictions and  
43 requirements of this section. To be eligible for any tax credits  
44 authorized under this section, a developer shall demonstrate to the  
45 authority, through a project pro forma analysis at the time of  
46 application, that the qualified residential project is likely to be  
47 realized with the provision of tax credits at the level requested but

1 is not likely to be accomplished by private enterprise without the  
2 tax credits. The value of all credits approved by the authority  
3 pursuant to **[P.L.2009, c.90 (C.52:27D-489a et al.)]** this section for  
4 qualified residential projects may be up to \$150,000,000, except as  
5 may be increased by the authority as set forth below and as set forth  
6 in paragraph (5) of this subsection; provided, however, that the  
7 combined value of all credits approved by the authority pursuant to  
8 **[both]** section 3 of P.L.2007, c.346 (C.34:1B-207 [et seq.]) and  
9 **[P.L.2009, c.90 (C.52:27D-489a et al.)]** this section shall not  
10 exceed \$1,750,000,000, except as may be increased by the authority  
11 as set forth in paragraph (5) of this subsection. The authority shall  
12 monitor application and allocation activity under P.L.2007, c.346  
13 (C.34:1B-207 et seq.), and if sufficient credits are available after  
14 taking into account allocation under P.L.2007, c.346 (C.34:1B-207  
15 et seq.) to those qualified business facilities for which applications  
16 have been filed or for which applications are reasonably anticipated,  
17 and if the executive director judges certain qualified residential  
18 projects to be meritorious, the aforementioned \$150,000,000 cap  
19 may, in the discretion of the executive director, from time to time,  
20 be exceeded for allocation to qualified residential projects in such  
21 amounts as the executive director deems reasonable, justified, and  
22 appropriate. In allocating all credits to qualified residential projects  
23 under this section, the executive director shall take into account,  
24 together with other factors deemed relevant by the executive  
25 director: input from the municipality in which the project is to be  
26 located, whether the project contributes to the recovery of areas  
27 affected by Hurricane Sandy, whether the project furthers specific  
28 State or municipal planning and development objectives, or both,  
29 and whether the project furthers a public purpose, such as  
30 catalyzing urban development or maximizing the value of vacant,  
31 dilapidated, outmoded, government-owned, or underutilized  
32 property, or both.

33 (2) A developer shall make or acquire capital investments  
34 totaling not less than \$50,000,000 in a qualified residential project  
35 to be eligible for a credit under this section. A developer that  
36 acquires a qualified residential project shall also be deemed to have  
37 acquired the capital investment made or acquired by the seller.

38 (3) The capital investment requirement may be met by the  
39 developer or by one or more of its affiliates.

40 (4) A developer of a mixed use project shall be allowed a credit  
41 pursuant to subparagraph (a) or (b) of this paragraph, but not both.

42 (a) A developer shall be allowed a credit in accordance with this  
43 section for a qualified residential project that includes a mixed use  
44 project.

45 (b) A developer shall be allowed a credit of up to 35 percent of  
46 its capital investment, <sup>2</sup>or up to 40 percent for a project located in a  
47 Garden State Growth Zone,<sup>2</sup> made after the effective date of

1 P.L.2011, c.89 but prior to its submission of documentation  
2 pursuant to subsection c. of this section, in a qualified residential  
3 project that is part of a mixed use project, provided that: (a) the  
4 capital investment in the qualified residential project represents at  
5 least \$17,500,000 of the total capital investment in the mixed use  
6 project; and (b) the total capital investment in the mixed use project  
7 of which the qualified residential project is a part is not less than  
8 \$50,000,000. The allowance of credits under this paragraph shall  
9 be subject to the restrictions and requirements, to the extent that  
10 those are not inconsistent with the provisions of this paragraph, set  
11 forth in paragraphs (1) through (3) of this subsection, including but  
12 not limited to the requirement prescribed in paragraph (1) of this  
13 subsection that the developer shall demonstrate to the authority,  
14 through a project pro forma analysis at the time of application, that  
15 the qualified residential project is likely to be realized with the  
16 provision of tax credits at the level requested but is not likely to be  
17 accomplished by private enterprise without the tax credits.

18 As used in this subparagraph:

19 "Mixed use project" means a project comprising both a qualified  
20 residential project and a qualified business facility.

21 (5) The authority may approve and allocate credits for qualified  
22 residential projects in a value sufficient to meet the requirements of  
23 all applications that were received by the authority between October  
24 24, 2012 and December 21, 2012, without regard to the terms of  
25 any competitive solicitation<sup>2</sup>, except for the \$33,000,000 per  
26 project cap,<sup>2</sup> and without need for reapplication by any applicant.  
27 The authority shall take final action on those applications prior to  
28 the <sup>2</sup>[90th] 120th<sup>2</sup> day after the date of enactment of the "New  
29 Jersey Economic Opportunity Act of 2013," P.L. , c. (C. )  
30 (pending before the Legislature as this bill).

31 b. (1) A developer shall apply for the credit under this section  
32 on or prior to [July 1, 2014] December 21, 2012 but [and a] may  
33 thereafter supplement an application as may be requested by the  
34 authority. A developer shall submit its documentation for approval  
35 of its credit amount no later than [July 28, 2017] April 26, 2017.

36 (2) If a developer has submitted an application under this  
37 section and the application has not been approved for any reason,  
38 the lack of approval shall not serve to prejudice in any way the  
39 consideration of a new application as may be submitted for the  
40 project for the provision of incentives offered pursuant to the "New  
41 Jersey Economic Opportunity Act of 2013," P.L. , c. (C. )  
42 (pending before the Legislature as this bill).

43 c. The credit shall be administered in accordance with the  
44 provisions of subsections c. and e. of section 3 of P.L.2007, c.346  
45 (C.34:1B-209), as amended by section 32 of P.L.2009, c.90, and  
46 section 33 of P.L.2009, c.90 (C.34:1B-209.1), except that (1) all  
47 references therein to "business" and "qualified business facility"

1 shall be deemed to refer respectively to "developer" and "qualified  
2 residential project," as such terms are defined in section 34 of  
3 P.L.2009, c.90 (C.34:1B-209.2) and (2) all references therein to  
4 credits claimed by tenants and to reductions or disqualifications in  
5 credits as determined by annual review of the authority shall be  
6 disregarded. Provided however, for purposes of a "mixed use  
7 project" as that term is used and defined pursuant to subparagraph  
8 (b) of paragraph (4) of subsection a. of this section, "qualified  
9 business facility" means that term as defined pursuant to section 2  
10 of P.L.2007, c.346 (C.34:1B-208).

11 (cf: P.L.2012, c.35, s.2)

12

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

15 2. As used in **[this act]** P.L.2011, c.149 (C.34:1B-242 et seq.):

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

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

34 "Aviation district" means the area within a <sup>2</sup>**[1-mile]** one-mile<sup>2</sup>  
35 radius of the outermost boundary of the "Atlantic City International  
36 Airport," established pursuant to section 24 of P.L.1991, c.252  
37 (C.27:25A-24).

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

40 a corporation that is subject to the tax imposed pursuant to  
41 section 5 of P.L.1945, c.162 (C.54:10A-5) <sup>2</sup>**[,]** <sup>2</sup>

42 a corporation that is subject to the tax imposed pursuant to  
43 sections 2 and 3 of P.L.1945, c.132 (C.54:18A-2 and 54:18A-3),  
44 section 1 of P.L.1950, c.231 (C.17:32-15) or N.J.S.17B:23-5 <sup>2</sup>**[,]** <sup>2</sup>

45 **[or is]**

46 a partnership <sup>2</sup>**[,]** <sup>2</sup>

47 an S corporation <sup>2</sup>**[,]** <sup>2</sup> **[or]**

1 a limited liability **[corporation]** company <sup>2</sup>**[,]** <sup>2</sup>or  
2 a non-profit corporation.

3 <sup>2</sup>If the business or tenant is a cooperative or part of a  
4 cooperative, then the cooperative may qualify for credits by  
5 counting the full-time employees and capital investments of its  
6 member organizations, and the cooperative may distribute credits to  
7 its member organizations. If the business or tenant is a cooperative  
8 that leases to its member organizations, the lease shall be treated as  
9 a lease to an affiliate or affiliates.<sup>2</sup>

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

13 "Capital investment" in a qualified business facility means  
14 expenses by a business or any affiliate of the business incurred after  
15 application **[,]** but before the end of the tenth year after, the effective  
16 date of P.L.2011, c.149 (C.34:1B-242 et al.) **]** for <sup>2</sup>**[either]**<sup>2</sup> :

17 a. site <sup>2</sup>acquisition, if purchased within 24 months prior to  
18 project application, site<sup>2</sup> preparation and construction, repair,  
19 renovation, improvement, equipping, or furnishing on real property  
20 or of a building, structure, facility, or improvement to real property;  
21 **[and]** <sup>2</sup>**[or]**<sup>2</sup>

22 b. obtaining and installing furnishings and machinery,  
23 apparatus, or equipment, including but not limited to material goods  
24 subject to bonus depreciation under sections 168 and 179 of the  
25 federal Internal Revenue Code (26 U.S.C. s.168 and s.179), for the  
26 operation of a business on real property or in a building, structure,  
27 facility, or improvement to real property <sup>2</sup>**[, or]**<sup>2</sup>.

28 c. <sup>2</sup>**[both]** receiving Highlands Development Credits under the  
29 Highlands Transfer Development Rights Program authorized  
30 pursuant to section 13 of P.L.2004, c.120 (C.13:20-13); or

31 d. any of the foregoing<sup>2</sup> .

32 <sup>2</sup>In addition to the foregoing, in a Garden State Growth Zone, the  
33 following qualify as a capital investment: any and all  
34 redevelopment and relocation costs, including, but not limited to,  
35 site acquisition if made within 24 months of application to the  
36 authority, engineering, legal, accounting, and other professional  
37 services required; and relocation, environmental remediation, and  
38 infrastructure improvements for the project area, including, but not  
39 limited to, on- and off-site utility, road, pier, wharf, bulkhead, or  
40 sidewalk construction or repair.<sup>2</sup>

41 In addition to the foregoing, if a business acquires or leases a  
42 qualified business facility, the capital investment made or acquired  
43 by the seller or owner, as the case may be, if pertaining primarily to  
44 the premises of the qualified business facility, shall be considered a  
45 capital investment by the business and, if pertaining generally to the  
46 qualified business facility being acquired or leased, shall be



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

14 “Commitment period” means the period of time that is 1.5 times  
15 the eligibility period.

16 “Deep poverty pocket” means a population census tract having a  
17 poverty level of 20 percent or more, and which is located within the  
18 qualified incentive area and has been determined by the authority to  
19 be an area appropriate for development and in need of economic  
20 development incentive assistance.

21 “Disaster recovery project” means a project located on property  
22 that has been wholly or substantially damaged or destroyed as a  
23 result of a federally-declared disaster <sup>2</sup>which, after utilizing all  
24 disaster funds available from federal, State, county, and local  
25 funding sources, demonstrates to the satisfaction of the authority  
26 that access to additional funding authorized pursuant to the “New  
27 Jersey Economic Opportunity Act of 2013,” P.L. , c. (C. )  
28 (pending before the Legislature as this bill), is necessary to  
29 complete such redevelopment project<sup>2</sup>, and which is located within  
30 the qualified incentive area and has been determined by the  
31 authority to be in an area appropriate for development and in need  
32 of economic development incentive assistance.

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

42 “Eligibility period” means the period in which a business may  
43 claim a tax credit under the Grow New Jersey Assistance Program,  
44 beginning with the tax period in which the authority accepts  
45 certification of the business that it has met the capital investment  
46 and employment requirements of the Grow New Jersey Assistance  
47 Program and extending thereafter for a term of not more than 10

1 years, with the term to be determined solely at the discretion of the  
2 applicant.

3 "Eligible position" or "full-time job" means a full-time  
4 **[employee]** position **[retained or created by]** in a business in this  
5 State **[for which a business provides employee health benefits**  
6 **under a group health plan as defined under section 14 of P.L.1997,**  
7 **c.146 (C.17B:27-54), a health benefits plan as defined under section**  
8 **1 of P.L.1992, c.162 (C.17B:27A-17), or a policy or contract of**  
9 **health insurance covering more than one person issued pursuant to**  
10 **Article 2 of chapter 27 of Title 17B of the New Jersey Statutes]**  
11 which the business has filled with a full-time employee.

12 "Full-time employee" means a person:

13 a. who is employed by **[the]** a business for consideration for at  
14 least 35 hours a week, or who renders any other standard of service  
15 generally accepted by custom or practice as full-time employment,  
16 or **[a person]**

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

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

35 d. who is provided, by the business, with employee health  
36 benefits under a health benefits plan authorized pursuant to State or  
37 federal law.

38 With respect to a logistics, manufacturing, energy, defense,  
39 aviation, or maritime business, excluding <sup>2</sup>**[a]**<sup>2</sup> primarily  
40 warehouse or distribution <sup>2</sup>**[business]** operations<sup>2</sup>, located in a port  
41 district having a container terminal:

42 the requirement that employee health benefits are to be provided  
43 shall be deemed to be satisfied if such benefits are provided in  
44 accordance with industry practice by a third party obligated to  
45 provide such benefits pursuant to a collective bargaining agreement;

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

4 35 hours of employment per week at a qualified business facility  
5 shall constitute one “full-time employee,” regardless of whether or  
6 not the hours of work were performed by one or more persons.

7 <sup>2</sup>For any project located in a Garden State Growth Zone which  
8 qualifies under the “Municipal Rehabilitation and Economic  
9 Recovery Act,” P.L.2002, c.43 (C.52:27BBB-1 et al.), or any  
10 project located in the Atlantic City Tourism District as established  
11 pursuant to section 5 of P.L.2011, c.18 (C.5:12-219) and regulated  
12 by the Casino Reinvestment Development Authority, and which  
13 will include a retail facility of at least 150,000 square feet, of which  
14 at least 50 percent will be occupied by either a full-service  
15 supermarket or grocery store, the authority shall accept a standard  
16 of service generally accepted by custom or practice as full-time  
17 employment in a supermarket, grocery store, or other like retail  
18 industry.<sup>2</sup>

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

21 <sup>2</sup>“Garden State Growth Zone” or “growth zone” means the four  
22 New Jersey cities with the lowest median family income based on  
23 the 2009 American Community Survey from the US Census, (Table  
24 708. Household, Family, and Per Capita Income and Individuals,  
25 and Families Below Poverty Level by City: 2009).

26 “Highlands development credit receiving area or redevelopment  
27 area” means an area located within a qualified incentive area and  
28 designated by the Highlands Council for the receipt of Highlands  
29 Development Credits under the Highlands Transfer Development  
30 Rights Program authorized pursuant to section 13 of P.L.2004,  
31 c.120 (C.13:20-13).<sup>2</sup>

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

36 “Incentive effective date” means the date the authority issues a  
37 tax credit based on documentation submitted by a business pursuant  
38 to paragraph (1) of subsection b. of section 6 of P.L.2011, c.149  
39 (C.34:1B-247).

40 “Major rail station” means a railroad station located within a  
41 qualified incentive area which provides access to the public to a  
42 minimum of six rail passenger service lines operated by the New  
43 Jersey Transit Corporation.

44 “Mega project” means:

45 a. a qualified business facility located in a port district housing  
46 a business in the logistics, manufacturing, energy, defense, or  
47 maritime industries, either:

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

4 (2) at which more than 1,000 full-time employees of such  
5 business are created or retained;

6 b. a qualified business facility located in an aviation district  
7 housing a business in the aviation industry, <sup>2</sup>in a Garden State  
8 Growth Zone, or in a priority area housing the United States  
9 headquarters and related facilities of an automobile manufacturer,<sup>2</sup>  
10 either:

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

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

16 c. a qualified business facility located in an urban transit hub  
17 housing a business of any kind, having a capital investment in  
18 excess of \$50,000,000, and at which more than 250 full-time  
19 employees of a business are created or retained.

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

27 “Moderate-income housing” means housing affordable,  
28 according to United States Department of Housing and Urban  
29 Development or other recognized standards for home ownership  
30 and rental costs, and occupied or reserved for occupancy by  
31 households with a gross household income equal to more than 50  
32 percent but less than 80 percent of the median gross household  
33 income for households of the same size within the housing region in  
34 which the housing is located.

35 <sup>2</sup>“Municipal Revitalization Index” means the 2007 index by the  
36 Office for Planning Advocacy within the Department of State  
37 measuring or ranking municipal distress.<sup>2</sup>

38 “New full-time job” means an eligible position created by the  
39 business at the qualified business facility that did not previously  
40 exist in this State. For the purposes of determining a number of  
41 new full-time jobs, the eligible positions of an affiliate shall be  
42 considered eligible positions of the business.

43 “Other eligible area” means the portions of the qualified  
44 incentive area that are not located within a distressed municipality,  
45 or the priority area.

46 <sup>2</sup>“Priority area” means the portions of the qualified incentive  
47 area that are not located within a distressed municipality and which:

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

9 b. intersect with portions of: a deep poverty pocket, a port  
10 district, or federally owned land approved for closure under a  
11 federal Base Realignment Closing Commission action;

12 c. are the proposed site of a disaster recovery project, a  
13 qualified incubator facility, a tourism destination project, or transit  
14 oriented development; or

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

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

23 "Port district" means the portions of <sup>2</sup>【the】 a<sup>2</sup> qualified incentive  
24 area that are located within <sup>2</sup>【a 15-mile radius of the outermost  
25 boundary of: each marine terminal facility operated by】:

26 a. the port district of<sup>2</sup> the Port Authority of New York and New  
27 Jersey, as defined in Article II of the Compact Between the States  
28 of New York and New Jersey of 1921; <sup>2</sup>【and】 or

29 b. a 15-mile radius of the outermost boundary of<sup>2</sup> each marine  
30 terminal <sup>2</sup>facility<sup>2</sup> established, acquired, constructed,  
31 rehabilitated<sup>2,2</sup> or improved by the South Jersey Port District  
32 established pursuant to "The South Jersey Port Corporation Act,"  
33 P.L.1968, c.60 (C.12:11A-1 et seq.).

34 <sup>2</sup>"Priority area" means the portions of the qualified incentive  
35 area that are not located within a distressed municipality and which:

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

44 b. intersect with portions of: a deep poverty pocket, a port  
45 district, or federally-owned land approved for closure under a  
46 federal Base Realignment Closing Commission action;

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

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

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

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

16 "Qualified business facility" means any building, complex of  
17 buildings or structural components of buildings, and all machinery  
18 and equipment located within a qualified incentive area, used in  
19 connection with the operation of a business <sup>2</sup>that is not engaged in  
20 final point of sale retail business at that location unless the building,  
21 complex of buildings or structural components of buildings, and all  
22 machinery and equipment located within a qualified incentive area,  
23 are used in connection with the operation of:

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

28 b. a tourism destination project located in the Atlantic City  
29 Tourism District as established pursuant to section 5 of P.L.2011,  
30 c.18 (C.5:12-219)<sup>2</sup>.

31 "Qualified incentive area" means:

32 a. <sup>2</sup>an aviation district;

33 b. a port district;

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

35 d.<sup>2</sup> an area (1) designated pursuant to the "State Planning Act,"  
36 P.L.1985, c.398 (C.52:18A-196 et seq.),<sup>2</sup> as:

37 (a) Planning Area 1 (Metropolitan) <sup>3</sup>【,】<sup>3</sup>

38 (b) Planning Area 2 (Suburban) <sup>3</sup>【,】<sup>3</sup> <sup>3</sup>【or any urban, regional,  
39 or town】<sup>3</sup>or<sup>3</sup>

40 (c) Planning Area 3 (Fringe Planning Area) <sup>3</sup>【, <sup>2</sup>or<sup>2</sup>

41 (d)】<sup>3</sup> <sup>2</sup>【a designated center under the State Development and  
42 Redevelopment Plan】<sup>2</sup> 【; an area zoned for development pursuant  
43 to】<sup>2</sup>【, or

44 (e) a designated growth center in an endorsed plan until June 30,  
45 2013, or until the State Planning Commission revises and readopts  
46 New Jersey's State Strategic Plan and adopts regulations to revise

- 1 this definition as it pertains to Statewide planning areas, whichever  
2 is later] <sup>3</sup>**[Planning Area 4A (Rural Planning Area)<sup>2</sup>]**<sup>3</sup>;
- 3 (2) located within a smart growth area and planning area  
4 designated in a master plan adopted by the New Jersey  
5 Meadowlands Commission pursuant to subsection (i) of section 6 of  
6 P.L.1968, c.404 (C.13:17-6) or subject to a redevelopment plan  
7 adopted by the New Jersey Meadowlands Commission pursuant to  
8 section 20 of P.L.1968, c.404 (C.13:17-21);
- 9 (3) located within any land owned by the New Jersey Sports and  
10 Exposition Authority, established pursuant to P.L.1971, c.137  
11 (C.5:10-1 et seq.), within the boundaries of the Hackensack  
12 Meadowlands District as delineated in section 4 of P.L.1968, c.404  
13 (C.13:17-4);
- 14 (4) located within a **[pinelands]** regional growth area, **[a**  
15 **pinelands]** town <sup>2</sup>**[management area]**<sup>2</sup>, **[a pinelands village,]**  
16 <sup>2</sup>**village,**<sup>2</sup> or a military and federal installation area **[established**  
17 **pursuant to]** designated in the **[pinelands]** comprehensive  
18 management plan prepared and adopted by the Pinelands  
19 Commission pursuant to the "Pinelands Protection Act," P.L.1979,  
20 c.111 (C.13:18A-1 et seq.); **[an area designated for development,**  
21 **redevelopment, or economic growth within the Highlands Region;**  
22 **federally owned]** <sup>2</sup>**[or]**<sup>2</sup>
- 23 (5) located within <sup>2</sup>the planning area of the Highlands Region as  
24 defined in section 3 of P.L.2004, c.120 (C.13:20-3) or a highlands  
25 development credit receiving area or redevelopment area;
- 26 (6) located within a Garden State Growth Zone;
- 27 (7) located within<sup>2</sup> land approved for closure under any federal  
28 Base Closure and Realignment Commission action **[or any property**  
29 **consisting of a vacant commercial building having over 400,000**  
30 **square feet of office, laboratory, or industrial space available for**  
31 **occupancy for a period of over one year or is negatively impacted**  
32 **by the approval of a "qualified business facility," as defined**  
33 **pursuant to section 2 of P.L.2007, c.346 (C.34:1B-208)];** <sup>2</sup>**[but**  
34 **excluding**
- 35 b. an area designated in the 2008 Highlands Regional Master  
36 Plan, adopted pursuant to the "Highlands Water Protection and  
37 Planning Act," P.L.2004, c.120 (C.13:20-1 et al.), unless located  
38 within:
- 39 (1) (a) the Existing Community Zone, or  
40 (b) a Highlands center, designated by the Highlands Water  
41 Protection and Planning Council, established pursuant to section 4  
42 of P.L.2004, c.120 (C.13:20-4); which area is not located within:
- 43 (2) (a) the Protection Zone,  
44 (b) the Conservation Zone, or  
45 (c) an Environmentally Constrained Sub-Zone] or

1       (8) located only within the following portions of the areas  
2 designated pursuant to the "State Planning Act," P.L.1985, c.398  
3 (C.52:18A-196 et al.), as <sup>3</sup>Planning Area 4A (Rural Planning  
4 Area),<sup>3</sup> Planning Area 4B (Rural/Environmentally Sensitive) or  
5 Planning Area 5 (Environmentally Sensitive) if <sup>3</sup>Planning Area 4A  
6 (Rural Planning Area),<sup>3</sup> Planning Area 4B (Rural/Environmentally  
7 Sensitive) or Planning Area 5 (Environmentally Sensitive) is  
8 located within:

9       (a) a designated center under the State Development and  
10 Redevelopment Plan;

11       (b) a designated growth center in an endorsed plan until the State  
12 Planning Commission revises and readopts New Jersey's State  
13 Strategic Plan and adopts regulations to revise this definition as it  
14 pertains to Statewide planning areas;

15       (c) any area determined to be in need of redevelopment pursuant  
16 to sections 5 and 6 of P.L.1992, c.79 (C.40A:12A-5 and 40A:12A-  
17 6) or in need of rehabilitation pursuant to section 14 of P.L.1992,  
18 c.79 (C.40A:12A-14);

19       (d) any area on which a structure exists or previously existed  
20 including any desired expansion of the footprint of the existing or  
21 previously existing structure provided such expansion otherwise  
22 complies with all applicable federal, State, county, and local  
23 permits and approvals;

24       (e) <sup>3</sup>**[any]** the<sup>3</sup> planning area of the Highlands Region as defined  
25 in section 3 of P.L.2004, c.120 (C.13:20-3) or a highlands  
26 development credit receiving area or redevelopment area; or

27       (f) any area on which an existing tourism destination project is  
28 located.

29       "Qualified incentive area" shall not include any property located  
30 within the preservation area of the Highlands Region as defined in  
31 the "Highlands Water Protection and Planning Act," P.L.2004,  
32 c.120 (C.13:20-1 et al.)<sup>2</sup> .

33       "Qualified incubator facility" means a commercial building  
34 located within a qualified incentive area: which contains 100,000 or  
35 more square feet of office, laboratory, or industrial space; which is  
36 located near, and presents opportunities for collaboration with, a  
37 research institution, teaching hospital, college, or university; and  
38 within which, at least 75 percent of the gross leasable area is  
39 restricted for use by one or more technology startup companies  
40 during the commitment period.

41       "Retained full-time job" means an eligible position that currently  
42 exists in New Jersey and is filled by a full-time employee but  
43 which, because of a potential relocation by the business, is at risk of  
44 being lost to another state or country <sup>2</sup>, or eliminated<sup>2</sup> . For the  
45 purposes of determining a number of retained full-time jobs, the  
46 eligible positions of an affiliate shall be considered eligible  
47 positions of the business.



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

3 "SDA municipality" means a municipality in which an SDA  
4 district is situate.

5 "Targeted industry" means any industry identified from time to  
6 time by the authority including initially, a transportation,  
7 manufacturing, defense, energy, logistics, life sciences, technology,  
8 health, and finance business, but excluding a primarily warehouse  
9 or distribution business.

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

15 "Tourism destination project" means a qualified business facility  
16 that will be among the most visited privately owned or operated  
17 tourism or recreation sites in the State <sup>1</sup>[as determined at the  
18 discretion of the authority] , and which is located within the  
19 qualified incentive area and has been determined by the authority to  
20 be in an area appropriate for development and in need of economic  
21 development incentive assistance<sup>1</sup>.

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

29 "Urban transit hub" means an urban transit hub, as defined in  
30 section 10 of P.L.2007, c.346 (C.34:1B-208), that is located within  
31 an eligible municipality, as defined in section 10 of P.L.2007, c.346  
32 (C.34:1B-208) and also located within a qualified incentive area.

33 <sup>2</sup>"Urban transit hub municipality" means a municipality: a.  
34 which qualifies for State aid pursuant to P.L.1978, c.14 (C.52:27D-  
35 178 et seq.), or which has continued to be a qualified municipality  
36 thereunder pursuant to P.L.2007, c.111; and b. in which 30 percent  
37 or more of the value of real property was exempt from local  
38 property taxation during tax year 2006. The percentage of exempt  
39 property shall be calculated by dividing the total exempt value by  
40 the sum of the net valuation which is taxable and that which is tax  
41 exempt.<sup>2</sup>

42 (cf: P.L.2011, c.149, s.2)

43  
44 8. Section 3 of P.L.2011, c.149 (C.34:1B-244) is amended to  
45 read as follows:

46 3. a. The Grow New Jersey Assistance Program is hereby  
47 established as a program under the jurisdiction of the New Jersey

1 Economic Development Authority and shall be administered by the  
2 authority. The purpose of the program is to encourage economic  
3 development and job creation and to preserve jobs that currently  
4 exist in New Jersey but which are in danger of being relocated  
5 outside of the State. To implement this purpose, **[and to the extent**  
6 **that funding for the program is available,]** the program may provide  
7 tax credits to eligible businesses for an eligibility period not to  
8 exceed 10 years.

9 To be eligible for any tax credits pursuant to P.L.2011, c.149  
10 (C.34:1B-242 et al.), business's chief executive officer or equivalent  
11 officer shall demonstrate to the authority, at the time of application,  
12 that:

13 (1) the business, expressly including its landlord or seller, will  
14 make, acquire, or lease a capital investment **[of at least**  
15 **\$20,000,000]** equal to, or greater than, the applicable amount set  
16 forth in subsection b. of this section at a qualified business facility  
17 at which it will:

18 (a) **[employ at least 100 full-time employees in retained]** retain  
19 full-time jobs in an amount equal to or greater than the applicable  
20 number set forth in subsection c. of this section **[, or]** ;

21 (b) create **[at least 100]** new full-time jobs **[in an industry**  
22 **identified by the authority as desirable for the State to maintain or**  
23 **attract; (2)]** in an amount equal to or greater than the applicable  
24 number set forth in subsection c. of this section; or

25 (c) in combination, retain full-time jobs and create new full-time  
26 jobs in an amount equal to or greater than the applicable number set  
27 forth in subsection c. of this section;

28 (2) the qualified business facility shall be constructed in  
29 accordance with the minimum environmental and sustainability  
30 standards;

31 (3) the capital investment resultant from the award of tax credits  
32 and the resultant retention and creation of **[eligible positions]** full-  
33 time jobs will yield a net positive benefit to the State, equaling at  
34 least 110 percent of the requested tax credit allocation amount,  
35 which determination <sup>2</sup>is calculated prior to taking into account the  
36 value of the requested tax credit and<sup>2</sup> shall be based on the benefits  
37 generated during the first 20 years following the completion of the  
38 project, except that for a mega project <sup>2</sup>or a project located in a  
39 Garden State Growth Zone<sup>2</sup> , the determination shall be based on  
40 the benefits generated during a period of up to 30 years following  
41 the completion of the project, as determined by the authority <sup>2</sup>, and  
42 except that, for a project located in a Garden State Growth Zone  
43 which qualified for the "Municipal Rehabilitation and Economic  
44 Recovery Act," P.L.2002, c.43 (C.52:27BBB-1 et al.), the net  
45 positive benefit determination shall be based on the benefits  
46 generated during a period of up to 35 years following completion of

1 the project, as determined by the authority, and shall equal at least  
2 100 percent of the requested tax credit allocation amount and may  
3 utilize the value of those property taxes subject to the provisions of  
4 section <sup>4</sup>~~26~~ 24<sup>4</sup> of P.L. \_\_\_\_\_, c. \_\_\_\_\_ (C. \_\_\_\_\_) (pending before the  
5 Legislature as this bill) and incremental sales and excise taxes that  
6 are derived from activities within the area and which are rebated or  
7 retained by the municipality pursuant to the "New Jersey Urban  
8 Enterprise Zones Act," P.L.1983, c.303 (C.52:27H-60 et seq.) or  
9 any other law providing for such rebate or retention<sup>2</sup>; and,

10 (4) except as provided in subsection ~~[d.]~~ f. of this section, ~~[(3)]~~  
11 the award of tax credits will be a material factor in the business's  
12 decision to create or retain the minimum number of new or retained  
13 full-time jobs for eligibility under the program.

14 With respect to the provisions of paragraph (3) of this  
15 subsection, in the case of a <sup>2</sup>~~logistics, manufacturing, energy,~~  
16 defense, aviation, or maritime business, excluding a primarily  
17 warehouse or distribution business] project located in a Garden  
18 State Growth Zone<sup>2</sup>, the authority, in its discretion, may award  
19 <sup>2</sup>~~bonus points~~ bonuses<sup>2</sup> in its net positive benefit calculation.

20 b. The minimum capital investment required to be eligible under  
21 this program shall be as follows:

22 (1) for the rehabilitation <sup>2</sup>, improvement, fit-out, or retrofit<sup>2</sup> of an  
23 existing industrial premises for continued industrial use by the  
24 business, a minimum investment of \$20 per square foot of gross  
25 leasable area;

26 (2) for the new construction of an industrial premises for  
27 industrial use by the business, a minimum investment of \$60 per  
28 square foot of gross leasable area;

29 (3) for the rehabilitation <sup>2</sup>, improvement, fit-out, or retrofit<sup>2</sup> of an  
30 existing non-industrial premises for continued non-industrial use by  
31 the business, a minimum investment of \$40 per square foot of gross  
32 leasable area; and

33 (4) for the new construction of a non-industrial premises for non-  
34 industrial use by the business, a minimum investment of \$120 per  
35 square foot of gross leasable area.

36 <sup>2</sup>The minimum capital investment required by this subsection  
37 shall be reduced by one-third for projects located in a Garden State  
38 Growth Zone or projects located within Atlantic, Burlington,  
39 Camden, Cape May, Cumberland, Gloucester, Ocean, or Salem  
40 counties.<sup>2</sup>

41 c. The minimum number of new or retained full-time jobs  
42 required to be eligible under this program shall be as follows:

43 (1) for a business that is a technology startup company or a  
44 manufacturing company, a minimum of 10 new or 25 retained full-  
45 time jobs;

1       (2) for a business engaged primarily in a targeted industry other  
2 than a technology startup company or a manufacturing company, a  
3 minimum of 25 new or 35 retained full-time jobs; and

4       (3) for any other business, a minimum of 35 new or 50 retained  
5 full-time jobs.

6       <sup>2</sup>The minimum number of new or retained full-time jobs required  
7 by this subsection shall be reduced by one-quarter for projects  
8 located in a Garden State Growth Zone or projects located within  
9 Atlantic, Burlington, Camden, Cape May, Cumberland, Gloucester,  
10 Ocean, or Salem counties.<sup>2</sup>

11       d. To assist the authority in determining whether a proposed  
12 capital investment will yield a net positive benefit, the business's  
13 chief executive officer, or equivalent officer, shall submit a  
14 certification to the authority indicating <sup>2</sup>: (1)<sup>2</sup> that any **[existing]**  
15 <sup>2</sup>**[retained]** existing<sup>2</sup> full-time jobs are at risk of leaving the State  
16 <sup>2</sup>**[and the date or dates at which it is expected that those full-time**  
17 **jobs would leave the State,]** or being eliminated; (2)<sup>2</sup> that any  
18 projected creation <sup>2</sup>or retention, as applicable,<sup>2</sup> of new full-time  
19 jobs would not occur but for the provision of tax credits under the  
20 program <sup>2</sup>**[,]**<sup>2</sup> and <sup>2</sup>(3)<sup>2</sup> that the business's chief executive officer,  
21 or equivalent officer, has reviewed the information submitted to the  
22 authority and that the representations contained therein are  
23 accurate<sup>2</sup>, provided however, that in satisfaction of the provisions  
24 of paragraphs (1) and (2) of this subsection, the certification with  
25 respect to a project in a Garden State Growth Zone that qualifies  
26 under the "Municipal Rehabilitation and Economic Recovery Act,"  
27 P.L.2002, c.43 (C.52:27BBB-1 et al.), shall indicate that, the  
28 provision of tax credits under the program is a material factor in the  
29 business decision to make a capital investment and locate in a  
30 Garden State Growth Zone that qualifies under the "Municipal  
31 Rehabilitation and Economic Recovery Act," P.L.2002, c.43  
32 (C.52:27BBB-1 et al.)<sup>2</sup>. In the event that this certification by the  
33 business's chief executive officer, or equivalent officer, is found to  
34 be willfully false, the authority may revoke any award of tax credits  
35 in their entirety, which revocation shall be in addition to any other  
36 criminal or civil penalties that the business and the officer may be  
37 subject to. When considering an application involving intra-State  
38 job transfers, the authority shall require the business to submit the  
39 following information as part of its application: a full economic  
40 analysis of all locations under consideration by the business; all  
41 lease agreements, ownership documents, or substantially similar  
42 documentation for the business's current in-State locations; and all  
43 lease agreements, ownership documents, or substantially similar  
44 documentation for the potential out-of-State location alternatives, to  
45 the extent they exist. Based on this information, and any other  
46 information deemed relevant by the authority, the authority shall  
47 independently verify and confirm, by way of making a factual

1 finding by separate vote of the authority's board, the business's  
2 assertion that the jobs are actually at risk of leaving the State, and  
3 as to the date or dates at which the authority expects that those jobs  
4 would actually leave the State <sup>2</sup>, or, with respect to projects located  
5 in a Garden State Growth Zone that qualifies under the "Municipal  
6 Rehabilitation and Economic Recovery Act," P.L.2002, c.43  
7 (C.52:27BBB-1 et al.), the business's assertion that the provision of  
8 tax credits under the program is a material factor in the business's  
9 decision to make a capital investment and locate in a Garden State  
10 Growth Zone that qualifies under the "Municipal Rehabilitation and  
11 Economic Recovery Act," P.L.2002, c.43 (C.52:27BBB-1 et al.),<sup>2</sup>  
12 before a business may be awarded any tax credits under this section.

13 **[c.] e.** A project that consists solely of point-of-final-purchase  
14 retail facilities shall not be eligible for a grant of tax credits. If a  
15 project consists of both point-of-final-purchase retail facilities and  
16 non-retail facilities, only the portion of the project consisting of  
17 non-retail facilities shall be eligible for a grant of tax credits. <sup>2</sup>In a  
18 Garden State Growth Zone or the Atlantic City Tourism District as  
19 established pursuant to section 5 of P.L.2011, c.18 (C.5:12-219) and  
20 regulated by the Casino Reinvestment Development Authority, up  
21 to 7.5 percent of retail facilities included in a mixed use project  
22 shall be eligible for a grant of tax credits along with the non-retail  
23 facilities.<sup>2</sup> If a warehouse facility is part of a point-of-final-  
24 purchase retail facility and supplies only that facility, the warehouse  
25 facility shall not be eligible for a grant of tax credits. For the  
26 purposes of this section, <sup>2</sup>a retail facility of at least 150,000 square  
27 feet, of which at least 50 percent is occupied by a full-service  
28 supermarket or grocery store, located in a Garden State Growth  
29 Zone which qualified under the "Municipal Rehabilitation and  
30 Economic Recovery Act," P.L.2002, c.43 (C.52:27BBB-1 et al.), or  
31 a tourism destination project in the Atlantic City Tourism District as  
32 established pursuant to section 5 of P.L.2011, c.18 (C.5:12-219),  
33 or<sup>2</sup> catalog distribution centers shall not be considered point-of-  
34 final-purchase retail facilities.

35 **[d.] f.** The authority may determine as eligible for tax credits  
36 under the program any business that is required to respond to a  
37 request for proposals and to fulfill a contract with the federal  
38 government although the business's chief executive officer or  
39 equivalent officer has not demonstrated to the authority that the  
40 award of tax credits will be a material factor in the business's  
41 decision to retain **[at least 100]** the minimum number of retained  
42 full-time jobs, as otherwise required by [paragraph (3) of  
43 subsection a. of] this section. The authority may, in its discretion,  
44 consider the economic benefit of the retained jobs servicing the  
45 contract in conducting a net benefit analysis required by paragraph  
46 **[(2)]** <sup>2</sup>**[4]** (4)<sup>2</sup> of subsection a. of this section. For the purposes of

1 this subsection, "retained full-time jobs" includes jobs that are at  
2 risk of being eliminated. Applications to the authority for eligibility  
3 under the program pursuant to the criteria set forth in this  
4 subsection shall be completed by ~~March~~ <sup>4</sup>~~July~~ December<sup>4</sup> 31,  
5 ~~2012~~ 2013. Submission of a proposal to the federal government  
6 prior to authority approval shall not disqualify a business from the  
7 program.

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

11 (cf: P.L.2011, c.149, s.3)

12

13 9. Section 4 of P.L.2011, c.149 (C.34:1B-245) is amended to  
14 read as follows:

15 4. The authority shall require an eligible business to enter into  
16 an incentive agreement prior to the issuance of tax credits. The  
17 incentive agreement shall include, but shall not be limited to, the  
18 following:

19 a. A detailed description of the proposed project which will  
20 result in job creation or retention, and the number of new or  
21 retained full-time ~~employees~~ jobs that are approved for tax  
22 credits.

23 b. The ~~term~~ eligibility period of the tax credits, ~~and~~  
24 including the first year for which the tax credits may be claimed.

25 c. Personnel information that will enable the authority to  
26 administer the program.

27 d. A requirement that the applicant maintain the project at a  
28 location in New Jersey ~~at least 1.5 times the number of years of~~  
29 the term of the tax credits for the commitment period, with at least  
30 the minimum number of full-time employees as required by  
31 ~~section 6 of P.L.2011, c.149 (C.34:1B-247)~~ this program, and a  
32 provision to permit the authority to recapture all or part of any tax  
33 ~~credit~~ credits awarded, at its discretion, if the business does not  
34 remain ~~at the site~~ in compliance with this provision for the  
35 required term <sup>2</sup>, and in the instance of the business terminating an  
36 existing incentive agreement in order to participate in an incentive  
37 agreement authorized pursuant to the "New Jersey Economic  
38 Opportunity Act of 2013," P.L. , c. (C. ) (pending before the  
39 Legislature as this bill)<sup>2</sup>, <sup>2</sup>~~with~~<sup>2</sup> such permitted recapture <sup>2</sup>~~not~~  
40 exceed the portion of the tax credits as were awarded for periods  
41 when the business was not in compliance with this provision may  
42 be calculated to recognize the period of time that the business was  
43 in compliance prior to termination<sup>2</sup>.

44 e. A method for the business to certify that it has met the  
45 capital investment and employment requirements of the program  
46 pursuant to paragraph (1) of subsection a. of section 3 of P.L.2011,

1 c.149 (C.34:1B-244) and to report annually to the authority the  
2 number of full-time employees for which the tax credits are to be  
3 made.

4 f. A provision permitting an audit of the payroll records of the  
5 business from time to time, as the authority deems necessary.

6 g. A provision which permits the authority to amend the  
7 agreement.

8 h. A provision establishing the conditions under which the  
9 agreement may be terminated **【and awarded tax credits are**  
10 **recaptured, in whole or in part, by the authority at its discretion】.**

11 <sup>4</sup>**【i. (1) A requirement that each worker employed to perform**  
12 **construction work at the qualified business facility shall be paid not**  
13 **less than the prevailing wage rate, consistent with the requirements**  
14 **of section 1 of P.L.1979, c.303 (C.34:1B-5.1); and**

15 **(2) A requirement that each worker employed to perform**  
16 **building maintenance services at a qualified business facility by a**  
17 **business or a tenant or subcontractor of a business shall be paid not**  
18 **less than the prevailing wage rate for the worker's craft or trade as**  
19 **determined by the Commissioner of Labor and Workforce**  
20 **Development pursuant to P.L.1963, c.150 (C.34:11-56.25 et seq.)**  
21 **and P.L.2005, c.379 (C.34:11-56.58 et seq.).】<sup>4</sup> <sup>2</sup>【This requirement**  
22 **shall survive the termination of the incentive agreement.】<sup>2</sup>**

23 (cf: P.L.2011, c.149, s.4)

24

25 10. Section 5 of P.L.2011, c.149 (C.34:1B-246) is amended to  
26 read as follows:

27 5. a. The **【value】** total amount of **【each】** tax credit for an  
28 eligible business **【shall be equal to \$5,000 per year for a period of**  
29 ten years**】** for each new or retained full-time job **【determined by the**  
30 authority pursuant to section 3 of P.L.2011, c.149 (C.34:1B-244) to  
31 be located at the qualified business facility, subject to the provisions  
32 of this section**】 shall be as set forth in subsections b. through <sup>2</sup>【e.】**  
33 **f.<sup>2</sup> of this section. The total tax credit amount shall be calculated**  
34 **and credited to the business annually for each year of the eligibility**  
35 **period<sup>2</sup>. Notwithstanding any other provisions of P.L. \_\_\_\_\_,**  
36 **c. (C. \_\_\_\_\_) (pending before the Legislature as this bill), a**  
37 **business may assign its ability to apply for the tax credit under this**  
38 **subsection to a non-profit organization with a mission dedicated to**  
39 **attracting investment and completing development and**  
40 **redevelopment projects in a Garden State Growth Zone<sup>2</sup>.**

41 b. **【In addition to any grant of tax credits determined pursuant**  
42 **to subsection a. of this section, a bonus award of up to an additional**  
43 **\$3,000 per job of the amount of the original tax credits may be**  
44 **made to any eligible business as determined by the authority. In**  
45 **making a bonus award to an eligible business, the authority shall**  
46 **consider the following factors, such that whether the business: (1) is**

1 an industry identified by the authority as desirable for the State to  
2 maintain or attract; (2) locates or relocates to a location within a  
3 qualified incentive area adjacent to, or within walking distance or  
4 short-distance-shuttle service of, a public transit facility, as  
5 determined by the authority, by regulation; (3) creates jobs using  
6 full-time employees in eligible positions whose annual salaries,  
7 according to the Department of Labor and Workforce Development,  
8 are greater than the average full-time salary in this State; or (4) is  
9 locating to a project site that is or has been negatively impacted by  
10 the approval of a "qualified business facility," as defined pursuant  
11 to section 2 of P.L.2007, c.346 (C.34:1B-208).**】** The base amount  
12 of the tax credit for each new or retained full-time job shall be as  
13 follows:

14 (1) for a qualified business facility located within an urban  
15 transit hub <sup>2</sup>municipality or Garden State Growth Zone<sup>2</sup> or is a  
16 mega project, \$5,000 per year;

17 (2) for a qualified business facility located within a distressed  
18 municipality but not qualifying under paragraph (1) of this  
19 subsection, \$4,000 per year;

20 (3) for a project in a priority area, <sup>2</sup>【\$2,500】 \$3,000<sup>2</sup> per year;  
21 and

22 (4) for a project in other eligible areas, <sup>2</sup>【\$1,500】 \$500<sup>2</sup> per  
23 year.

24 c. **【**Notwithstanding the provisions of subsections a. and b. of  
25 this section, (1) the amount of tax credits available to be applied by  
26 the business annually shall not exceed the lesser of one tenth of the  
27 capital investment certified by the authority pursuant to section 6 of  
28 P.L.2011, c.149 (C.34:1B-247) or \$4,000,000, and (2) the number  
29 of new full-time jobs for which a business receives a tax credit shall  
30 not exceed the number of retained full-time jobs for which a  
31 business receives a tax credit, unless the business qualifies by  
32 creating at least 100 new full-time jobs in an industry identified by  
33 the authority as desirable for the State to maintain or attract.**】** In  
34 addition to the base amount of the tax credit, the amount of the tax  
35 credit to be awarded for each new or retained full-time job shall be  
36 increased if the qualified business facility meets any of the  
37 following priority criteria or other additional or replacement criteria  
38 determined by the authority from time to time in response to  
39 evolving economic or market conditions:

40 (1) for a qualified business facility located in a deep poverty  
41 pocket or in an area that is the subject of a Choice Neighborhoods  
42 Transformation Plan funded by the federal Department of Housing  
43 and Urban Development, an increase of \$1,500 per year;

44 (2) for a qualified business facility located in a qualified  
45 incubator facility, an increase of \$500 per year;

46 (3) for a qualified business facility located in a mixed-use  
47 development that incorporates sufficient moderate income housing



- 1 on site to accommodate a minimum of 20 percent of the full-time  
2 employees of the business, an increase of \$500 per year;
- 3 (4) for a qualified business facility located within a transit  
4 oriented development, an increase of \$2,000 per year;
- 5 (5) <sup>2</sup>for a qualified business facility not eligible for the increase  
6 set forth in paragraph (4) of this subsection and at which a shuttle  
7 service is available to a commuter rail, bus, or ferry station during  
8 rush hour periods on all business days during the commitment  
9 period, an increase of \$1,000 per year;
- 10 (6) for a qualified business facility whose location includes or is  
11 directly connected by rail spur to a freight rail line if the applicant  
12 utilizes that freight line as a regular part of the operation of its  
13 business during the commitment period, an increase of \$2,000 per  
14 year;
- 15 (7) for a qualified business facility not eligible for the increase  
16 set forth in paragraph (6) of this subsection and whose location is  
17 within one mile of a freight rail line spur if the applicant utilizes  
18 that freight line as a regular part of the operation of its business  
19 during the commitment period, an increase of \$1,000 per year;
- 20 (8) <sup>2</sup>for a qualified business facility, other than a mega project,  
21 at which the capital investment in industrial premises for industrial  
22 use by the business is in excess of the minimum capital investment  
23 required for eligibility pursuant to subsection b. of section 3 of  
24 P.L.2011, c.149 (C.34:1B-244), an increase of \$1,000 per year for  
25 each additional amount of investment that exceeds the minimum  
26 amount required for eligibility by 20 percent, with a maximum  
27 increase of <sup>2</sup>~~[\$3,000]~~ \$3,000<sup>2</sup> per year;
- 28 <sup>2</sup>[(9)] (6)<sup>2</sup> for a business with new full-time jobs and retained  
29 full-time jobs at the project with an average salary in excess of the  
30 existing average salary for the county in which the project is  
31 located, <sup>2</sup>or, in the case of a project in a Garden State Growth Zone,  
32 a business that employs full-time positions at the project with an  
33 average salary in excess of the average salary for the Garden State  
34 Growth Zone,<sup>2</sup> an increase of \$250 per year during the commitment  
35 period for each 35 percent by which the project's average salary  
36 levels exceeds the county <sup>2</sup>or Garden State Growth Zone<sup>2</sup> average  
37 salary, with a maximum increase of \$1,500 per year;
- 38 <sup>2</sup>[(10)] (7)<sup>2</sup> for a business with large numbers of new full-time  
39 jobs and retained full-time jobs during the commitment period, the  
40 increases shall be in accordance with the following schedule:
- 41 (a) if the number of new full-time jobs and retained full-time  
42 jobs is between 251 and 400, \$500 per year;
- 43 (b) if the number of new full-time jobs and retained full-time  
44 jobs is between 401 and 600, \$750 per year;
- 45 (c) if the number of new full-time jobs and retained full-time  
46 jobs is between 601 and 800, \$1000 per year;

- 1        (d) if the number of new full-time jobs and retained full-time  
2 jobs is between 801 and 1,000, \$1,250 per year;
- 3        (e) <sup>2</sup>if the number of new full-time jobs and retained full-time  
4 jobs is between 1,001 and 1,200, \$1,500 per year;
- 5        (f) if the number of new full-time jobs and retained full-time jobs  
6 is between 1,201 and 1,400, \$1,750 per year;
- 7        (g) if the number of new full-time jobs and retained full-time  
8 jobs is between 1,401 and 1,600, \$2,000 per year;
- 9        (h) if the number of new full-time jobs and retained full-time  
10 jobs is between 1,601 and 1,800, \$2,250 per year;
- 11        (i) <sup>2</sup> if the number of new full-time jobs and retained full-time  
12 jobs is in excess of <sup>2</sup>[1,800] 1,000<sup>2</sup> , <sup>2</sup>[\$2,500] \$1,500<sup>2</sup> per year;  
13        <sup>2</sup>[(11)] (8)<sup>2</sup> for a business in a targeted industry, an increase of  
14 \$500 per year;
- 15        <sup>2</sup>[(12) for a business that employs a significant number of  
16 chronically unemployed or military veterans during the commitment  
17 period, an increase of \$200 per year for each 10 percent of the new  
18 full-time jobs that are filled by full-time employees that are either  
19 chronically unemployed or military veterans, with a maximum  
20 increase of \$1,000 per year;
- 21        (13) for a qualified business facility materially exceeding the  
22 minimum environmental and sustainability standards by way of  
23 energy efficiency or renewable energy features, measures, or  
24 upgrades, an increase of \$250 per year;
- 25        (14) <sup>2</sup> (9)<sup>2</sup> for a qualified business facility exceeding the  
26 Leadership in Energy and Environmental Design’s “Silver” rating  
27 standards <sup>2</sup>or completes substantial environmental remediation<sup>2</sup> , an  
28 additional increase of \$250 per year; <sup>2</sup>[and
- 29        (15) <sup>2</sup> (10)<sup>2</sup> for a mega project <sup>2</sup>or a project located within a  
30 Garden State Growth Zone<sup>2</sup> at which the capital investment in  
31 industrial premises for industrial use by the business is in excess of  
32 the minimum capital investment required for eligibility pursuant to  
33 subsection b. of section 3 of P.L.2011, c.149 (C.34:1B-244), an  
34 increase of \$1,000 per year for each additional amount of  
35 investment that exceeds the minimum amount by 20 percent, with a  
36 maximum increase of \$5,000 per year <sup>2</sup>;
- 37        (11) for a project in which a business retains at least 400 jobs  
38 and is located within the municipality in which it was located  
39 immediately prior to the filing of the application hereunder and is  
40 the United States headquarters of an automobile manufacturer, an  
41 increase of \$1,500 per year;
- 42        (12) for a project located in a municipality in Atlantic,  
43 Burlington, Camden, Cape May, Cumberland, Gloucester, Ocean,  
44 and Salem counties with a 2007 Municipality Revitalization Index  
45 greater than 465, an increase of \$1,000 per year;

1       (13) for a project located within a half-mile of any light rail  
2 station constructed after the effective date of P.L. , c. (C. )  
3 (pending before the Legislature as this bill), an increase of \$1,000  
4 per year;

5       (14) for a marine terminal project in a municipality located  
6 outside the Garden State Growth Zone, but within the geographical  
7 boundaries of the South Jersey Port District, an increase of \$1,500  
8 per year;

9       (15) for a project located within an area determined to be in need  
10 of redevelopment pursuant to sections 5 and 6 of P.L.1992, c.79  
11 (C.40A:12A-5 and C.40A:12A-6), and which is located within a  
12 quarter mile of at least one United States Highway and at least two  
13 New Jersey State Highways, an increase of \$1,500 per year; and

14       (16) for a project that generates solar energy on site for use  
15 within the project of an amount that equals at least 50 percent of the  
16 project's electric supply service needs, an increase of \$250 per  
17 year<sup>2</sup>.

18       d. The gross amount of the tax credit for an eligible business  
19 for each new or retained full-time job shall be the sum of the base  
20 amount as set forth pursuant to subsection b. of this section and the  
21 various additional bonus amounts for which the business is eligible  
22 pursuant to subsection c. of this section, subject to the following  
23 limitations:

24       (1) for a mega project<sup>2</sup> or a project in a Garden State Growth  
25 Zone<sup>2</sup>, the gross amount for each new or retained full-time job  
26 shall not exceed \$15,000 per year;

27       (2) for a qualified business facility located within an urban  
28 transit hub<sup>2</sup> municipality<sup>2</sup>, the gross amount for each new or  
29 retained full-time job shall not exceed <sup>2</sup>[\$10,000] \$12,000<sup>2</sup> per  
30 year;

31       (3) for a qualified business facility in a distressed municipality  
32 the gross amount for each new or retained full-time job shall not  
33 exceed <sup>2</sup>[\$8,000] \$11,000<sup>2</sup> per year;

34       (4) for a qualified business facility in other priority areas, the  
35 gross amount for each new or retained full-time job shall not exceed  
36 <sup>2</sup>[\$6,000] \$10,500<sup>2</sup> per year; <sup>2</sup>[and]<sup>2</sup>

37       (5) for a qualified business facility in other eligible areas, the  
38 gross amount for each new or retained full-time job shall not exceed  
39 <sup>2</sup>[\$4,000] \$6,000<sup>2</sup> per year <sup>2</sup>and;

40       (6) for a disaster recovery project, the gross amount for each new  
41 or retained full-time job shall not exceed \$2,000 per year.

42       Notwithstanding anything to the contrary set forth herein and in  
43 the provisions of subsections a. through f. of this section, for a  
44 project located within a Garden State Growth Zone which qualifies  
45 for the "Municipal Rehabilitation and Economic Recovery Act,"  
46 P.L.2002, c.43 (C.52:27BBB-1 et al.), the total tax credit shall be:

1       (a) for a project which creates 35 or more full-time jobs and  
2 makes a capital investment of at least \$5,000,000, the total tax  
3 credit amount per full-time job shall be the greater of: (i) the total  
4 tax credit amount for a qualifying project in a Garden State Growth  
5 Zone as calculated pursuant to subsections a. through f. of this  
6 section; or (ii) the total capital investment of the project divided by  
7 the total number of full-time jobs at that project but not greater than  
8 \$20,000,000 over the grant term;

9       (b) for a project which creates 70 or more full-time jobs and  
10 makes a capital investment of at least \$10,000,000, the total tax  
11 credit amount per full-time job shall be the greater of: (i) the total  
12 tax credit amount for a qualifying project in a Garden State Growth  
13 Zone as calculated pursuant to subsections a. through f. of this  
14 section; or (ii) the total capital investment of the project divided by  
15 the total number of full-time jobs at that project but not greater than  
16 \$30,000,000 over the grant term;

17       (c) for a project which creates 100 or more full-time jobs and  
18 makes a capital investment of at least \$15,000,000, the total tax  
19 credit amount per full-time job shall be the greater of: (i) the total  
20 tax credit amount for a qualifying project in a Garden State Growth  
21 Zone as calculated pursuant to subsections a. through f. of this  
22 section; or (ii) the total capital investment of the project divided by  
23 the total number of full-time jobs at that project but not greater than  
24 \$40,000,000 over the grant term;

25       (d) for a project which creates 150 or more full-time jobs and  
26 makes a capital investment of at least \$20,000,000, the total tax  
27 credit amount per full-time job shall be the greater of: (i) the total  
28 tax credit amount for a qualifying project in a Garden State Growth  
29 Zone as calculated pursuant to subsections a. through f. of this  
30 section; or (ii) the total capital investment of the project divided by  
31 the total number of full-time jobs at that project but not greater than  
32 \$50,000,000 over the grant term; or

33       (e) for a project which creates 250 or more full-time jobs and  
34 makes a capital investment of at least \$30,000,000, the total tax  
35 credit amount per full-time job shall be the greater of: (i) the total  
36 tax credit amount for a qualifying project in a Garden State Growth  
37 Zone as calculated pursuant to subsections a. through f. of this  
38 section; or (ii) the total capital investment of the project divided by  
39 the total number of full-time jobs as defined herein at that project<sup>2</sup>.

40       e. After the determination by the authority of the gross amount  
41 of tax credits for which a business is eligible pursuant to subsection  
42 d. of this section, the final total tax credit amount shall be  
43 calculated as follows: (1) for each new full-time job, the business  
44 shall be allowed tax credits equaling 100 percent of the gross  
45 amount of tax credits for each new full-time job; and (2) for each  
46 retained full-time <sup>2</sup>[employee]<sup>2</sup> job, the business shall be allowed  
47 tax credits equaling <sup>2</sup>[75] 50<sup>2</sup> percent of the gross amount of tax

1 credits for each retained full-time job, <sup>2</sup>unless the jobs are part of a  
2 mega project which is the United States headquarters of an  
3 automobile manufacturer located within a priority area or in a  
4 Garden State Growth Zone, in which case the business shall be  
5 entitled to tax credits equaling 100 percent of the gross amount of  
6 tax credits for each retained full-time job, or<sup>2</sup> unless the new  
7 qualified business facility would replace a facility that has been  
8 wholly or substantially damaged as a result of a federally-declared  
9 disaster, in which case the business shall be entitled to tax credits  
10 equaling 100 percent of the gross amount of tax credits for each  
11 retained full-time job.

12 f. Notwithstanding the provisions of subsections a. through e.  
13 of this section, for each application approved by the authority's  
14 board, the amount of tax credits available to be applied by the  
15 business annually shall not exceed:

16 (1) <sup>2</sup>\$35,000,000 and provides a net benefit to the State as  
17 provided herein with respect to a qualified business facility in a  
18 Garden State Growth Zone which qualifies under the "Municipal  
19 Rehabilitation and Economic Recovery Act," P.L.2002, c.43  
20 (C.52:27BBB-1 et al.);

21 (2)<sup>2</sup> \$30,000,000 <sup>2</sup>and provides a net benefit to the State as  
22 provided herein<sup>2</sup> with respect to a mega project <sup>2</sup>or a qualified  
23 business facility in a Garden State Growth Zone<sup>2</sup>;

24 <sup>2</sup>[(2)] (3)<sup>2</sup> \$10,000,000 <sup>2</sup>and provides a net benefit to the State  
25 as provided herein<sup>2</sup> with respect to a qualified business facility in  
26 an urban transit hub <sup>2</sup>municipality<sup>2</sup> ;

27 <sup>2</sup>[(3)] (4)<sup>2</sup> \$8,000,000 <sup>2</sup>and provides a net benefit to the State as  
28 provided herein<sup>2</sup> with respect to a qualified business facility in a  
29 distressed municipality;

30 <sup>2</sup>[(4)] (5)<sup>2</sup> \$4,000,000 <sup>2</sup>and provides a net benefit to the State as  
31 provided herein<sup>2</sup> with respect to a qualified business facility in  
32 other priority areas <sup>2</sup>, but not more than 90 percent of the  
33 withholdings of the business from the qualified business facility<sup>2</sup> ;  
34 and

35 <sup>2</sup>[(5)] (6)<sup>2</sup> \$2,500,000 <sup>2</sup>and provides a net benefit to the State as  
36 provided herein<sup>2</sup> with respect to a qualified business facility in  
37 other eligible areas <sup>2</sup>, but not more than 90 percent of the  
38 withholdings of the business from the qualified business facility.

39 Under paragraphs (1) through (6) of this subsection, for each  
40 application for tax credits in excess of \$4,000,000 annually, the  
41 amount of tax credits available to be applied by the business  
42 annually shall be the lesser of the maximum amount under the  
43 applicable subsection or an amount determined by the authority  
44 necessary to complete the project, with such determination made by  
45 the authority's utilization of a full economic analysis of all  
46 locations under consideration by the business; all lease agreements,

1 ownership documents, or substantially similar documentation for  
2 the business's current in-State locations, as applicable; and all lease  
3 agreements, ownership documents, or substantially similar  
4 documentation for the potential out-of-State location alternatives, to  
5 the extent they exist. Based on this information, and any other  
6 information deemed relevant by the authority, the authority shall  
7 independently verify and confirm the amount necessary to complete  
8 the project<sup>2</sup>.

9 (cf: P.L.2011, c.149, s.5)

10

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

13 6. a. (1) The **】**value of all credits approved by the authority  
14 pursuant to P.L.2011, c.149 (C.34:1B-242 et al.) shall not exceed  
15 \$200,000,000, except that the value of all credits approved by the  
16 authority pursuant to this section may exceed \$200,000,000 if the  
17 board of the authority determines the credits to be reasonable,  
18 justifiable, and appropriate; provided, however, the**】** combined  
19 value of all credits approved by the authority pursuant to P.L.2007,  
20 c.346 (C.34:1B-207 et seq.) and P.L.2011, c.149 (C.34:1B-242 et  
21 al.) prior to<sup>2</sup>**】**the 90th day after the date of enactment of the “New  
22 Jersey Economic Opportunity Act of 2013,” P.L. , c. (C. )  
23 (pending before the Legislature as this bill)】 December 31, 2013<sup>2</sup>  
24 shall 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 P.L.2009,  
26 c.90 (C.34:1B-209.3).<sup>2</sup>Following the enactment of the “New  
27 Jersey Economic Opportunity Act of 2013,” P.L. , c. (C. )  
28 (pending before the Legislature as this bill), there shall be no  
29 monetary cap on the value of credits approved by the authority  
30 attributable to the program pursuant to “New Jersey Economic  
31 Opportunity Act of 2013,” P.L. , c. (C. ) (pending before the  
32 Legislature as this bill).<sup>2</sup>

33 (2) **】**A business, including any affiliate of the business or any  
34 business that is a tenant within any qualified business facility, shall  
35 make or acquire capital investments totaling not less than  
36 \$20,000,000 in a qualified business facility, at which the business  
37 shall employ not fewer than 100 full-time employees to be eligible  
38 for a credit pursuant to P.L.2011, c.149. A business that acquires or  
39 leases a qualified business facility shall also be deemed to have  
40 acquired the capital investment made or acquired by the seller or  
41 landlord, as the case may be. **】** (Deleted by amendment, P.L. ,  
42 c. ) (pending before the Legislature as this bill).

43 (3) **】**A business shall not be allowed tax credits pursuant to  
44 P.L.1996, c.25 (C.34:1B-112 et seq.) or P.L.1996, c.26 (C.34:1B-  
45 124 et seq.) relating to the same capital and employees that qualify  
46 the business for tax credits pursuant to P.L.2011, c.149. A business  
47 that is allowed a tax credit under this section shall not be eligible

1 for incentives authorized pursuant to P.L.2002, c.43 (C.52:27BBB-1  
 2 et al.). A business shall not qualify for a tax credit under this  
 3 section, based upon capital investment and employment of full-time  
 4 employees, if that capital investment or employment was the basis  
 5 for which a grant was provided to the business pursuant to the  
 6 "Urban Transit Hub Tax Credit Act," P.L.2007, c.346 (C.34:1B-207  
 7 et seq.).~~】 (Deleted by amendment, P.L. , c. ) (pending before~~  
 8 ~~the Legislature as this bill).~~

9 (4) ~~【Full-time employment for an accounting or privilege period~~  
 10 ~~shall be determined as the average of the monthly full-time~~  
 11 ~~employment for the period.】 (Deleted by amendment, P.L. , c. )~~  
 12 ~~(pending before the Legislature as this bill).~~

13 (5) ~~【The capital investment of the owner of a qualified business~~  
 14 ~~facility is that percentage of the capital investment made or~~  
 15 ~~acquired by the owner of the building that the percentage of net~~  
 16 ~~leasable area of the qualified business facility not leased to tenants~~  
 17 ~~is of the total net leasable area of the qualified business facility. For~~  
 18 ~~a business that is a tenant, the amount of capital investment in a~~  
 19 ~~facility that a leased area represents shall be equal to that~~  
 20 ~~percentage of the owner's total capital investment in the facility that~~  
 21 ~~the percentage of net leasable area leased by the tenant is of the~~  
 22 ~~total net leasable area of the qualified business facility. Capital~~  
 23 ~~investments made by a tenant shall be deemed to be included in the~~  
 24 ~~calculation of the capital investment made or acquired by the~~  
 25 ~~owner, but only to the extent necessary to meet the owner's~~  
 26 ~~minimum capital investment of \$20,000,000. Capital investments~~  
 27 ~~made by a tenant and not allocated to meet the owner's minimum~~  
 28 ~~capital investment threshold of \$20,000,000 shall be added to the~~  
 29 ~~amount of capital investment represented by the tenant's leased area~~  
 30 ~~in the qualified business facility.】 (Deleted by amendment, P.L. ,~~  
 31 ~~c. ) (pending before the Legislature as this bill).~~

32 b. (1) A business shall ~~【apply】~~ submit an application for ~~【the】~~  
 33 ~~tax 【credit】 credits~~ prior to July 1, ~~【2014, and】~~ ~~<sup>2</sup>【2018】~~ ~~2019<sup>2</sup>~~ .  
 34 The authority shall not approve an application for tax credits unless  
 35 the application was submitted prior to July 1, ~~<sup>2</sup>【2018】~~ 2019<sup>2</sup> .

36 (2) A business shall submit its documentation indicating that it  
 37 has met the capital investment and employment requirements  
 38 specified in the 【project】 incentive agreement for certification of its  
 39 tax credit amount 【no later than July 28, 2017.】 within three years  
 40 following the date of approval of its application by the authority.  
 41 The authority shall have the discretion to grant two six-month  
 42 extensions of this deadline. In no event shall the incentive effective  
 43 date occur later than four years following the date of approval of an  
 44 application by the authority.

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

1       (4) A business seeking a credit for a mega project shall apply for  
2 the credit within four years after the effective date of the “New  
3 Jersey Economic Opportunity Act of 2013,” P.L.     , c.     (C.     )  
4 (pending before the Legislature as this bill).

5       c. (1) **【The amount of credit allowed shall not exceed the**  
6 **capital investment made by the business or the capital investment**  
7 **represented by the business' leased area, as certified by the authority**  
8 **pursuant to subsection b. of this section, as having met the**  
9 **investment capital and employment qualifications, subject to any**  
10 **reduction or disqualification as provided by subsection d. of this**  
11 **section as determined by annual review by the authority.】** In  
12 conducting its annual review, the authority may require a business  
13 to submit any information determined by the authority to be  
14 necessary and relevant to its review.

15       The credit amount for any tax period **【ending after July 28, 2017,**  
16 **during】** for which the documentation of a business' credit amount  
17 remains uncertified as of a date three years after the closing date of  
18 that period shall be forfeited, although credit amounts for the  
19 remainder of the years of the **【10-year credit】** eligibility period  
20 shall remain available to it.

21       The credit amount that may be taken for a tax period of the  
22 business that exceeds the final liabilities of the business for the tax  
23 period may be carried forward for use by the business in the next 20  
24 successive tax periods, and shall expire thereafter **【**, provided that  
25 the value of all credits approved by the authority against tax  
26 liabilities pursuant to P.L.2011, c.149, in any fiscal year shall not  
27 exceed \$150,000,000 and the combined value of all credits  
28 approved by the authority pursuant to P.L.2007, c.346 (C.34:1B-  
29 207 et seq.) and P.L.2011, c.149 (C.34:1B-242 et al.) shall not  
30 exceed \$1,750,000,000**】**.

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

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



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

6 d. (1) 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 period prior to the credit amount approval  
 10 under section 3 of P.L.2011, c.149 (C.34:1B-244), then the business  
 11 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'  
 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 (2) If, in any tax period, the number of full-time employees  
 19 employed by the business at the qualified business facility located  
 20 within a qualified incentive area drops below <sup>2</sup>[100 or]<sup>2</sup> 80 percent  
 21 of the number of new and retained full-time jobs specified in the  
 22 **[project] incentive** agreement, then the business shall forfeit its  
 23 credit amount for that tax period and each subsequent tax period,  
 24 until the first tax period for which documentation demonstrating the  
 25 restoration of the number of full-time employees employed by the  
 26 business at the qualified business facility to <sup>2</sup>[100] 80 percent of  
 27 the number of jobs specified in the incentive agreement<sup>2</sup> .

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

34 (b) <sup>2</sup>[If a]<sup>2</sup> **[tenant]** <sup>2</sup>[business leases or subleases its]<sup>2</sup>  
 35 **[tenancy]** <sup>2</sup>[premises in the qualified business facility in whole or  
 36 in part during the]<sup>2</sup> **[10-year]** <sup>2</sup>[eligibility period, the new tenant  
 37 or subtenant shall not acquire the]<sup>2</sup> **[credit]** <sup>2</sup>[tax credits of the]<sup>2</sup>  
 38 **[sublessor]** <sup>2</sup>[business, and the]<sup>2</sup> **[sublessor tenant]** <sup>2</sup>[business  
 39 shall forfeit all credits for the tax period of its lease or sublease and  
 40 all subsequent tax periods.]<sup>2</sup> <sup>1</sup>[Notwithstanding such forfeiture, a  
 41 business that leases or subleases less than all of its premises and  
 42 does not thereby reduce its new or retained full-time job count  
 43 below the minimum number required under section 3 of P.L.2011,  
 44 c.149 (C.34:1B-244) shall not be affected by this paragraph.]<sup>1</sup> <sup>2</sup>In  
 45 connection with a regional distribution facility of foodstuffs, the  
 46 business entity or entities which own or lease such facility shall

1 qualify as a business regardless of: (i) the type of the business entity  
2 or entities which own or lease such facility; (ii) the ownership or  
3 leasing of such facility by more than one business entity; or (iii) the  
4 ownership of the business entity or entities which own or lease such  
5 facility. Such ownership or leasing, whether by members,  
6 shareholders, partners, or other owners of the business entity or  
7 entities, shall be treated as ownership or leasing by affiliates. Such  
8 members, shareholders, partners, or other ownership or leasing  
9 participants and others that are tenants in the facility shall be treated  
10 as affiliates for the purpose of counting the full-time employees and  
11 capital investments in the facility. The business entity or entities  
12 may distribute credits to members, shareholders, partners, or other  
13 ownership or leasing participants in accordance with their  
14 respective interests. If the business entity or entities or their  
15 members, shareholders, partners, or other ownership or leasing  
16 participants lease space in the facility to members, shareholders,  
17 partners, or other ownership or leasing participants or others as  
18 tenants in the facility, the leases shall be treated as a lease to an  
19 affiliate, and the business entity or entities shall not be subject to  
20 forfeiture of the credits. For the purposes of this section, leasing  
21 shall include subleasing and tenants shall include subtenants.

22 (4) For a project located within a Garden State Growth Zone, if,  
23 in any tax period, the number of full-time employees employed by  
24 the business at the qualified business facility located within a  
25 qualified incentive area increases above the number of full-time  
26 employees specified in the incentive agreement, then the business  
27 shall be entitled to an increased base credit amount for that tax  
28 period and each subsequent tax period, for each additional full-time  
29 employee added above the number of full-time employees specified  
30 in the incentive agreement, until the first tax period for which  
31 documentation demonstrating a reduction of the number of full-time  
32 employees employed by the business at the qualified business  
33 facility, at which time the tax credit amount will be adjusted  
34 accordingly pursuant to this section.<sup>2</sup>

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 seq.), 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 <sup>2</sup>or is compliant with section 4 of  
43 P.L.2011, c.149 (C.34:1B-245)<sup>2</sup> ; 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       <sup>2</sup>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.     , c.     (C.     )  
4 (pending before the Legislature as this bill), but who has not yet  
5 been approved for such tax credits, or has not executed an  
6 agreement with the authority, may proceed under that application or  
7 seek to amend such application or reapply for a tax credit incentive  
8 award for the same project or any part thereof for the purpose of  
9 availing itself of any more favorable provisions of the program.<sup>2</sup>  
10 (cf: P.L.2012, c.35, s.4)

11  
12       12. Section 8 of P.L.2011, c.149 (C.34:1B-249) is amended to  
13 read as follows:

14       8. a. The chief executive officer of the authority, in  
15 consultation with the Director of the Division of Taxation in the  
16 Department of the Treasury, shall adopt rules in accordance with  
17 the "Administrative Procedure Act," P.L.1968, c.410 (C.52:14B-1 et  
18 seq.) as are necessary to implement P.L.2011, c.149 (C.34:1B-242  
19 et al.), including but not limited to: examples of and the  
20 determination of capital investment; the enumeration of qualified  
21 incentive areas; the enumeration of specific targeted industries;  
22 specific delineation of [these] the incentive areas; the  
23 determination of the limits, if any, on the expense or type of  
24 furnishings that may constitute capital improvements; the  
25 promulgation of procedures and forms necessary to apply for a tax  
26 credit, including the enumeration of the certification procedures and  
27 allocation of tax credits for different phases of a qualified business  
28 facility; and provisions for tax credit applicants to be charged an  
29 initial application fee, and ongoing service fees, to cover the  
30 administrative costs related to the tax credit.

31       b. Through regulation, the authority shall establish standards  
32 by which qualified business facilities shall be constructed or  
33 renovated **[based on the green building manual prepared by the**  
34 **Commissioner of Community Affairs pursuant to section 1 of**  
35 **P.L.2007, c.132 (C.52:27D-130.6), regarding the use of renewable**  
36 **energy, energy-efficient technology, and non-renewable resources**  
37 **in order to reduce environmental degradation and encourage long-**  
38 **term cost reduction]** in compliance with the minimum  
39 environmental and sustainability standards.  
40 (cf: P.L.2011, c.149, s.8)

41  
42       13. Section 1 of P.L.2009, c.136 (C.52:18-42) is amended to  
43 read as follows:

44       1. As used in **[this act]** P.L.2009, c.136 (C.52:18-42 et seq.):  
45       "Business" means a corporation; sole proprietorship; partnership;  
46 corporation that has made an election under Subchapter S of  
47 Chapter One of Subtitle A of the Internal Revenue Code of 1986, or

1 any other business entity through which income flows as a  
2 distributive share to its owners; limited liability company; nonprofit  
3 corporation; or any other form of business organization located  
4 either within or outside this State, but excluding any public or  
5 private institution of higher education.

6 "Environmental infrastructure project" means the acquisition,  
7 construction, improvement, repair or reconstruction of all or part of  
8 any structure, facility or equipment, or real or personal property  
9 necessary for or ancillary to any (1) wastewater treatment system  
10 project, including any stormwater management or combined sewer  
11 overflow abatement projects; or (2) water supply project, as  
12 authorized pursuant to P.L.1985, c.334 (C.58:11B-1 et seq.) or  
13 P.L.1997, c.224 (C.58:11B-10.1 et al.), including any water  
14 resources project, as authorized pursuant to P.L.2003, c.162, but  
15 excluding the acquisition, construction, repair, or reconstruction of  
16 any building or other improvements to real property, or the  
17 acquisition or installation of any equipment or other personal  
18 property, that, upon completion, shall constitute a qualified  
19 employment incentive facility.

20 "Financial assistance" means funds made available as a grant or  
21 loan, including funds derived as proceeds from the issuance of tax-  
22 exempt bonds by the entity providing such assistance, but excluding  
23 proceeds from the issuance of any bonds which are issued on a  
24 conduit basis or which are not supported by a full faith and credit  
25 pledge of a public entity.

26 <sup>2</sup>"Garden State Growth Zone" or "growth zone" means the four  
27 New Jersey cities with the lowest median family income based on  
28 the 2009 American Community Survey from the US Census, (Table  
29 708. Household, Family, and Per Capita Income and Individuals,  
30 and Families Below Poverty Level by City: 2009).<sup>2</sup>

31 "Lead public agency" means the public entity designated by the  
32 State Treasurer pursuant to section 4 of **[this act]** P.L.2009, c.136  
33 (C.52:18-45) to serve as the point of contact between a business and  
34 every State governmental entity having oversight of, or involvement  
35 in, a project for which the entity or entities are providing or will  
36 provide the business with financial assistance.

37 "Public entity" means the State, other than the Judicial branch of  
38 State government, any county, municipality, district, or other  
39 political subdivision thereof, and any agency, authority, or  
40 instrumentality of the foregoing, including, but not limited to, any  
41 county improvement authority and any economic development  
42 agency, authority, or other entity.

43 "Qualified employment incentive facility" means any building or  
44 other structure or portion of a building or other structure that,  
45 following the date on which occupation of the building or structure  
46 shall have commenced, shall be used exclusively as the premises of  
47 a project, related to the creation, relocation, or retention of jobs,

1 that qualifies for incentives under the Business Retention and  
 2 Relocation Assistance Grant Program established by section 3 of  
 3 P.L.1996, c.25 (C.34:1B-114), the Business Employment Incentive  
 4 Program established by section 3 of P.L.1996, c.26 (C.34:1B-126),  
 5 the Grow New Jersey Assistance Program established by P.L.2011,  
 6 c.149 (C.34:1B-242 et seq.), the Economic Redevelopment and  
 7 Growth Grant program established by sections 3 through 18 of  
 8 P.L.2009, c.90 (C.52:27D-489c et al.), <sup>2</sup>sections <sup>4</sup>~~24~~ <sup>22</sup> through  
 9 <sup>4</sup>~~26~~ <sup>24</sup> of the “New Jersey Economic Opportunity Act of 2013,”  
 10 P.L. , c. (C. ) (pending before the Legislature as this bill)  
 11 allowing for the establishment of a Garden State Growth Zone,<sup>2</sup> the  
 12 corporation business tax credit and insurance premium tax credit  
 13 certificate transfer program established pursuant to section 17 of  
 14 P.L.2004, c.65 (C.34:1B-120.2), the sales and use tax exemption  
 15 certificate program established pursuant to section 20 of P.L.2004,  
 16 c.65 (C.34:1B-186), the exemption of retail sales of energy and  
 17 utility service to qualified businesses within an urban enterprise  
 18 zone from the sales and use tax pursuant to section 23 of P.L.2004,  
 19 c.65 (C.52:27H-87.1), the urban transit hub tax credit program  
 20 established pursuant to ~~section 3 of~~ P.L.2007, c.346 ~~[(C.34:1B-~~  
 21 ~~209)] (C:34:1B-207 et seq.),~~ or any other program as the State  
 22 Treasurer shall deem to be of similar kind and purpose; provided,  
 23 however, that such exclusive use shall continue for the minimum  
 24 period of time prescribed by the applicable law or any regulation  
 25 adopted pursuant thereto, or under any project agreement or other  
 26 contract executed pursuant to such law or regulation, or if no such  
 27 minimum period shall be so prescribed, for a period of four years.

28 "Redevelopment project" means a specific work or improvement,  
 29 including lands, buildings, structures, improvements, real and  
 30 personal property or any interest therein, including lands under  
 31 water, riparian rights, space rights and air rights, acquired, owned,  
 32 cleared, graded, developed or redeveloped, constructed,  
 33 reconstructed, rehabilitated or improved, undertaken by a  
 34 developer, but excluding the acquisition, construction, repair, or  
 35 reconstruction of any building or other improvements to real  
 36 property, or the acquisition or installation of any equipment or other  
 37 personal property, that, upon completion, shall constitute a qualified  
 38 employment incentive facility.

39 "Remediation" or "remediate" means all necessary actions to  
 40 investigate and clean up or respond to any known, suspected, or  
 41 threatened discharge of contaminants, including, as necessary, the  
 42 preliminary assessment, site investigation, remedial investigation,  
 43 and remedial action, provided, however, that "remediation" or  
 44 "remediate" shall not include the payment of compensation for  
 45 damage to, or loss of, natural resources, and shall not include <sup>2</sup>~~the~~  
 46 investigation or clean up of real property that shall be used to  
 47 construct a qualified employment incentive facility, or<sup>2</sup> the

1 acquisition, construction, repair, or reconstruction of any building  
2 or other improvements to real property, or the acquisition or  
3 installation of any equipment or other personal property, that, upon  
4 completion, shall constitute a qualified employment incentive  
5 facility.

6 "State governmental entity" means the Executive and Legislative  
7 branches of the State government, any agency or instrumentality of  
8 the State, including any board, bureau, commission, corporation,  
9 department, or division, any independent State authority, including,  
10 but not limited to, any economic development authority or agency,  
11 and any State institution of higher education. A county,  
12 municipality, or school district, or any agency or instrumentality  
13 thereof, shall not be deemed a State governmental entity.

14 (cf: P.L.2009, c.136, s.1)

15

16 14. Section 3 of P.L.2009, c.90 (C.52:27D-489c) is amended to  
17 read as follows:

18 3. As used in sections 3 through 18 of P.L.2009, c.90  
19 (C.52:27D-489c et al.):

20 "Applicant" means a developer proposing to enter into a  
21 redevelopment incentive grant agreement.

22 "Ancillary infrastructure project" means **[public]** structures or  
23 improvements <sup>2</sup>**[that are located]** <sup>2</sup>**[in the public right-of-way]** **that**  
24 are located within the incentive area but outside the project area of  
25 a redevelopment project, including, but not limited to, docks,  
26 bulkheads, parking garages, freight rail spurs, roadway overpasses,  
27 and train station platforms, provided a developer or municipal  
28 redeveloper has demonstrated that the redevelopment project would  
29 not be economically viable or promote the use of public  
30 transportation without such improvements <sup>2</sup>, as approved by the  
31 State Treasurer<sup>2</sup> .

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

35 <sup>2</sup>"Aviation district" means the area within a one-mile radius of  
36 the outermost boundary of the "Atlantic City International Airport,"  
37 established pursuant to section 24 of P.L.1991, c.252 (C.27:25A-  
38 24).<sup>2</sup>

39 "Deep poverty pocket" means a population census tract having a  
40 poverty level of 20 percent or more, and which is located within the  
41 incentive area and has been determined by the authority to be an  
42 area appropriate for development and in need of economic  
43 development incentive assistance.

44 "Developer" means any person who enters or proposes to enter  
45 into a redevelopment incentive grant agreement pursuant to the  
46 provisions of section 9 of P.L.2009, c.90 (C.52:27D-489i), or its  
47 successors or assigns, including but not limited to a lender that

1 completes a redevelopment project, operates a redevelopment  
2 project, or completes and operates a redevelopment project. A  
3 developer also may be a municipal government or a redevelopment  
4 agency as defined in section 3 of P.L.1992, c.79 (C.40A:12A-3).

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

7 "Disaster recovery project" means a redevelopment project  
8 located on property that has been wholly or substantially damaged  
9 or destroyed as a result of a federally-declared disaster, and which  
10 is located within the incentive area and has been determined by the  
11 authority to be in an area appropriate for development and in need  
12 of economic development incentive assistance.

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

22 "Eligibility period" means the period of time specified in a  
23 redevelopment incentive grant agreement for the payment of  
24 reimbursements to a developer, which period shall not exceed 20  
25 years, with the term to be determined solely at the discretion of the  
26 applicant.

27 "Eligible revenue" means the property tax increment and any  
28 other incremental revenues set forth in section 11 of P.L.2009, c.90  
29 (C.52:27D-489k) <sup>2</sup>, except in the case of a Garden State Growth  
30 Zone, in which such property tax increment and any other  
31 incremental revenues are calculated as those incremental revenues  
32 that would have existed notwithstanding the provisions of the "New  
33 Jersey Economic Opportunity Act of 2013," P.L. , c. (C. )  
34 (pending before the Legislature as this bill)<sup>2</sup>.

35 <sup>2</sup>**["Exempt business" means a business unrelated to the**  
36 **developer that operates a premises at the site of the redevelopment**  
37 **project but whose incurred costs to construct its respective premises**  
38 **are excluded from the project cost. An exempt business shall not be**  
39 **subject to the requirements of the Economic Redevelopment and**  
40 **Growth Grant program.】**

41 "Garden State Growth Zone" or "growth zone" means the four  
42 New Jersey cities with the lowest median family income based on  
43 the 2009 American Community Survey from the US Census, (Table  
44 708. Household, Family, and Per Capita Income and Individuals,  
45 and Families Below Poverty Level by City: 2009).

46 "Highlands development credit receiving area or redevelopment  
47 area" means an area located within an incentive area and designated

1 by the Highlands Council for the receipt of Highlands Development  
2 Credits under the Highlands Transfer Development Rights Program  
3 authorized under section 13 of P.L.2004, c.120 (C.13:20-13).<sup>2</sup>

4 "Incentive grant" means reimbursement of all or a portion of the  
5 project financing gap of a redevelopment project through the State  
6 or a local Economic Redevelopment and Growth Grant program  
7 pursuant to section 4 or section 5 of P.L.2009, c.90 (C.52:27D-489d  
8 or C.52:27D-489e).

9 "Infrastructure improvements in the public right-of-way" mean  
10 public structures or improvements located in the public right of way  
11 that are located within a project area or that constitute an ancillary  
12 infrastructure project, <sup>2</sup>either of which are dedicated to or owned by  
13 a governmental body or agency upon completion,<sup>2</sup> or any required  
14 payment in lieu of such structures, improvements or projects or any  
15 costs of remediation associated with such structures, improvements  
16 or projects, and that are determined by the authority, in consultation  
17 with applicable State agencies, to be consistent with and in  
18 furtherance of State public infrastructure objectives and initiatives.

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

26 "Major rail station" means a railroad station located within a  
27 qualified incentive area which provides access to the public to a  
28 minimum of six rail passenger service lines operated by the New  
29 Jersey Transit Corporation.

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

38 "Municipal redeveloper" means a municipal government or a  
39 redevelopment agency acting on behalf of a municipal government  
40 as defined in section 3 of P.L.1992, c.79 (C.40A:12A-3) that is an  
41 applicant for a redevelopment incentive grant agreement.

42 <sup>2</sup>"Municipal Revitalization Index" means the 2007 index by the  
43 Office for Planning Advocacy within the Department of State  
44 measuring or ranking municipal distress.<sup>2</sup>

45 "Project area" means land or lands located within the incentive  
46 area under common ownership or control including through <sup>2</sup>[one  
47 or more property owners associations, a joint venture between one



1 or more property owners,]<sup>2</sup> a redevelopment agreement with a  
2 municipality, or as otherwise established by a municipality or a  
3 redevelopment agreement executed by a State entity to implement a  
4 redevelopment project.

5 “Project cost” means the costs incurred in connection with the  
6 redevelopment project by the developer <sup>2</sup>[and such landlords,  
7 tenants, or other business occupants as may be part of the project]<sup>2</sup>  
8 until the issuance of a permanent certificate of occupancy, or until  
9 such other time specified by the authority, for a specific investment  
10 or improvement, including the costs relating to <sup>2</sup>receiving  
11 Highlands Development Credits under the Highlands Transfer  
12 Development Rights Program authorized pursuant to section 13 of  
13 P.L.2004, c.120 (C.13:20-13),<sup>2</sup> lands, buildings, improvements, real  
14 or personal property, or any interest therein, including leases  
15 discounted to present value, including lands under water, riparian  
16 rights, space rights and air rights acquired, owned, developed or  
17 redeveloped, constructed, reconstructed, rehabilitated or improved,  
18 any environmental remediation costs, plus costs not directly related  
19 to construction, of an amount not to exceed 20 percent of the total  
20 costs, capitalized interest paid to third parties, and the cost of  
21 infrastructure improvements, including ancillary infrastructure  
22 projects, <sup>2</sup>and, for projects located in a Garden State Growth Zone  
23 only, the cost of infrastructure improvements including any  
24 ancillary infrastructure project and the amount by which total  
25 project cost exceeds the cost of an alternative location for the  
26 redevelopment project,<sup>2</sup> but excluding any particular costs for  
27 which the project has received federal, State, or local funding.

28 "Project financing gap" means: a. the part of the total  
29 [redevelopment] project cost, including return on investment, that  
30 remains to be financed after all other sources of capital have been  
31 accounted for, including, but not limited to, developer-contributed  
32 capital, <sup>2</sup>which shall not be less than 20 percent of the total project  
33 cost,<sup>2</sup> which may include the value of any existing land and  
34 improvements in the project area owned or controlled by the  
35 developer, and <sup>2</sup>[which shall not be less than 20 percent of the total  
36 project cost, excluding the cost of infrastructure improvements in  
37 the public right of way] the cost of infrastructure improvements in  
38 the public right-of-way, subject to review by the State Treasurer,<sup>2</sup>  
39 and investor or financial entity capital or loans for which the  
40 developer, after making all good faith efforts to raise additional  
41 capital, certifies that additional capital cannot be raised from other  
42 sources on a non-recourse basis; <sup>2</sup>and<sup>2</sup> b. <sup>2</sup>[the cost of  
43 infrastructure improvements including any ancillary infrastructure  
44 project; and c.]<sup>2</sup> the amount by which total project cost exceeds the  
45 cost of an alternative location for the <sup>2</sup>out-of-State<sup>2</sup> redevelopment  
46 project.

1 "Project revenue" means all rents, fees, sales, and payments  
2 generated by a project, less taxes or other government payments.

3 "Property tax increment" means the amount obtained by:

4 (1) multiplying the general tax rate levied each year by the  
5 taxable value of all the property assessed within a project area in  
6 the same year, excluding any special assessments; and

7 (2) multiplying that product by a fraction having a numerator  
8 equal to the taxable value of all the property assessed within the  
9 project area, minus the property tax increment base, and having a  
10 denominator equal to the taxable value of all property assessed  
11 within the project area.

12 For the purpose of this definition, "property tax increment base"  
13 means the aggregate taxable value of all property assessed which is  
14 located within the redevelopment project area as of October 1st of  
15 the year preceding the year in which the redevelopment incentive  
16 grant agreement is authorized.

17 "Qualified incubator facility" means a commercial building  
18 located within an incentive area: which contains 100,000 or more  
19 square feet of office, laboratory, or industrial space; which is  
20 located near, and presents opportunities for collaboration with, a  
21 research institution, teaching hospital, college, or university; and  
22 within which, at least 75 percent of the gross leasable area is  
23 restricted for use by one or more technology startup companies  
24 during the commitment period.

25 "Qualified residential project" means a redevelopment project  
26 that is predominantly residential and includes multi-family  
27 residential units <sup>1</sup>for purchase or lease <sup>2</sup>[and may also include<sup>1</sup>  
28 hotel units]<sup>2</sup>, or dormitory units for purchase or lease, <sup>1</sup>[that  
29 represents] having a total project cost of<sup>1</sup> at least \$17,500,000 <sup>1</sup>[of  
30 the total project cost]<sup>1</sup>, if the project is located in any municipality  
31 with a population greater than 200,000 according to the latest  
32 federal decennial census, or <sup>1</sup>having a total project cost of at least<sup>1</sup>  
33 \$10,000,000 <sup>1</sup>[of the total project cost,]<sup>1</sup> if the project is located in  
34 any municipality with a population less than 200,000 according to  
35 the latest federal decennial census, or is a disaster recovery project<sup>2</sup>,  
36 or having a total project cost of \$5,000,000 if the project is in a  
37 Garden State Growth Zone<sup>2</sup>.

38 "Qualifying economic redevelopment and growth grant incentive  
39 area" or "incentive area" means:

40 a. <sup>2</sup>an aviation district;

41 b. a port district;

42 c. a distressed municipality; or

43 d.<sup>2</sup> an area (1) designated pursuant to the "State Planning Act,"  
44 P.L.1985, c.398 (C.52:18A-196 et seq.), as:

45 (a) Planning Area 1 (Metropolitan) <sup>3</sup>[,]<sup>3</sup>

1 (b) Planning Area 2 (Suburban)<sup>3</sup> **[,]** <sup>3</sup> **[** or a center as designated  
2 by the State Planning Commission; an area zoned for development  
3 pursuant to **]** <sup>3</sup> **or** <sup>3</sup>

4 (c) Planning Area 3 (Fringe Planning Area)<sup>3</sup> **[, 2** **or** <sup>2</sup>

5 (d) <sup>3</sup> <sup>2</sup> **[** a designated center under the State Development and  
6 Redevelopment Plan, **or**

7 (e) a designated growth center in an endorsed plan until June 30,  
8 2013, or until the State Planning Commission revises and readopts  
9 New Jersey's State Strategic Plan and adopts regulations to revise  
10 this definition as it pertains to Statewide planning areas, whichever  
11 is later; <sup>3</sup> **[** Planning Area 4A (Rural Planning Area) <sup>3;2</sup>

12 (2) located within a smart growth area and planning area  
13 designated in a master plan adopted by the New Jersey  
14 Meadowlands Commission pursuant to subsection (i) of section 6 of  
15 P.L.1968, c.404 (C.13:17-6) or subject to a redevelopment plan  
16 adopted by the New Jersey Meadowlands Commission pursuant to  
17 section 20 of P.L.1968, c.404 (C.13:17-21);

18 (3) located within any land owned by the New Jersey Sports and  
19 Exposition Authority, established pursuant to P.L.1971, c.137  
20 (C.5:10-1 et seq.), within the boundaries of the Hackensack  
21 Meadowlands District as delineated in section 4 of P.L.1968, c.404  
22 (C.13:17-4);

23 (4) located within a [pinelands] regional growth area, a  
24 [pinelands] town <sup>2</sup>[management area]<sup>2</sup>, [a pinelands village,]  
25 <sup>2</sup>village,<sup>2</sup> or a military and federal installation area [established  
26 pursuant to] designated in the [pinelands] comprehensive  
27 management plan prepared and adopted by the Pinelands  
28 Commission pursuant to the "Pinelands Protection Act," P.L.1979,  
29 c.111 (C.13:18A-1 et seq.); [a transit village, as determined by the  
30 Commissioner of Transportation; and federally owned] <sup>2</sup>[or]<sup>2</sup>

31 (5) located within <sup>2</sup>the planning area of the Highlands Region as  
32 defined in section 3 of P.L.2004, c.120 (C.13:20-3) or in a  
33 highlands development credit receiving area or redevelopment area;

34 (6) located within a Garden State Growth Zone;

35 (7) located within<sup>2</sup> land approved for closure under any federal  
36 Base Closure and Realignment Commission action; <sup>2</sup>[but excluding

37 b. an area designated in the 2008 Highlands Regional Master  
38 Plan, adopted pursuant to the "Highlands Water Protection and  
39 Planning Act," P.L.2004, c.120 (C.13:20-1 et al.), unless located  
40 within:

41 (1) (a) the Existing Community Zone, or

42 (b) a Highlands center, designated by the Highlands Water  
43 Protection and Planning Council, established pursuant to section 4  
44 of P.L.2004, c.120 (C.13:20-4); which area is not located within:

45 (2) (a) the Protection Zone,

46 (b) the Conservation Zone, or

1        (c) an Environmentally Constrained Sub-Zone<sup>1</sup> or  
2        (8) located only within the following portions of the areas  
3        designated pursuant to the "State Planning Act," P.L.1985, c.398  
4        (C.52:18A-196 et al.), as <sup>3</sup>Planning Area 4A (Rural Planning  
5        Area),<sup>3</sup> Planning Area 4B (Rural/Environmentally Sensitive) or  
6        Planning Area 5 (Environmentally Sensitive) if <sup>3</sup>Planning Area 4A  
7        (Rural Planning Area),<sup>3</sup> Planning Area 4B (Rural/Environmentally  
8        Sensitive) or Planning Area 5 (Environmentally Sensitive) is  
9        located within:

10        (a) a designated center under the State Development and  
11        Redevelopment Plan;

12        (b) a designated growth center in an endorsed plan until the State  
13        Planning Commission revises and readopts New Jersey's State  
14        Strategic Plan and adopts regulations to revise this definition as it  
15        pertains to Statewide planning areas;

16        (c) any area determined to be in need of redevelopment pursuant  
17        to sections 5 and 6 of P.L.1992, c.79 (C.40A:12A-5 and 40A:12A-  
18        6) or in need of rehabilitation pursuant to section 14 of P.L.1992,  
19        c.79 (C.40A:12A-14);

20        (d) any area on which a structure exists or previously existed  
21        including any desired expansion of the footprint of the existing or  
22        previously existing structure provided such expansion otherwise  
23        complies with all applicable federal, State, county, and local  
24        permits and approvals;

25        (e) <sup>3</sup>**[any]** the<sup>3</sup> planning area of the Highlands Region as defined  
26        in section 3 of P.L.2004, c.120 (C.13:20-3) or a highlands  
27        development credit receiving area or redevelopment area; or

28        (f) any area on which an existing tourism destination project is  
29        located.

30        "Qualifying economic redevelopment and growth grant incentive  
31        area" or "incentive area" shall not include any property located  
32        within the preservation area of the Highlands Region as defined in  
33        the "Highlands Water Protection and Planning Act," P.L.2004,  
34        c.120 (C.13:20-1 et al.)<sup>2</sup> .

35        "Redevelopment incentive grant agreement" means an agreement  
36        between, (1) the State and the New Jersey Economic Development  
37        Authority and a developer, or (2) a municipality and a developer, or  
38        a municipal ordinance authorizing a project to be undertaken by a  
39        municipal redeveloper, under which, in exchange for the proceeds  
40        of an incentive grant, the developer agrees to perform any work or  
41        undertaking necessary for a redevelopment project, including the  
42        clearance, development or redevelopment, construction, or  
43        rehabilitation of any structure or improvement of commercial,  
44        industrial, residential, or public structures or improvements within a  
45        qualifying economic redevelopment and growth grant incentive area  
46        or a transit village.

1 "Redevelopment project" means a specific **[work]**  
2 **<sup>2</sup>[investment] construction project<sup>2</sup>** or improvement, including  
3 lands, buildings, improvements, real and personal property or any  
4 interest therein, including lands under water, riparian rights, space  
5 rights and air rights, acquired, owned, leased, developed or  
6 redeveloped, constructed, reconstructed, rehabilitated or improved,  
7 undertaken by a developer, owner or tenant, or both, within a  
8 project area and any ancillary infrastructure project **[associated**  
9 **therewith]** including infrastructure improvements in the public right  
10 of way, as set forth in an application to be made to the authority.  
11 The use of the term "redevelopment project" in sections 3 through  
12 18 of P.L.2009, c.90 (C.52:27D-489c et al.) shall not be limited to  
13 only redevelopment projects located in areas determined to be in  
14 need of redevelopment pursuant to sections 5 and 6 of P.L.1992,  
15 c.79 (C.40A:12A-5 and 40A:12A-6) but shall also include any work  
16 or undertaking in accordance with the "Redevelopment Area Bond  
17 Financing Law," sections 1 through 10 of P.L.2001, c.310  
18 (C.40A:12A-64 et seq.) or other applicable law, pursuant to a  
19 redevelopment plan adopted by a State entity, or as described in the  
20 resolution adopted by a public entity created by State law with the  
21 power to adopt a redevelopment plan or otherwise determine the  
22 location, type and character of a redevelopment project or part of a  
23 redevelopment project on land owned or controlled by it or within  
24 its jurisdiction, including but not limited to, the New Jersey  
25 Meadowlands Commission established pursuant to P.L.1968, c.404  
26 (C.13:17-1 et seq.), the New Jersey Sports and Exposition Authority  
27 established pursuant to P.L.1971 c.137 (C.5:10-1 et seq.) and the  
28 Fort Monmouth Economic Revitalization Authority created  
29 pursuant to P.L.2010, c.51 (C.52:27I-18 et seq.).

30 "Redevelopment utility" means a self-liquidating fund created by  
31 a municipality pursuant to section 12 of P.L.2009, c.90 (C.52:27D-  
32 489l) to account for revenues collected and incentive grants paid  
33 pursuant to section 11 of P.L.2009, c.90 (C.52:27D-489k), or other  
34 revenues dedicated to a redevelopment project.

35 "Revenue increment base" means the amounts of all eligible  
36 revenues from sources within the redevelopment project area in the  
37 calendar year preceding the year in which the redevelopment  
38 incentive grant agreement is executed, as certified by the State  
39 Treasurer for State revenues, and the chief financial officer of the  
40 municipality for municipal revenues.

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

43 "SDA municipality" means a municipality in which an SDA  
44 district is situate.

45 "Technology startup company" means a for profit business that  
46 has been in operation fewer than five years and is developing or  
47 possesses a proprietary technology or business method of a high-

1 technology or life science-related product, process, or service which  
2 the business intends to move to commercialization.

3 “Tourism destination project” means a redevelopment project  
4 that will be among the most visited privately owned or operated  
5 tourism or recreation sites in the State <sup>1</sup>[as determined at the  
6 discretion of the authority] , and which is located within the  
7 incentive area and has been determined by the authority to be in an  
8 area appropriate for development and in need of economic  
9 development incentive assistance<sup>1</sup> .

10 “Transit project” means a redevelopment project located within a  
11 1/2-mile radius<sup>2</sup>, or one-mile radius for projects located in a Garden  
12 State Growth Zone,<sup>2</sup> surrounding the mid-point of a New Jersey  
13 Transit Corporation, Port Authority Transit Corporation, or Port  
14 Authority Trans-Hudson Corporation rail, bus, or ferry station  
15 platform area, including all light rail stations.

16 “Transit village” means a community with a bus, train, light rail,  
17 or ferry station that has developed a plan to achieve its economic  
18 development and revitalization goals and has been designated by  
19 the New Jersey Department of Transportation as a transit village.

20 “Urban transit hub” means an urban transit hub, as defined in  
21 section 10 of P.L.2007, c.346 (C.34:1B-208), that is located within  
22 an eligible municipality, as defined in section 10 of P.L.2007, c.346  
23 (C.34:1B-208)<sup>2</sup>, or all light rail stations and property located within  
24 a one-mile radius of the mid-point of the platform area of such a  
25 rail, bus, or ferry station if the property is in a qualified  
26 municipality under the “Municipal Rehabilitation and Economic  
27 Recovery Act,” P.L.2002, c.43 (C.52:27BBB-1 et al.)<sup>2</sup> .

28 “Vacant commercial building” means any commercial building  
29 or complex of commercial buildings having over 400,000 square  
30 feet of office, laboratory, or industrial space that is more than 70  
31 percent unoccupied at the time of application to the authority or is  
32 negatively impacted by the approval of a “qualified business  
33 facility,” as defined pursuant to section 2 of P.L.2007, c.346  
34 (C.34:1B-208) <sup>2</sup>, or any vacant commercial building in a Garden  
35 State Growth Zone having over 35,000 square feet of office,  
36 laboratory, or industrial space, or over 200,000 square feet of  
37 office, laboratory, or industrial space in Atlantic, Burlington,  
38 Camden, Cape May, Cumberland, Gloucester, Ocean, or Salem  
39 counties available for occupancy for a period of over one year<sup>2</sup> .

40 “Vacant health facility project” means a redevelopment project  
41 where a health facility, as defined by section 2 of P.L.1971, c.136  
42 (C.26:2H-2), currently exists and is considered vacant. A health  
43 facility shall be considered vacant if at least 70 percent of that  
44 facility has not been open to the public or utilized to serve any  
45 patients at the time of application to the authority.

46 (cf: P.L.2011, c.89, s.6)

1       <sup>1</sup>15. Section 4 of P.L.2009, c.90 (C.52:27D-489d) is amended to  
2 read as follows:

3       4. a. The governing body of a municipality wherein is located a  
4 qualifying economic redevelopment and growth grant incentive area  
5 may adopt an ordinance to establish a local Economic  
6 Redevelopment and Growth Grant program for the purpose of  
7 encouraging redevelopment projects in that area through the  
8 provision of incentive grants to reimburse developers for all or a  
9 portion of the project financing gap for such projects. No local  
10 Economic Redevelopment and Growth Grant program shall take  
11 effect until the Local Finance Board approves the ordinance.

12       b. A developer shall submit an application for a local incentive  
13 grant prior to July 1, <sup>2</sup>[2018] 2019<sup>2</sup>. A developer that submits an  
14 application for a local incentive grant shall indicate on the  
15 application whether it is also applying for a State incentive grant.  
16 An application by a developer applying for a local incentive grant  
17 only shall not require approval by the authority. A municipal  
18 redeveloper may only apply for local incentive grants for the  
19 construction of: (1) infrastructure improvements in the public right-  
20 of-way, or (2) publicly owned facilities.

21       c. No local incentive grant shall be finally approved by a  
22 municipality until approved by the Local Finance Board. The Local  
23 Finance Board shall not approve a local incentive grant unless the  
24 application was submitted prior to July 1, <sup>2</sup>[2018] 2019<sup>2</sup>.

25       d. In deciding whether or not to approve a local incentive grant  
26 agreement the Local Finance Board shall consider the following  
27 factors:

- 28       (1) the economic feasibility of the redevelopment project;
- 29       (2) the extent of economic and related social distress in the  
30 municipality and the area to be affected by the redevelopment  
31 project;
- 32       (3) the degree to which the redevelopment project will advance  
33 State, regional, and local development and planning strategies;
- 34       (4) the likelihood that the redevelopment project shall, upon  
35 completion, be capable of generating new tax revenue in an amount  
36 in excess of the amount necessary to reimburse the developer for  
37 project costs incurred as provided in the redevelopment incentive  
38 grant agreement;
- 39       (5) the relationship of the redevelopment project to a  
40 comprehensive local development strategy, including other major  
41 projects undertaken within the municipality;
- 42       (6) the need for the redevelopment incentive grant agreement to  
43 the viability of the redevelopment project;
- 44       (7) compliance with the provisions of P.L.2009, c.90  
45 (C.52:27D-489a et al.); and
- 46       (8) the degree to which the redevelopment project enhances and

1 promotes job creation and economic development.<sup>1</sup>  
2 (cf: P.L.2010, c.10, s.3)

3  
4 <sup>1</sup>~~15.~~ 16.<sup>1</sup> Section 5 of P.L.2009, c.90 (C.52:27D-489e) is  
5 amended to read as follows:

6 5. a. The New Jersey Economic Development Authority, in  
7 consultation with the State Treasurer, shall establish an Economic  
8 Redevelopment and Growth Grant program for the purpose of  
9 encouraging redevelopment projects in qualifying economic  
10 redevelopment and growth grant incentive areas that do not qualify  
11 as such areas solely by virtue of being a transit village, through the  
12 provision of incentive grants to reimburse developers for certain  
13 project financing gap costs.

14 b. (1) A developer shall submit an application for a State  
15 incentive grant prior to July 1, <sup>2</sup>~~2018~~ 2019<sup>2</sup>. A developer that  
16 submits an application for a State incentive grant shall indicate on  
17 the application whether it is also applying for a local incentive  
18 grant.

19 (2) When an applicant indicates it is also applying for a local  
20 incentive grant, the authority shall forward a copy of the application  
21 to the municipality wherein the redevelopment project is to be  
22 located for approval by municipal ordinance.

23 c. An application for a State incentive grant shall be reviewed  
24 and approved by the authority. The authority shall not approve an  
25 application for a State incentive grant unless the application was  
26 submitted prior to July 1, <sup>2</sup>~~2018~~ 2019<sup>2</sup>.<sup>1</sup>

27 (cf: P.L.2010, c.10, s.5)

28  
29 <sup>1</sup>~~16.~~ 17.<sup>1</sup> Section 6 of P.L.2009, c.90 (C.52:27D-489f) is  
30 amended to read as follows:

31 6. a. Up to the limits established in subsection b. of this section  
32 and in accordance with a redevelopment incentive grant agreement,  
33 beginning upon the receipt of occupancy permits for any portion of  
34 the redevelopment project, or upon such other event evidencing  
35 project completion as set forth in the incentive grant agreement, the  
36 State Treasurer shall pay to the developer incremental State  
37 revenues directly realized from businesses operating on or at the  
38 site of the redevelopment project ~~premises~~ <sup>2</sup>, including exempt  
39 businesses.<sup>2</sup> from the following taxes: the Corporation Business  
40 Tax Act (1945), P.L.1945, c.162 (C.54:10A-1 et seq.), the tax  
41 imposed on marine insurance companies pursuant to R.S.54:16-1 et  
42 seq., the tax imposed on insurers generally, pursuant to P.L.1945,  
43 c.132 (C.54:18A-1 et seq.), the public utility franchise tax, public  
44 utilities gross receipts tax and public utility excise tax imposed on  
45 sewerage and water corporations pursuant to P.L.1940, c.5  
46 (C.54:30A-49 et seq.), those tariffs and charges imposed by electric,  
47 natural gas, telecommunications, water and sewage utilities, and



1 cable television companies under the jurisdiction of the New Jersey  
2 Board of Utilities, or comparable entity, <sup>2</sup>except for those tariffs,  
3 fees, or taxes<sup>2</sup> related to societal benefits charges assessed pursuant  
4 to section 12 of P.L.1999, c.23 (C.48:3-60), any charges paid for  
5 compliance with the "Global Warming Response Act," P.L.2007,  
6 c.112 (C.26:2C-37 et seq.), transitional energy facility assessment  
7 unit taxes paid pursuant to section 67 of P.L.1997, c.162 (C.48:2-  
8 21.34), and the sales and use taxes on public utility and cable  
9 television services and commodities, the tax derived from net  
10 profits from business, a distributive share of partnership income, or  
11 a pro rata share of S corporation income under the "New Jersey  
12 Gross Income Tax Act," N.J.S.54A:1-1 et seq., the tax derived from  
13 a business at the site of a redevelopment project that is required to  
14 collect the tax pursuant to the "Sales and Use Tax Act," P.L.1966,  
15 c.30 (C.54:32B-1 et seq.), the tax imposed pursuant to P.L.1966,  
16 c.30 (C.54:32B-1 et seq.) from the purchase of furniture, fixtures  
17 and equipment, or materials **【used】** for the remediation, the  
18 construction of new structures **【,** or the construction of new  
19 residences **】** <sup>2</sup>**【or residences, or the renovation of same,】**<sup>2</sup> at the site  
20 of a redevelopment project, <sup>2</sup>**【the tax imposed pursuant to P.L.1966,**  
21 c.30 (C.54:32B-1 et seq.) from purchases of goods and services  
22 used in the ongoing operation of a business at the site of the  
23 redevelopment project,】<sup>2</sup> the hotel and motel occupancy fee  
24 imposed pursuant to section 1 of P.L.2003, c.114 (C.54:32D-1), or  
25 the portion of the fee imposed pursuant to section 3 of P.L.1968,  
26 c.49 (C.46:15-7) derived from the sale of real property at the site of  
27 the redevelopment project and paid to the State Treasurer for use by  
28 the State, that is not credited to the "Shore Protection Fund" or the  
29 "Neighborhood Preservation Nonlapsing Revolving Fund" ("New  
30 Jersey Affordable Housing Trust Fund") pursuant to section 4 of  
31 P.L.1968, c.49 (C.46:15-8). <sup>2</sup>Any developer shall be allowed to  
32 assign their ability to apply for the tax credit under this subsection  
33 to a non-profit organization with a mission dedicated to attracting  
34 investment and completing development and redevelopment  
35 projects in a Garden State Growth Zone. The non-profit  
36 organization may make an application on behalf of a developer  
37 which meets the requirements for the tax credit, or a group of non-  
38 qualifying developers, such that these will be considered a unified  
39 project for the purposes of the incentives provided under this  
40 section.<sup>2</sup>  
41 b. (1) Up to an average of 75 percent of the projected annual  
42 incremental revenues <sup>2</sup>**【,** averaged over the length of time during  
43 which the reimbursement shall be granted,】 or 85 percent of the  
44 projected annual incremental revenues in a Garden State Growth  
45 Zone<sup>2</sup> may be pledged towards the State portion of an incentive  
46 grant.

1       (2) In the case of a qualified residential project, if the authority  
2 determines that the estimated amount of incremental revenues  
3 pledged towards the State portion of an incentive grant is  
4 inadequate to fully fund the amount of the State portion of the  
5 incentive grant, then in lieu of an incentive grant based on such  
6 incremental revenue, the developer shall be awarded tax credits  
7 equal to the full amount of the incentive grant. The value of all  
8 credits approved by the authority pursuant to this paragraph shall  
9 not exceed \$600,000,000, of which <sup>2</sup>:

10       (a) \$250,000,000 shall be restricted to qualified residential  
11 projects within Atlantic, Burlington, Camden, Cape May,  
12 Cumberland, Gloucester, Ocean, and Salem counties, of which  
13 \$175,000,000 of credits shall be restricted to qualified residential  
14 projects in a Garden State Growth Zone located within the  
15 mentioned counties, and \$75,000,000 of credits shall be  
16 restricted to qualified residential projects in municipalities with a  
17 2007 Municipal Revitalization Index of 400 or higher as of the date  
18 of enactment of the “New Jersey Economic Opportunity Act of  
19 2013,” P.L. , c. (C. ) (pending before the Legislature as this  
20 bill) and located within the mentioned counties;

21       (b)<sup>2</sup> \$250,000,000 shall be restricted to qualified residential  
22 projects located in <sup>2</sup>: (i)<sup>2</sup> urban transit hubs that are commuter rail  
23 in nature <sup>2</sup>that otherwise do not qualify under subparagraph (a) of  
24 this paragraph<sup>2</sup>, <sup>2</sup>[\$200,000,000] (ii) a Garden State Growth Zone  
25 not located in a county mentioned in subparagraph (a) of this  
26 paragraph, <sup>3</sup>[or]<sup>3</sup> (iii) disaster recovery projects that otherwise do  
27 not qualify under subparagraph (a) of this paragraph <sup>3</sup>, or (iv) SDA  
28 municipalities located in Hudson County that were awarded State  
29 Aid in State Fiscal Year 2013 through the Transitional Aid to  
30 Localities program and otherwise do not qualify under  
31 subparagraph (a) of this paragraph<sup>3</sup>;

32       (c) \$75,000,000<sup>2</sup> shall be restricted to qualified residential  
33 projects in distressed municipalities <sup>2</sup>[or],<sup>2</sup> deep poverty pockets <sup>2</sup>,  
34 highlands development credit receiving areas or redevelopment  
35 areas, otherwise not qualifying pursuant to subparagraphs (a) or (b)  
36 of this paragraph<sup>2</sup> ; <sup>2</sup>[\$100,000,000] and

37       (d) \$25,000,000<sup>2</sup> shall be restricted to qualified residential  
38 projects that are <sup>2</sup>[disaster recovery projects; and the remaining  
39 \$50,000,000 shall be used for qualified residential projects in any  
40 municipality falling] located<sup>2</sup> within a qualifying economic  
41 redevelopment and growth grant incentive area <sup>2</sup>otherwise not  
42 qualifying under subparagraphs (a), (b), or (c) of this paragraph<sup>2</sup> .

43       <sup>2</sup>[Not] (e) For subparagraphs (a) through (d) of this paragraph,  
44 not<sup>2</sup> more than \$40,000,000 of credits shall be awarded to any  
45 qualified residential project in a deep poverty pocket or distressed  
46 municipality and not more than \$20,000,000 of credits shall be

1 awarded to any other qualified residential project. The developer of  
2 a qualified residential project seeking an award of credits towards  
3 the funding of its incentive grant shall submit an incentive grant  
4 application prior to July 1, 2015 and if approved shall submit a  
5 temporary certificate of occupancy for such project no later than  
6 July 28, 2015. <sup>2</sup>Applications for tax credits pursuant to this  
7 subsection relating to an ancillary infrastructure project or  
8 infrastructure improvement in the public right of way, or both, shall  
9 be accompanied with a letter of support relating to the project or  
10 improvement by the governing body or agency in which the project  
11 is located.<sup>2</sup> Credits awarded to a developer pursuant to this  
12 subsection shall be subject to the same financial and related analysis  
13 by the authority and shall be utilized or transferred by the developer  
14 as if such credits had been awarded to the developer pursuant to  
15 section 35 of P.L.2009, c.90 (C.34:1B-209.3) for qualified  
16 residential projects thereunder. No portion of the revenues pledged  
17 pursuant to the “New Jersey Economic Opportunity Act of 2013,”  
18 P.L. , c. (C. ) (pending before the Legislature as this bill) shall  
19 be subject to withholding or retainage for adjustment, in the event  
20 the developer or taxpayer waives its rights to claim a refund thereof.

21 <sup>2</sup>(3) A developer may apply to the Director of the Division of  
22 Taxation in the Department of the Treasury and the chief executive  
23 officer of the authority for a tax credit transfer certificate, if the  
24 developer is awarded a tax credit pursuant to paragraph (2) of this  
25 subsection, covering one or more years, in lieu of the developer  
26 being allowed any amount of the credit against the tax liability of  
27 the developer. The tax credit transfer certificate, upon receipt  
28 thereof by the developer from the director and the chief executive  
29 officer of the authority, may be sold or assigned, in full or in part,  
30 to any other person that may have a tax liability pursuant to section  
31 5 of P.L.1945, c.162 (C.54:10A-5), sections 2 and 3 of P.L.1945,  
32 c.132 (C.54:18A-2 and 54:18A-3), section 1 of P.L.1950, c.231  
33 (C.17:32-15), or N.J.S.17B:23-5. The certificate provided to the  
34 developer shall include a statement waiving the developer's right to  
35 claim that amount of the credit against the taxes that the developer  
36 has elected to sell or assign. The sale or assignment of any amount  
37 of a tax credit transfer certificate allowed under this paragraph shall  
38 not be exchanged for consideration received by the developer of  
39 less than 75 percent of the transferred credit amount. Any amount  
40 of a tax credit transfer certificate used by a purchaser or assignee  
41 against a tax liability shall be subject to the same limitations and  
42 conditions that apply to the use of the credit by the developer who  
43 originally applied for and was allowed the credit.<sup>2</sup>

44 c. All administrative costs associated with the incentive grant  
45 shall be assessed to the applicant and be retained by the State  
46 Treasurer from the annual incentive grant payments.

1 d. The incremental revenue for the revenues listed in  
2 subsection a. of this section shall be calculated as the difference  
3 between the amount collected in any fiscal year from any eligible  
4 revenue source included in the State redevelopment incentive grant  
5 agreement, less the revenue increment base for that eligible  
6 revenue.

7 e. The municipality is authorized to collect any and all  
8 information necessary to facilitate grants under this program and  
9 remit that information, as may be required from time to time, in  
10 order to assist in the calculation of incremental revenue.

11 (cf: P.L.2010, c.10, s.6)

12  
13 <sup>1</sup>17. 18.<sup>1</sup> Section 8 of P.L.2009, c.90 (C.52:27D-489h) is  
14 amended to read as follows:

15 8. a. (1) The **【New Jersey Economic Development Authority】**  
16 authority, in consultation with the State Treasurer, shall promulgate  
17 an incentive grant application form and procedure for the Economic  
18 Redevelopment and Growth Grant program.

19 (2) (a) The Local Finance Board, in consultation with the **【New**  
20 **Jersey Economic Development Authority】** authority, shall develop  
21 a minimum standard incentive grant application form for municipal  
22 Economic Redevelopment and Growth Grant programs.

23 (b) Through regulation, the **【Economic Development Authority】**  
24 authority shall establish standards for redevelopment projects  
25 seeking State or local incentive grants based on the green building  
26 manual prepared by the Commissioner of Community Affairs  
27 pursuant to section 1 of P.L.2007, c.132 (C.52:27D-130.6),  
28 regarding the use of renewable energy, energy-efficient technology,  
29 and non-renewable resources in order to reduce environmental  
30 degradation and encourage long-term cost reduction.

31 <sup>4</sup>【(c) Through regulation, the authority shall require that each  
32 worker employed in the performance of any construction contract  
33 for work at a redevelopment project shall be paid not less than the  
34 prevailing wage rate, consistent with the requirements of section 1  
35 of P.L.1979, c.303 (C.34:1B-5.1) <sup>2</sup>, provided that for a State  
36 incentive grant solely for infrastructure improvements in the public  
37 right of way or any ancillary infrastructure project, regardless of  
38 whether the work or improvements are part of a larger  
39 redevelopment project, the requirements of this subparagraph shall  
40 only apply to the work relating to the infrastructure improvements  
41 in the public right of way or the ancillary infrastructure project for  
42 which the incentive grant is issued<sup>2</sup> .

43 (d) Through regulation, the authority shall require that each  
44 worker employed in building maintenance services of a  
45 redevelopment project by a developer or a tenant or subcontractor  
46 of a developer shall be paid not less than the prevailing wage rate  
47 for the worker's craft or trade as determined by the Commissioner

1 of Labor and Workforce Development pursuant to P.L.1963, c.150  
2 (C.34:11-56.25 et seq.) and P.L.2005, c.379 (C.34:11-56.58 et  
3 seq.).<sup>4</sup>

4 b. Within each incentive grant application, a developer shall  
5 certify information concerning:

6 (1) the status of control of the entire redevelopment project site;  
7 (2) all required State and federal government permits that have  
8 been issued for the redevelopment project, or will be issued pending  
9 resolution of financing issues;  
10 (3) local planning and zoning board approvals, as required, for  
11 the redevelopment project;  
12 (4) estimates of the revenue increment base, the eligible revenues  
13 for the project, and the assumptions upon which those estimates are  
14 made.

15 c. (1) With regard to State tax revenues proposed to be pledged  
16 for an incentive grant the authority and the State Treasurer shall  
17 review the **[redevelopment]** project costs <sup>2</sup>[and, except with  
18 respect to an application by a municipal redeveloper or with respect  
19 to a qualified residential project]<sup>2</sup>, evaluate and validate the project  
20 financing gap estimated by the developer, and conduct a State fiscal  
21 impact analysis to ensure that the overall public assistance provided  
22 to the project <sup>2</sup>, except with regards to a qualified residential  
23 project,<sup>2</sup> will result in net benefits to the State including, without  
24 limitation, both direct and indirect economic benefits and non-  
25 financial community revitalization objectives, including but not  
26 limited to, the promotion of the use of public transportation in the  
27 case of the ancillary infrastructure project portion of any transit  
28 project.

29 (2) With regard to local incremental revenues proposed to be  
30 pledged for an incentive grant the authority and the Local Finance  
31 Board shall review the **[redevelopment]** project costs, and except  
32 with respect to an application by a municipal redeveloper <sup>2</sup>[or with  
33 respect to a qualified residential project]<sup>2</sup>, evaluate and validate  
34 the project financing gap projected by the developer, and conduct a  
35 local fiscal impact analysis to ensure that the overall public  
36 assistance provided to the project <sup>2</sup>, except with regards to a  
37 qualified residential project,<sup>2</sup> will result in net benefits to the  
38 municipality wherein the redevelopment project is located  
39 including, without limitation, both direct and indirect economic  
40 benefits and non-financial community revitalization objectives,  
41 including but not limited to, the promotion of the use of public  
42 transportation in the case of the ancillary infrastructure project  
43 portion of any transit project.

44 (3) The authority, State Treasurer, and Local Finance Board may  
45 act cooperatively to administer and review applications, and shall  
46 consult with the Office of State Planning on matters concerning  
47 State, regional, and local development and planning strategies.

1 (4) The costs of the aforementioned reviews shall be assessed to  
2 the applicant as an application fee.

3 (5) A developer who has already applied for an incentive grant  
4 award prior to the effective date of the “New Jersey Economic  
5 Opportunity Act of 2013,” P.L. , c. (C. ) (pending before  
6 the Legislature as this bill) <sup>2</sup>【may not】, but who has not yet been  
7 approved for such grant, or has not executed an agreement with the  
8 authority, may proceed under that application or<sup>2</sup> seek to amend  
9 such application or reapply for an incentive grant award for the  
10 same project or any part thereof for the purpose of availing itself of  
11 any more favorable provisions of the Economic Redevelopment and  
12 Growth Grant program established pursuant to the “New Jersey  
13 Economic Opportunity Act of 2013,” P.L. , c. (C. ) (pending  
14 before the Legislature as this bill) <sup>2</sup>, except that projects with costs  
15 exceeding \$200,000,000 shall not be eligible for revised percentage  
16 caps under subsection d. of section 19 of P.L. , c. (C. )  
17 (pending before the Legislature as this bill)<sup>2</sup>.

18 (cf: P.L.2010, c.10, s.8)

19  
20 <sup>1</sup>【18.】 19.<sup>1</sup> Section 9 of P.L.2009, c.90 (C.52:27D-489i) is  
21 amended to read as follows:

22 9. a. The authority is authorized to enter into a redevelopment  
23 incentive grant agreement with a developer for any redevelopment  
24 project located within a qualifying economic redevelopment and  
25 growth grant incentive area that does not qualify as such area solely  
26 by virtue of being a transit village.

27 b. The decision whether or not to enter into a redevelopment  
28 incentive grant agreement is solely within the discretion of the  
29 authority and the State Treasurer, provided that they both agree to  
30 enter into an agreement.

31 c. The Chief Executive Officer of the **【New Jersey Economic**  
32 **Development Authority】** authority, in consultation with the State  
33 Treasurer shall negotiate the terms and conditions of any  
34 redevelopment incentive grant agreement on behalf of the State.

35 d. (1) The redevelopment incentive grant agreement shall  
36 specify the maximum amount of project costs, the amount of the  
37 incentive grant to be awarded the developer, the frequency of  
38 payments, and the **【length of time, which shall not exceed 20 years,**  
39 during which that reimbursement shall be granted】 eligibility  
40 period<sup>2</sup>, which shall not exceed 20 years, during which  
41 reimbursement will be granted, and for a project receiving an  
42 incentive grant in excess of \$50 million, the amount of the  
43 negotiated repayment amount to the State, which may include, but  
44 not be limited to, cash, equity, and warrants<sup>2</sup>. Except for  
45 redevelopment incentive grant agreements with a municipal  
46 redeveloper or with the developer of a redevelopment project solely

1 with respect to the cost of infrastructure improvements in the public  
2 right-of-way including any ancillary infrastructure project in the  
3 public right-of-way, in no event shall the base amount of the  
4 combined [amount of the] reimbursements under redevelopment  
5 incentive grant agreements with the State or municipality exceed 20  
6 percent of the total project cost [of the project] <sup>2</sup>, except in a  
7 Garden State Growth Zone, which shall not exceed 30 percent<sup>2</sup> .  
8 **【For the purposes of calculating the total cost of all projects, the**  
9 **cost of infrastructure improvements in the public right-of-way and**  
10 **publicly owned facilities shall not be included. The amount of the**  
11 **redevelopment incentive grant for a municipal redeveloper may**  
12 **include the total cost of such infrastructure improvements and**  
13 **publicly owned facilities.】**

14 (2) The authority shall be permitted to increase the amount of the  
15 reimbursement under the redevelopment incentive grant agreement  
16 with the State by up to <sup>2</sup>【five】 10<sup>2</sup> percent of the total project cost  
17 if the project is:

18 (a) located in a distressed municipality which lacks adequate  
19 access to nutritious food in the judgment of the Chief Executive  
20 Officer of the authority and will include either a supermarket or  
21 grocery store with a minimum of 15,000 square feet of selling space  
22 devoted to the sale of consumable products or a prepared food  
23 establishment selling only nutritious ready to serve meals;

24 (b) located in a distressed municipality which lacks adequate  
25 access to health care and health services in the judgment of the  
26 Chief Executive Officer of the authority and will include a health  
27 care and health services center with a minimum of 10,000 square  
28 feet of space devoted to the provision of health care and health  
29 services;

30 (c) located in a distressed municipality which has a business  
31 located therein that is required to respond to a request for proposal  
32 to fulfill a contract with the federal government as set forth in  
33 subsection d. of section 3 of P.L.2011, c.149 (C.34:1B-244);

34 (d) a transit project; <sup>2</sup>【or】<sup>2</sup>

35 (e) a qualified residential project in which at least 10 percent of  
36 the residential units are constructed as and reserved for moderate  
37 income housing <sup>2</sup>;

38 (f) located in a highlands development credit receiving area or  
39 redevelopment area;

40 (g) located in a Garden State Growth Zone;

41 (h) a disaster recovery project;

42 (i) an aviation project;

43 (j) a tourism destination project; or

44 (k) substantial rehabilitation or renovation of an existing  
45 structure or structures<sup>2</sup> .

46 (3) <sup>2</sup>【If there remains a project financing gap after the maximum  
47 combined amounts provided in paragraph (2) of this subsection are

1 considered, then the authority shall be permitted to make a bonus  
2 award increasing the amount of the reimbursement under the  
3 redevelopment incentive grant agreement with the State by up to 10  
4 percent of the total project cost. In making a bonus award to a  
5 developer, the authority shall consider any factors that are found to  
6 contribute to the remaining project financing gap, such as whether  
7 the project:

8 (a) is located in a distressed municipality and there exists a  
9 financial gap between the fair market commercial rental rates in the  
10 relevant marketplace and the commercial rental rates that are  
11 necessary to make the redevelopment project economically feasible;

12 (b) is located on an environmentally contaminated site requiring  
13 remediation;

14 (c) is a qualified residential project in which at least ten percent  
15 of the residential units are constructed as and reserved for low  
16 income housing;

17 (d) would include energy efficiency or renewable energy  
18 features, measures or upgrades in excess of the green building  
19 requirements of the Economic Redevelopment and Growth Grant  
20 program which requirements shall be as set forth in the New Jersey  
21 Green Building Manual prepared by the Department of Community  
22 Affairs;

23 (e) is a qualified incubator facility; or

24 (f) is a disaster recovery project having unique added costs of  
25 construction associated therewith.

26 (4)]<sup>2</sup> The maximum amount of any redevelopment incentive  
27 grant shall be equal to <sup>2</sup>[the sum of 75 percent of the environmental  
28 remediation costs, 100 percent of the costs of infrastructure  
29 improvements in the public right-of-way including any ancillary  
30 infrastructure project in the public right-of-way, and 35 percent of  
31 the amount determined by subtracting the costs of infrastructure  
32 improvements in the public right-of-way, including any ancillary  
33 infrastructure project in the public right-of way, from the total  
34 project costs] up to 30 percent of the total project costs, except for  
35 projects located in a Garden State Growth Zone, in which case the  
36 maximum amount of any redevelopment incentive grant shall be  
37 equal to up to 40 percent of the total project costs<sup>2</sup> . <sup>1</sup>[The  
38 maximum amount of eligible reimbursements, including any  
39 increase or bonus award, shall not exceed 35 percent of the total  
40 project cost.]<sup>1</sup>

41 e. [The] Except in the case of a qualified residential project,  
42 the authority and the State Treasurer may enter into a  
43 redevelopment incentive grant agreement only if they make a  
44 finding that the State revenues to be realized from the  
45 redevelopment project will be in excess of the amount necessary to  
46 reimburse the developer for its project financing gap. This finding  
47 may be made by an estimation based upon the professional



1 judgment of the Chief Executive Officer of the **【New Jersey**  
2 **Economic Development Authority】** authority and the State  
3 Treasurer.

4 f. In deciding whether or not to recommend entering into a  
5 redevelopment incentive grant agreement and in negotiating a  
6 redevelopment agreement with a developer, the Chief Executive  
7 Officer of the **【New Jersey Economic Development Authority】**  
8 authority shall consider the following factors:

9 (1) the economic feasibility of the redevelopment project;

10 (2) the extent of economic and related social distress in the  
11 municipality and the area to be affected by the redevelopment  
12 project or the level of site specific distress to include dilapidated  
13 conditions, brownfields designation, environmental contamination,  
14 pattern of vacancy, abandonment, or under utilization of the  
15 property, rate of foreclosures, or other site conditions as determined  
16 by the authority;

17 (3) the degree to which the redevelopment project will advance  
18 State, regional, and local development and planning strategies;

19 (4) the likelihood that the redevelopment project shall, upon  
20 completion, be capable of generating new tax revenue in an amount  
21 in excess of the amount necessary to reimburse the developer for  
22 project costs incurred as provided in the redevelopment incentive  
23 grant agreement, provided, however, that any tax revenue generated  
24 by a redevelopment project that is a disaster recovery project shall  
25 be considered new tax revenue even if the same or more tax revenue  
26 was generated at or on the site prior to the disaster;

27 (5) the relationship of the redevelopment project to a  
28 comprehensive local development strategy, including other major  
29 projects undertaken within the municipality;

30 (6) the need of the redevelopment incentive grant agreement to  
31 the viability of the redevelopment project or the promotion of the  
32 use of public transportation; and

33 (7) the degree to which the redevelopment project enhances and  
34 promotes job creation and economic development or the promotion  
35 of the use of public transportation.

36 g. (1) A developer that has entered into a redevelopment  
37 incentive grant agreement with the authority and the State Treasurer  
38 pursuant to this section may, upon notice to and consent of the  
39 authority and the State Treasurer, pledge **【and】**, assign **【as security**  
40 **or support for any loan or bond】**, transfer, or sell any or all of its  
41 right, title and interest in and to such agreements and in the  
42 incentive grants payable thereunder, and the right to receive same,  
43 along with the rights and remedies provided to the developer under  
44 such agreement. Any such assignment shall be an absolute  
45 assignment for all purposes, including the federal bankruptcy code.

46 (2) Any pledge of incentive grants made by the developer shall  
47 be valid and binding from the time when the pledge is made and

1 filed in the records of the authority. The incentive grants so  
2 pledged and thereafter received by the developer shall immediately  
3 be subject to the lien of the pledge without any physical delivery  
4 thereof or further act, and the lien of any pledge shall be valid and  
5 binding as against all parties having claims of any kind in tort,  
6 contract, or otherwise against the developer irrespective of whether  
7 the parties have notice thereof. Neither the redevelopment  
8 incentive grant agreement nor any other instrument by which a  
9 pledge under this section is created need be filed or recorded except  
10 with the authority.

11 (cf: P.L.2010, c.10, s.9)

12

13 <sup>1</sup>~~[19.]~~ 20.<sup>1</sup> Section 11 of P.L.2009, c.90 (C.52:27D-489k) is  
14 amended to read as follows:

15 11. a. The governing body of a municipality is authorized to  
16 enter into a redevelopment incentive grant agreement with a  
17 developer, which shall not be effective until adopted by ordinance,  
18 for any redevelopment project located within a qualifying economic  
19 redevelopment and growth grant incentive area.

20 b. The redevelopment incentive grant agreement shall specify  
21 the maximum amount of project costs, the amount of the incentive  
22 grant to be awarded the developer, the frequency of payments, and  
23 the [length of time, which shall not exceed 20 years, during which  
24 that reimbursement shall be granted] eligibility period. The  
25 maximum amount of any municipal redevelopment incentive grant  
26 shall be equal to:

27 (1) 100 percent of the project costs in the case of a municipal  
28 redeveloper, or

29 (2) for all other developers, <sup>2</sup>[the sum of 75 percent of the costs  
30 of environmental remediation, 100 percent of the costs of  
31 infrastructure improvements in the public right-of-way, including  
32 any ancillary infrastructure project in the public right-of-way, and  
33 20 percent of the amount determined by subtracting the costs of  
34 infrastructure improvements in the public right-of-way including  
35 any ancillary infrastructure project in the public right-of-way from  
36 the total project costs] the maximum amount of any redevelopment  
37 incentive grant agreement shall be 30 percent of the total project  
38 costs, or 40 percent if located in a Garden State Growth Zone<sup>2</sup> .

39 <sup>2</sup>[Except for redevelopment incentive grants with a municipal  
40 redeveloper or with the developer of a redevelopment project solely  
41 with respect to the cost of infrastructure improvements in the public  
42 right-of-way including any ancillary infrastructure project in the  
43 public right-of-way, in no event shall the combined amount of the  
44 reimbursements under redevelopment incentive grant agreements  
45 with the State or municipality exceed 20 percent of the total project  
46 cost [of the project] plus any increase or bonus award of the State  
47 portion of such combined amount as set forth in subsection d. of

1 section 9 of P.L.2009, c.90 (C.52:27D-489i).<sup>2</sup> **【For the purposes**  
2 **of calculating the total cost of all projects, the cost of publicly**  
3 **owned facilities shall not be included. The amount of the**  
4 **redevelopment incentive grant for a municipal redeveloper may**  
5 **include the total cost of such infrastructure improvements and**  
6 **publicly owned facilities.】**

7 c. **【The】** Except in the case of a qualified residential project,  
8 the municipality may enter into a redevelopment incentive grant  
9 agreement only if the chief financial officer of the municipality  
10 makes a finding that the incremental revenues to be realized from  
11 the redevelopment project will be in excess of the amount necessary  
12 to reimburse the developer for its project financing gap. Such  
13 finding shall be based upon appropriate documentation and  
14 calculations supporting the decision.

15 d. Within a qualifying economic redevelopment and growth  
16 grant incentive area a municipality that has entered into a local  
17 redevelopment incentive grant agreement may pledge eligible  
18 revenues it is authorized to collect as follows:

19 (1) incremental payments in lieu of taxes, with respect to  
20 property located in the district, made pursuant to the "Five-Year  
21 Exemption and Abatement Law," P.L.1991, c.441 (C.40A:21-1 et  
22 seq.), or the "Long Term Tax Exemption Law," P.L.1991, c.431  
23 (C.40A:20-1 et al.);

24 (2) incremental revenues collected from payroll taxes, with  
25 respect to business activities carried on within the area, pursuant to  
26 section 15 of P.L.1970, c.326 (C.40:48C-15);

27 (3) incremental revenue from lease payments made to the  
28 municipality, the developer, or the developer's successors with  
29 respect to property located in the area;

30 (4) incremental revenue collected from parking taxes derived  
31 from parking facilities located within the area pursuant to section 7  
32 of P.L.1970, c.326 (C.40:48C-7);

33 (5) incremental admissions and sales taxes derived from the  
34 operation of a public facility within the area pursuant to section 1 of  
35 P.L.2007, c.302 (C.40:48G-1);

36 (6) (a) incremental sales and excise taxes which are derived from  
37 activities within the area and which are rebated to or retained by the  
38 municipality pursuant to the "New Jersey Urban Enterprise Zones  
39 Act," P.L.1983, c.303 (C.52:27H-60 et seq.) or any other law  
40 providing for such rebate or retention;

41 (b) within Planning Area 1 (Metropolitan) under the State  
42 Development and Redevelopment Plan adopted pursuant to the  
43 "State Planning Act," sections 1 through 12 of P.L.1985, c.398  
44 (C.52:18A-196 et seq.), a municipality may impose the entire State  
45 sales tax on business activities within a redevelopment project  
46 located in an urban enterprise zone that would ordinarily be entitled  
47 to collect reduced rate revenues under section 21 of P.L.1983, c.303

1 (C.52:27H-80), and pledge the excess revenues to a local  
2 redevelopment incentive grant agreement;

3 (7) incremental parking revenue collected, pursuant to section 7  
4 of P.L.1970, c.326 (C.40:48C-7), from public parking facilities built  
5 as part of a redevelopment project, except for public parking  
6 facilities owned by parking authorities pursuant to the "Parking  
7 Authority Law," P.L.1948, c.198 (C.40:11A-1 et seq.);

8 (8) incremental revenues collected, pursuant to section 3 of  
9 P.L.2003, c.114 (C.40:48F-1), P.L.1981, c.77 (C.40:48E-1 et seq.),  
10 or P.L.1947, c.71 (C.40:48-8.15 et seq.), from hotel and motel  
11 taxes;

12 (9) upon approval by the Local Finance Board, other incremental  
13 municipal revenues that may become available;

14 (10) the property tax increment <sup>2</sup>, except in the case of a Garden  
15 State Growth Zone, in which such property tax increment and any  
16 other incremental revenues are calculated as those incremental  
17 revenues that would have existed notwithstanding the provisions of  
18 the "New Jersey Economic Opportunity Act of 2013," P.L. \_\_\_\_\_,  
19 c. (C. \_\_\_\_\_) (pending before the Legislature as this bill)<sup>2</sup>.

20 The incremental revenue for the revenues listed in this  
21 subsection, when applicable, shall be calculated as the difference  
22 between the amount collected in any fiscal year from any eligible  
23 revenue source included in the local redevelopment incentive grant  
24 agreement, less the revenue increment base for that eligible  
25 revenue.

26 e. (1) In calculating the general tax rate of a municipality each  
27 year, the aggregate amount of the incremental ratable value over the  
28 property tax increment base in the redevelopment project area that  
29 is pledged as part of a redevelopment incentive grant agreement  
30 shall be excluded from the ratable base of a municipality.

31 (2) The amount of property tax increment not pledged toward a  
32 redevelopment incentive grant agreement shall be allocated  
33 pursuant to the normal tax rate distribution.

34 The full incremental value of a project area shall be included in  
35 the value used for county and regional school tax apportionment  
36 until such time that the Director of the Division of Taxation in the  
37 Department of the Treasury can certify that property tax  
38 management systems are capable of handling the technical and legal  
39 requirements of treating parcels in areas of redevelopment as  
40 exempt from county and regional school apportionment.

41 f. In addition to the incremental revenues that may be pledged  
42 in subsection d. of this section, any amount of tax proceeds  
43 collected from the tax on the rental of motor vehicles pursuant to  
44 section 20 of P.L.2009, c.90 (C.40:48H-2), may be included in a  
45 redevelopment incentive grant agreement with a developer,  
46 regardless of whether or not the redevelopment project area is

1 within or outside of the designated industrial zone from which the  
2 tax on the rental of motor vehicles is collected.

3 g. (1) A developer that has entered into a redevelopment  
4 incentive grant agreement with a municipality pursuant to this  
5 section may, upon notice to and consent of the municipality, pledge  
6 **【and】**, assign **【as security or support for any loan or bond】**,  
7 transfer, or sell any or all of its right, title and interest in and to  
8 such agreements and in the incentive grants payable thereunder, and  
9 the right to receive same, along with the rights and remedies  
10 provided to the developer under such agreement. Any such  
11 assignment shall be an absolute assignment for all purposes,  
12 including the federal bankruptcy code.

13 (2) Any pledge of incentive grants made by the developer shall  
14 be valid and binding from the time when the pledge is made and  
15 filed in the office of the municipal clerk. The incentive grants so  
16 pledged and thereafter received by the developer shall immediately  
17 be subject to the lien of the pledge without any physical delivery  
18 thereof or further act, and the lien of any pledge shall be valid and  
19 binding as against all parties having claims of any kind in tort,  
20 contract, or otherwise against the developer irrespective of whether  
21 the parties have notice thereof. Neither the redevelopment  
22 incentive grant agreement nor any other instrument by which a  
23 pledge under this section is created need be filed or recorded except  
24 with the municipality.

25 (cf: P.L.2010, c.10, s.10)

26

27 <sup>1</sup>**【20.】 21.**<sup>1</sup> (New section) On or before <sup>2</sup>**【January】 July**<sup>2</sup> 1,  
28 2018, the authority shall submit a written report to the Governor  
29 and the Legislature providing a comprehensive review and analysis  
30 of the Grow New Jersey Assistance Program, established pursuant  
31 to P.L.2011, c.149 (C.34:1B-242 et seq.), the State Economic  
32 Redevelopment and Growth Grant program, established pursuant to  
33 section 5 of P.L.2009, c.90 (C.52:27D-489e), and other economic  
34 incentive laws under the authority's jurisdiction <sup>2</sup>, with particular  
35 emphasis on the recalibration of those programs and the creation of  
36 Garden State Growth Zones, pursuant to of P.L. , c. (C. )  
37 (pending before the Legislature as this bill), and the effectiveness of  
38 those programs on economic development and private-sector job  
39 retention and growth<sup>2</sup> . In order to ensure the independence and  
40 objectivity of the report, the authority shall retain a premier, not-  
41 for-profit, non-partisan entity to undertake the review and analysis  
42 of the State economic incentive laws, which shall include a cost-  
43 benefit analysis of each incentive program, an assessment of the  
44 success of each program in meeting the goals of the program, and  
45 any recommendations for improving the operation and effectiveness  
46 of each program, including recommendations for legislation.

1 4[22. (New section) As used in section 23 of P.L. ,  
2 c. (C. ) (pending before the Legislature as this bill):

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

5 "Developer" means a person who undertakes the repurposing of  
6 a qualified health care facility.

7 "Capital investment" in a qualified health care facility means  
8 expenses incurred after the effective date of P.L. , c. (C. )  
9 (pending before the Legislature as this bill) for: the acquisition, site  
10 preparation and construction, repair, renovation, improvement,  
11 equipping, or furnishing of a building, structure, facility or  
12 improvement to real property.

13 "Full-time employee" means a person employed for  
14 consideration for at least 35 hours a week, or who renders any other  
15 standard of service generally accepted by custom or practice as full-  
16 time employment and whose wages are subject to withholding as  
17 provided in the "New Jersey Gross Income Tax Act," N.J.S.54A:1-1  
18 et seq., or who is a partner of a partnership who works for the  
19 partnership for at least 35 hours a week, or who renders any other  
20 standard of service generally accepted by custom or practice as full-  
21 time employment, and whose distributive share of income, gain,  
22 loss, or deduction, or whose guaranteed payments, or any  
23 combination thereof, is subject to the payment of estimated taxes, as  
24 provided in the "New Jersey Gross Income Tax Act," N.J.S.54A:1-1  
25 et seq., and includes only a person whose employer provides  
26 employee health benefits under a group health plan as defined under  
27 section 14 of P.L.1997, c.146 (C.17B:27-54), a health benefits plan  
28 as defined under section 1 of P.L.1992, c.162 (C.17B:27A-17), or a  
29 policy or contract of health insurance covering more than one  
30 person issued pursuant to Article 2 of Title 17B of the New Jersey  
31 Statutes. "Full-time employee" shall not include a person who  
32 works as an independent contractor or on a consulting basis for the  
33 business.

34 "Qualified health care facility" means a building, complex of  
35 buildings, or structural components of buildings previously licensed  
36 by the Department of Health which have been granted a certificate  
37 of need to cease all or partial operation.

38 "Repurposing of a qualified health care facility" means the  
39 renovation and redevelopment of a qualified health care facility as a  
40 non-acute health care and health support services center.<sup>2]4</sup>

41  
42 4[23. (New section) a. (1) A developer, upon application to and  
43 approval from the authority, shall be allowed a credit of 75 percent,  
44 or by determination of the authority of up to 100 percent, of its  
45 capital investment, made after the effective date of P.L. , c. (C. )  
46 (pending before the Legislature as this bill) but prior to its  
47 submission of documentation pursuant to subsection b. of this

1 section, for the repurposing of a qualified health care facility. The  
2 non-acute health care and health support services components of the  
3 repurposed facility shall comprise no less than 50 percent of the net  
4 leasable space of the repurposed facility, provided however that the  
5 50 percent requirement may be waived by the authority if the  
6 requirement is not economically feasible or if the inclusion of  
7 additional non-health care and non-health support services elements  
8 would improve the utilization and development of the health care  
9 and health support services components. To be eligible for any tax  
10 credits authorized under this section, a developer shall demonstrate  
11 to the authority, at the time of application, that the State's financial  
12 support of the proposed capital investment in a qualified health care  
13 facility will not destabilize the supply and delivery of acute care  
14 health services in its market, will yield a net positive benefit to the  
15 State and local government, and, through a project pro forma  
16 analysis at the time of application, that the repurposing of the  
17 qualified health care facility is likely to be realized with the  
18 provision of tax credits at the level requested but is not likely to be  
19 accomplished by private enterprise without the tax credits.

20 (2) A developer shall make or acquire capital investments  
21 totaling not less than \$10,000,000 in a qualified health care facility,  
22 at which the tenant businesses shall employ not fewer than 100 full-  
23 time employees, to be eligible for a credit under this section. A  
24 successor to a developer that acquires a repurposed qualified health  
25 care facility shall also be deemed to have acquired the capital  
26 investment made or acquired by the developer.

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

30 (4) All construction projects for the repurposing of a qualified  
31 health care facility entered into pursuant to this section shall contain  
32 a project labor agreement. The project labor agreement shall be  
33 subject to the provisions of P.L.2002, c.44 (C.52:38-1 et seq.). A  
34 general contractor, construction manager, design-build team, or  
35 subcontractor for a construction project proposed in accordance  
36 with this paragraph shall be registered pursuant to the provisions of  
37 P.L.1999, c.238 (C.34:11-56.48 et seq.).

38 b. A developer shall apply for the credit and submit its  
39 documentation for approval of its credit amount prior to July 1,  
40 2019. The authority shall not approve an application for tax credits  
41 unless the application was submitted to the authority prior to July 1,  
42 2019.

43 c. (1) The amount of credit allowed shall, except as otherwise  
44 provided, be equal to the capital investment made by the developer,  
45 and shall be taken over a 10-year period, at the rate of one-tenth of  
46 the total amount of the developer's credit for each privilege period  
47 or taxable year of the developer, beginning with the privilege period

1 or taxable year in which the developer is first approved by the  
2 authority as having met the investment capital and employment  
3 qualifications, subject to any reduction or disqualification as  
4 provided by subsection d. of this section as determined by annual  
5 review by the authority. In conducting its annual review, the  
6 authority may require a developer to submit any information  
7 determined by the authority to be necessary and relevant to its  
8 review.

9 (2) The amount of credit allowed may be applied against the  
10 corporation business tax liability otherwise due pursuant to section  
11 5 of P.L.1945, c.162 (C.54:10A-5) or the tax liability otherwise due  
12 pursuant to the "New Jersey Gross Income Tax Act," N.J.S.54A:1-1  
13 et seq.

14 (3) A business entity that is classified as a partnership for  
15 federal income tax purposes shall not be allowed a credit directly,  
16 but the amount of credit of a taxpayer in respect of a distributive  
17 share of partnership income, shall be determined by allocating to  
18 the taxpayer that proportion of the credit acquired by the  
19 partnership that is equal to the taxpayer's share, whether or not  
20 distributed, of the total distributive income or gain of the  
21 partnership for its taxable year ending within or with the taxpayer's  
22 taxable year.

23 A New Jersey S Corporation shall not be allowed a credit  
24 directly under the gross income tax, but the amount of credit of a  
25 taxpayer in respect of a pro rata share of S Corporation income,  
26 shall be determined by allocating to the taxpayer that proportion of  
27 the credit acquired by the New Jersey S Corporation that is equal to  
28 the taxpayer's share, whether or not distributed, of the total pro rata  
29 share of S Corporation income of the New Jersey S Corporation for  
30 its privilege period ending within or with the taxpayer's taxable  
31 year.

32 d. If, in any privilege period or taxable year, the number of  
33 full-time employees employed at the repurposed qualified health  
34 care facility is fewer than 80 then the amount of credit otherwise  
35 allowed to the developer for the privilege period or taxable year  
36 shall be reduced by the percentage determined by dividing 100  
37 minus the number of employees employed at the facility for that tax  
38 period by 100 and similarly for each subsequent tax period, until the  
39 first tax period for which documentation demonstrating the  
40 restoration of the number of full-time employees employed at the  
41 repurposed qualified health care facility to 100 has been reviewed  
42 and approved by the authority, for which tax period and each  
43 subsequent tax period the full amount of the credit shall be allowed.

44 e. The authority, in consultation with the Director of the  
45 Division of Taxation in the Department of the Treasury, shall adopt  
46 rules in accordance with the "Administrative Procedure Act,"  
47 P.L.1968, c.410 (C.52:14B-1 et seq.) as are necessary to implement



1 the provisions of this section, including but not limited to: examples  
2 of and the determination of capital investment; the promulgation of  
3 procedures and forms necessary to apply for a credit; and provisions  
4 for credit applicants to be charged an initial application fee, and  
5 ongoing service fees, to cover the administrative costs related to the  
6 credit.<sup>2</sup><sup>4</sup>

7  
8 <sup>4</sup>[<sup>2</sup>24.] 22.<sup>4</sup> (New section) The Legislature finds and declares  
9 that:

10 a. Healthy, thriving municipalities are vital to the health,  
11 safety, and economic well-being of the State.

12 b. Municipalities that are economically distressed adversely  
13 impact not only that municipality, but also affect the county and  
14 region where they are located as well as the whole State.

15 c. Numerous programs have been previously established to  
16 assist municipalities in economic and fiscal distress to enable them  
17 to regain health and vitality, including programs to provide  
18 increasing degrees of oversight and to provide substantial amounts  
19 of financial aid and incentives.

20 d. While these existing programs have proven successful in  
21 aiding a number of municipalities, others are in such difficult straits  
22 that such measures have not proven sufficient. Thus, extraordinary  
23 measures are required now to turn around the fate of such  
24 municipalities.

25 e. The new programs provided herein will have a substantial  
26 likelihood of achieving success where prior programs have not, and  
27 employing these programs now is crucial to the economic well-  
28 being of the county, region, and State.

29 f. Accordingly, the municipalities identified as Garden State  
30 Growth Zones are hereby declared blighted areas and areas in need  
31 of rehabilitation, provided however, that this declaration alone shall  
32 not be used to allow any property to be taken or acquired.<sup>2</sup>

33  
34 <sup>4</sup>[<sup>2</sup>25.] 23.<sup>4</sup> (New section) As used in section <sup>4</sup>[<sup>2</sup>26] 24<sup>4</sup> of  
35 P.L. , c. (C. ) (pending before the Legislature as this bill):

36 “Director” means the Direction of the Division of Taxation.

37 “Division of Codes and Standards” means the Division of Codes  
38 and Standards located in the Department of Community Affairs.

39 “Eligible person” means any individual purchasing or renting an  
40 eligible residential residence within a growth zone after the  
41 enactment of P.L. , c. (C. ) (pending before the Legislature  
42 as this bill). For the purpose of this definition, an eligible person is  
43 limited to those who establish a permanent residency at the eligible  
44 residential residence, are subject to the "New Jersey Gross Income  
45 Tax Act," N.J.S.54A:1-1 et seq., and are current with all State and  
46 local tax obligations.

1 “Eligible property” means any residential, commercial,  
2 industrial, or other business property, located in a Garden State  
3 Growth Zone, that receives a Certificate of Occupancy or is  
4 transferred in a legal sale on or after July 1, 2013. Purchasers of  
5 newly constructed homes are not the applicant.

6 “Exemption” means that portion of the assessor’s full and true  
7 value of any improvement, conversion, alteration, redevelopment,  
8 rehabilitation, or construction not regarded as increasing the taxable  
9 value of a property pursuant to P.L. , c. (C. ) (pending  
10 before the Legislature as this bill) for the purposes of encouraging  
11 the construction, conversion, improvement, and redevelopment of  
12 real property conducted by eligible businesses or residents within a  
13 growth zone pursuant to P.L. , c. (C. ) (pending before the  
14 Legislature as this bill).

15 “Garden State Growth Zone” or “growth zone” means the four  
16 New Jersey cities with the lowest median family income based on  
17 the 2009 American Community Survey from the US Census, (Table  
18 708. Household, Family, and Per Capita Income and Individuals,  
19 and Families Below Poverty Level by City: 2009).

20 “Garden State Growth Zone Development Entity” means a  
21 private corporation incorporated pursuant to Title 14A of the New  
22 Jersey Statutes, or established pursuant to Title 42 of the Revised  
23 Statutes, for which the profits of the entity are limited as follows.  
24 The allowable net profits of the entity shall be determined by  
25 applying the allowable profit rate to the total project cost, and all  
26 capital costs, determined in accordance with generally accepted  
27 accounting principles, of any other entity whose revenue is included  
28 in the computation of excess profits, for the period commencing on  
29 the date on which the construction of the project is completed, and  
30 terminating at the close of the fiscal year of the entity preceding the  
31 date on which the computation is made, where:

32 "Allowable profit rate" means the greater of 12 percent or the  
33 percentage per annum arrived at by adding one and 1/4 percent to  
34 the annual interest percentage rate payable on the entity's initial  
35 permanent mortgage financing. If the initial permanent mortgage is  
36 insured or guaranteed by a governmental agency, the mortgage  
37 insurance premium or similar charge, if payable on a per annum  
38 basis, shall be considered as interest for this purpose. If there is no  
39 permanent mortgage financing the allowable profit rate shall be the  
40 greater of 12 percent or the percentage per annum arrived at by  
41 adding one and 1/4 percent per annum to the interest rate per annum  
42 which the municipality determines to be the prevailing rate on  
43 mortgage financing on comparable improvements in the county.

44 “Improvements” means any repair, construction, or  
45 reconstruction, including alterations and additions, having the effect  
46 of rehabilitating a deteriorated property so that it becomes habitable  
47 or attains higher standards of safety, health, economic use or

1 amenity, or is brought into compliance with laws, ordinances or  
2 regulations governing such standards. Ordinary upkeep and  
3 maintenance shall not be deemed an improvement.<sup>2</sup>

4  
5 <sup>4</sup>[<sup>26</sup>.] 24.<sup>4</sup> (New section) a. A Garden State Growth Zone  
6 Development Entity is authorized to undertake clearance, re-  
7 planning, development, or redevelopment of property within a  
8 Garden State Growth Zone.

9 b. Notwithstanding any other law to the contrary, every Garden  
10 State Growth Zone Development Entity that owns real property  
11 within a Garden State Growth Zone and that undertakes the  
12 clearance, re-planning, development, or redevelopment of such  
13 property is hereby granted an exemption on improvements to such  
14 eligible property for any new construction, improvements, or  
15 substantial rehabilitation of structures on real property for a period  
16 of 20 years from receiving a final Certificate of Occupancy,  
17 provided however, that a municipality located within the Garden  
18 State Growth Zone shall, by ordinance, opt-in to such program  
19 within 90 calendar days of the enactment of P.L. , c. (C. )  
20 (pending before the legislature as this bill). The exemption allowed  
21 by this subsection shall be dependent upon: (1) the owner of the real  
22 property making improvements to the real property after the  
23 enactment of P.L. , c. (C. ) (pending before the Legislature as  
24 this bill); and (2) the Division of Codes and Standards, in  
25 consultation with the eligible municipality, issuing a final  
26 Certificate of Occupancy within 10 years of the date of enactment  
27 of P.L. , c. (C. ) (pending before the Legislature as this  
28 bill).

29 c. The exemption granted by subsection b. of this section shall  
30 be for a period of 20 years. For the first 10 years immediately  
31 subsequent to the issuance of a Certificate of Occupancy, the  
32 Garden State Growth Zone Development Entity shall be exempt  
33 from the payment of taxes on the improvements to the eligible  
34 property. Thereafter, the Garden State Growth Zone Development  
35 Entity shall pay to the municipality in lieu of full property tax  
36 payments an amount equal to a percentage of taxes otherwise due,  
37 according to the following schedule:

38 (1) In the eleventh year after completion, 10 percent of taxes  
39 otherwise due;

40 (2) In the twelfth year after completion, 20 percent of taxes  
41 otherwise due;

42 (3) In the thirteenth year after completion, 30 percent of taxes  
43 otherwise due;

44 (4) In the fourteenth year after completion, 40 percent of taxes  
45 otherwise due;

46 (5) In the fifteenth year after completion, 50 percent of taxes  
47 otherwise due;.

1       (6) In the sixteenth year after completion, 60 percent of taxes  
2 otherwise due;

3       (7) In the seventeenth year after completion, 70 percent of taxes  
4 otherwise due;

5       (8) In the eighteenth year after completion, 80 percent of taxes  
6 otherwise due;

7       (9) In the nineteenth full year after completion, 90 percent of  
8 taxes otherwise due;

9       (10) In the twentieth year after completion, and each year  
10 thereafter, 100 percent of taxes.

11       An amount not less than five percent of all payments pursuant to  
12 this subsection shall be paid to the county in which the municipality  
13 is located.

14       d. Upon the termination of the exemption granted pursuant to  
15 subsection c. of this section, the project, all affected parcels, land,  
16 and all improvements made thereto shall be assessed and subject to  
17 taxation as are other taxable properties in the municipality. After  
18 the date of termination, all restrictions and limitations upon the  
19 Garden State Growth Zone Development Entity shall terminate and  
20 be at an end upon the entity's rendering its final accounting to and  
21 with the municipality.

22       e. Notwithstanding subsection b. of this section, the owner of  
23 any property located within a Garden State Growth Zone, that does  
24 not qualify as a Garden State Growth Zone Development Entity,  
25 that performs any new construction, improvements, or substantial  
26 rehabilitation improvements to property, shall be entitled to an  
27 exemption from taxation regarding such improvements as provided  
28 herein. For purposes of such exemption, the municipality shall  
29 consider the assessor's full and true value of the improvements as  
30 not increasing the value of the property for a period of five years,  
31 notwithstanding that the value of the property to which the  
32 improvements are made is increased thereby.

33       f. Any exemption obtained under this section shall be fully  
34 transferable upon the sale of real property, as long as the new owner  
35 meets all requirements for exemption set forth pursuant to this  
36 section.<sup>2</sup>

37

38       <sup>4</sup>**[<sup>2</sup>27.] 25.**<sup>4</sup> Section 6 of P.L.2010, c.57 (C.34:1B-209.4) is  
39 amended to read as follows:

40       6. a. (1) A business, upon application to and approval from the  
41 authority, shall be allowed a credit of 100 percent of its capital  
42 investment, made after the effective date of P.L.2010, c.57 (C.48:3-  
43 87.1 et al.) but prior to its submission of documentation pursuant to  
44 subsection c. of this section, in a qualified wind energy facility  
45 located within an eligible wind energy zone, pursuant to the  
46 restrictions and requirements of this section. To be eligible for any  
47 tax credits authorized under this section, a business shall

1 demonstrate to the authority, at the time of application, that the  
2 State's financial support of the proposed capital investment in a  
3 qualified wind energy facility will yield a net positive benefit to the  
4 State. The value of all credits approved by the authority pursuant to  
5 this section may be up to \$100,000,000, except as may be increased  
6 by the authority [as set forth below; provided, however, that the  
7 combined value of all credits approved by the authority pursuant to  
8 P.L.2007, c.346 (C.34:1B-207 et seq.), P.L.2009, c.90 (C.52:27D-  
9 489a et al.), and P.L.2010, c.57 (C.48:3-87.1 et al.) shall not exceed  
10 \$1,750,000,000. The authority shall monitor application and  
11 allocation activity under P.L.2007, c.346 after taking into account  
12 the allocation under P.L.2007, c.346 and if sufficient credits are  
13 available to those qualified business facilities for which  
14 applications have been filed or for which applications are  
15 reasonably anticipated, and] if the chief executive officer judges  
16 certain qualified offshore wind projects to be meritorious [, the  
17 aforementioned cap may, in the discretion of the chief executive  
18 officer, be exceeded for allocation to qualified wind energy  
19 facilities in such amounts as the chief executive officer deems  
20 reasonable, justified and appropriate]. Credits provided pursuant to  
21 this section shall not be applicable to the cap on the credits  
22 provided in section 3 of P.L.2007, c.346 (C.34:1B-209).

23 (2) (a) A business, other than a tenant eligible pursuant to  
24 subparagraph (b) of this paragraph, shall make or acquire capital  
25 investments totaling not less than \$50,000,000 in a qualified wind  
26 energy facility, at which the business, including tenants at the  
27 qualified wind energy facility, shall employ at least 300 new, full-  
28 time employees, to be eligible for a credit under this section. A  
29 business that acquires a qualified wind energy facility after the  
30 effective date of P.L.2010, c.57 (C.48:3-87.1 et al.) shall also be  
31 deemed to have acquired the capital investment made or acquired  
32 by the seller.

33 (b) A business that is a tenant in the qualified wind energy  
34 facility, the owner of which has made or acquired capital  
35 investments in the facility totaling more than \$50,000,000, shall  
36 occupy a leased area of the qualified wind energy facility that  
37 represents at least \$17,500,000 of the capital investment in the  
38 qualified wind energy facility at which at least 300 new, full-time  
39 employees in the aggregate are employed, to be eligible for a credit  
40 under this section. The amount of capital investment in a facility  
41 that a leased area represents shall be equal to that percentage of the  
42 owner's total capital investment in the facility that the percentage of  
43 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  
45 tenant shall be deemed to be included in the calculation of the  
46 capital investment made or acquired by the owner, but only to the  
47 extent necessary to meet the owner's minimum capital investment of

1 \$50,000,000. Capital investments made by a tenant and not  
2 allocated to meet the owner's minimum capital investment threshold  
3 of \$50,000,000 shall be added to the amount of capital investment  
4 represented by the tenant's leased area in the qualified wind energy  
5 facility.

6 (c) The calculation of the number of new, full-time employees  
7 required pursuant to subparagraphs (a) and (b) of this paragraph  
8 may include the number of new, full-time positions resulting from  
9 an equipment supply coordination agreement with equipment  
10 manufacturers, suppliers, installers and operators associated with  
11 the supply chain required to support the qualified wind energy  
12 facility.

13 For the purposes of this paragraph, "full time employee" shall  
14 not include an employee who is a resident of another state and  
15 whose income is not subject to the "New Jersey Gross Income Tax  
16 Act," N.J.S.54A:1-1 et seq., unless that state has entered into a  
17 reciprocity agreement with the State of New Jersey, provided that  
18 any employee whose work is provided pursuant to a collective  
19 bargaining agreement with the port district in the wind energy zone  
20 may be included.

21 (3) A business shall not be allowed a tax credit pursuant to this  
22 section if the business participates in a business employment  
23 incentive grant relating to the same capital and employees that  
24 qualify the business for this credit, or if the business receives  
25 assistance pursuant to the "Business Retention and Relocation  
26 Assistance Act," P.L.1996, c.25 (C.34:1B-112 et seq.). A business  
27 that is allowed a tax credit under this section shall not be eligible  
28 for incentives authorized pursuant to the "Municipal Rehabilitation  
29 and Economic Recovery Act," P.L.2002, c.43 (C.52:27BBB-1 et  
30 al.).

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

34 b. A business shall apply for the credit **【within five years after**  
35 **the effective date of P.L.2007, c.346 (C.34:1B-207 et seq.)】** by  
36 August 1, 2016, and a business shall submit its documentation for  
37 approval of its credit amount **【within eight years after the effective**  
38 **date of P.L.2007, c.346】** by August 1, 2019.

39 c. The credit allowed pursuant to this section shall be  
40 administered in accordance with the provisions of subsection c. of  
41 section 3 of P.L.2007, c.346 (C.34:1B-209) and section 33 of  
42 P.L.2009, c.90 (C.34:1B-209.1), except that all references therein to  
43 "qualified business facility" shall be deemed to refer to "qualified  
44 wind energy facility," as that term is defined in subsection f. of this  
45 section.

46 d. The amount of the credit allowed pursuant to this section  
47 shall, except as otherwise provided, be equal to the capital

1 investment made by the business, or the capital investment  
2 represented by the business' leased area, and shall be taken over a  
3 10-year period, at the rate of one-tenth of the total amount of the  
4 business' credit for each tax accounting or privilege period of the  
5 business, beginning with the tax period in which the business is first  
6 approved by the authority as having met the investment capital and  
7 employment qualifications, subject to any disqualification as  
8 determined by annual review by the authority. In conducting its  
9 annual review, the authority may require a business to submit any  
10 information determined by the authority to be necessary and  
11 relevant to its review. The credit amount for any tax period ending  
12 after the date eight years after the effective date of P.L.2007, c.346  
13 (C.34:1B-207 et seq.) during which the documentation of a  
14 business' credit amount remains unapproved shall be forfeited,  
15 although credit amounts for the remainder of the years of the 10-  
16 year credit period shall remain available. The amount of the credit  
17 allowed for a tax period to a business that is a tenant in a qualified  
18 wind energy facility shall not exceed the business' total lease  
19 payments for occupancy of the qualified wind energy facility for the  
20 tax period.

21 e. The authority shall adopt rules in accordance with the  
22 "Administrative Procedure Act," P.L.1968, c.410 (C.52:14B-1 et  
23 seq.) as are necessary to implement this section, including but not  
24 limited to: examples of and the determination of capital investment;  
25 nature of businesses and employment positions constituting and  
26 participating in an equipment supply coordination agreement;  
27 determination of the types of businesses that may be eligible and  
28 expenses that may constitute capital improvements; promulgation of  
29 procedures and forms necessary to apply for a credit; and provisions  
30 for applicants to be charged an initial application fee, and ongoing  
31 service fees, to cover the administrative costs related to the credit.

32 The rules established by the authority pursuant to this subsection  
33 shall be effective immediately upon filing with the Office of  
34 Administrative Law and shall be effective for a period not to exceed  
35 12 months and may, thereafter, be amended, adopted or readopted  
36 in accordance with the provisions of the "Administrative Procedure  
37 Act," P.L.1968, c.410 (C.52:14B-1 et seq.).

38 f. As used in this section: the terms "authority," "business,"  
39 and "capital investment" shall have the same meanings as defined in  
40 section 2 of the "Urban Transit Hub Tax Credit Act," P.L.2007,  
41 c.346 (C.34:1B-208), except that all references therein to "qualified  
42 business facility" shall be deemed to refer to "qualified wind energy  
43 facility" as defined in this subsection.

44 In addition, as used in this section:

45 "Equipment supply coordination agreement" means an agreement  
46 between a business and equipment manufacturer, supplier, installer,  
47 and operator that supports a qualified offshore wind project, or

1 other wind energy project as determined by the authority, and that  
2 indicates the number of new, full-time jobs to be created by the  
3 agreement participants towards the employment requirement as set  
4 forth in paragraph (2) of subsection a. of this section.

5 "Qualified offshore wind project" means the same as the term is  
6 defined in section 3 of P.L.1999, c.23 (C.48:3-51).

7 "Qualified wind energy facility" means any building, complex of  
8 buildings, or structural components of buildings, including water  
9 access infrastructure, and all machinery and equipment used in the  
10 manufacturing, assembly, development or administration of  
11 component parts that support the development and operation of a  
12 qualified offshore wind project, or other wind energy project as  
13 determined by the authority, and that are located in a wind energy  
14 zone.

15 "Wind energy zone" means property located in the South Jersey  
16 Port District established pursuant to "The South Jersey Port  
17 Corporation Act," P.L.1968, c.60 (C.12:11A-1 et seq.).<sup>2</sup>  
18 (cf: P.L.2012, c.35, s.3)

19

20 <sup>4</sup>**[<sup>2</sup>28.]** 26.<sup>4</sup> Section 43 of P.L.2009, c.90 (C.18A:64-85) is  
21 amended to read as follows:

22 43. a. (1) A State college or county college may enter into a  
23 contract with a private entity, subject to subsection f. of this section,  
24 to be referred to as a public-private partnership agreement, that  
25 permits the private entity to assume full financial and administrative  
26 responsibility for the on-campus construction, reconstruction,  
27 repair, alteration, improvement, extension, management, or  
28 operation of a building, structure, or facility of, or for the benefit of,  
29 the institution, provided that the project is financed in whole by the  
30 private entity and that the State or institution of higher education, as  
31 applicable, retains full ownership of the land upon which the project  
32 is completed.

33 (2) A public-private partnership agreement may include an  
34 agreement under which a State or county college leases to a private  
35 entity the operation of a dormitory or other revenue-producing  
36 facility to which the college holds title, in exchange for up-front or  
37 structured financing by the private entity for the construction of  
38 classrooms, laboratories, or other academic buildings. Under the  
39 lease agreement, the college shall continue to hold title to the  
40 facility, and the private entity shall be responsible for the  
41 management, operation, and maintenance of the facility. The  
42 private entity shall receive some or all, as per the agreement, of the  
43 revenue generated by the facility and shall operate the facility in  
44 accordance with college standards. A lease agreement shall not  
45 affect the status or employment rights of college employees who are  
46 assigned to, or provide services to, the leased facility. At the end of  
47 the lease term, subsequent revenue generated by the facility, along



1 with management, operation, and maintenance responsibility, shall  
2 revert to the college.

3 b. (1) A private entity that assumes financial and administrative  
4 responsibility for a project pursuant to subsection a. of this section  
5 shall not be subject to the procurement and contracting  
6 requirements of all statutes applicable to the institution of higher  
7 education at which the project is completed, including, but not  
8 limited to, the "State College Contracts Law," P.L.1986, c.43  
9 (C.18A:64-52 et seq.), and the "County College Contracts Law,"  
10 P.L.1982, c.189 (C.18A:64A-25.1 et seq.). For the purposes of  
11 facilitating the financing of a project pursuant to subsection a. of  
12 this section, a public entity may become the owner or lessee of the  
13 project or the lessee of the land, or both, may become the lessee of a  
14 dormitory or other revenue-producing facility to which the college  
15 holds title, may issue indebtedness in accordance with the public  
16 entity's enabling legislation and, notwithstanding any provision of  
17 law to the contrary, shall be empowered to enter into contracts with  
18 a private entity and its affiliates without being subject to the  
19 procurement and contracting requirements of any statute applicable  
20 to the public entity provided that the private entity has been selected  
21 by the institution of higher education pursuant to a solicitation of  
22 proposals or qualifications. For the purposes of this section, a  
23 public entity shall include the New Jersey Economic Development  
24 Authority, and any project undertaken pursuant to subsection a. of  
25 this section of which the authority becomes the owner or lessee, or  
26 which is situated on land of which the authority becomes the lessee,  
27 shall be deemed a "project" under the "New Jersey Economic  
28 Development Authority Act," P.L.1974, c.80 (C.34:1B-1 et seq.).

29 (2) As the carrying out of any project described pursuant to this  
30 section constitutes the performance of an essential public function,  
31 all projects predominantly used in furtherance of the educational  
32 purposes of the institution undertaken pursuant to this section,  
33 provided it is owned by or leased to a public entity, non-profit  
34 business entity, foreign or domestic, or a business entity wholly  
35 owned by such non-profit business entity, shall at all times be  
36 exempt from property taxation and special assessments of the State,  
37 or any municipality, or other political subdivision of the State and,  
38 notwithstanding the provisions of section 15 of P.L.1974, c.80  
39 (C.34:1B-15) **【or】**, section 2 of P.L.1977, c.272 (C.54:4-2.2b), or  
40 any other section of law to the contrary, shall not be required to  
41 make payments in lieu of taxes. The land upon which the project is  
42 located shall also at all times be exempt from property taxation.  
43 Further, the project and land upon which the project is located shall  
44 not be subject to the provisions of section 1 of P.L.1984, c.176  
45 (C.54:4-1.10) regarding the tax liability of private parties  
46 conducting for profit activities on tax exempt land, or section 1 of

1 P.L.1949, c.177 (C.54:4-2.3) regarding the taxation of leasehold  
2 interests in exempt property that are held by nonexempt parties.

3 c. Each worker employed in the construction, rehabilitation, or  
4 building maintenance services of facilities by a private entity that  
5 has entered into a public-private partnership agreement with a State  
6 or county college pursuant to subsection a. of this section shall be  
7 paid not less than the prevailing wage rate for the worker's craft or  
8 trade as determined by the Commissioner of Labor and Workforce  
9 Development pursuant to P.L.1963, c.150 (C.34:11-56.25 et seq.)  
10 and P.L.2005, c.379 (C.34:11-56.58 et seq.).

11 d. (1) All construction projects under a public-private partnership  
12 agreement entered into pursuant to this section shall contain a  
13 project labor agreement. The project labor agreement shall be  
14 subject to the provisions of P.L.2002, c.44 (C.52:38-1 et seq.), and  
15 shall be in a manner that to the greatest extent possible enhances  
16 employment opportunities for individuals residing in the county of  
17 the project's location. Further, the general contractor, construction  
18 manager, design-build team, or subcontractor for a construction  
19 project proposed in accordance with this paragraph shall be  
20 registered pursuant to the provisions of P.L.1999, c.238 (C.34:11-  
21 56.48 et seq.), and shall be classified by the Division of Property  
22 Management and Construction to perform work on a public-private  
23 partnership higher education project. All construction projects  
24 proposed in accordance with this paragraph shall be submitted to  
25 the New Jersey Economic Development Authority for its review  
26 and approval and, when practicable, are encouraged to adhere to the  
27 Leadership in Energy and Environmental Design Green Building  
28 Rating System as adopted by the United States Green Building  
29 Council.

30 (2) Where no public fund has been established for the financing  
31 of a public improvement, the chief financial officer of the public  
32 owner shall require the private entity for whom the public  
33 improvement is being made to post, or cause to be posted, a bond  
34 guaranteeing prompt payment of moneys due to the contractor, his  
35 or her subcontractors and to all persons furnishing labor or  
36 materials to the contractor or his or her subcontractors in the  
37 prosecution of the work on the public improvement.

38 e. A general contractor, construction manager, design-build  
39 team, or subcontractor shall be registered pursuant to the provisions  
40 of P.L.1999, c.238 (C.34:11-56.48 et seq.), and shall be classified  
41 by the Division of Property Management and Construction to  
42 perform work on a public-private partnership higher education  
43 project.

44 f. (1) On or before August 1, **[2013]** 2015, all projects proposed  
45 in accordance with this section shall be submitted to the New Jersey  
46 Economic Development Authority for **[its]** the authority's review  
47 and approval; except that in the case of projects proposed in

1 accordance with paragraph (2) of subsection a. of this section, all  
2 projects shall be submitted on or before August 1, **[2014]** 2016.  
3 The projects are encouraged, when practicable, to adhere to the  
4 green building manual prepared by the Commissioner of  
5 Community Affairs pursuant to section 1 of P.L.2007, c.132  
6 (C.52:27D-130.6). Any application that is deemed to be incomplete  
7 on August 2, **[2013]** 2015, or on August 2, **[2014]** 2016 in the case  
8 of an application submitted pursuant to paragraph (2) of subsection  
9 a. of this section, shall not be eligible for consideration.

10 (2) (a) In order for an application to be complete and considered  
11 by the authority **[it]**, the application shall include, but not be  
12 limited to: (i) a public-private partnership agreement between the  
13 State or county college and the private developer; (ii) a full  
14 description of the project, including a description of any agreement  
15 for the lease of a revenue-producing facility related to the project;  
16 (iii) the estimated costs and financial documentation for the project;  
17 (iv) a timetable for completion of the project extending no more  
18 than five years after consideration and approval; and (v) any other  
19 requirements that the authority deems appropriate or necessary.

20 (b) As part of the estimated costs and financial documentation  
21 for the project, the application shall contain a long-range  
22 maintenance plan and shall specify the expenditures that qualify as  
23 an appropriate investment in maintenance. **[This]** The long-range  
24 maintenance plan shall be approved by the authority pursuant to  
25 regulations promulgated by the authority that reflect national  
26 building maintenance standards and other appropriate building  
27 maintenance benchmarks. All contracts to implement a long-range  
28 maintenance plan pursuant to this paragraph shall contain a project  
29 labor agreement. The project labor agreement shall be subject to  
30 the provisions of P.L.2002, c.44 (C.52:38-1 et seq.), and shall be in  
31 a manner that to the greatest extent possible enhances employment  
32 opportunities for individuals residing in the county of the project's  
33 location.

34 (3) The authority shall review all completed applications, and  
35 request additional information as is needed to make a complete  
36 assessment of the project. No project shall be undertaken until final  
37 approval has been granted by the authority; provided, however, that  
38 the authority shall retain the right to revoke approval if it  
39 determines that the project has deviated from the plan submitted  
40 pursuant to paragraph (2) of this subsection.

41 (4) The authority may promulgate any rules and regulations  
42 necessary to implement this subsection, including provisions for  
43 fees to cover administrative costs.

44 Where no public fund has been established for the financing of a  
45 public improvement, the chief financial officer of the public owner  
46 shall require the private entity for whom the public improvement is  
47 being made to post, or cause to be posted, a bond guaranteeing

1 prompt payment of moneys due to the contractor, his or her  
2 subcontractors and to all persons furnishing labor or materials to the  
3 contractor or his or her subcontractors in the prosecution of the  
4 work on the public improvement.

5 g. The provisions of P.L.2009, c.136 (C.52:18-42 et al.) shall  
6 not apply to any project carried out pursuant to this section.<sup>2</sup>  
7 (cf: P.L.2012, c.42, s.1)

8  
9 <sup>3</sup>[<sup>2</sup>29. (New section) Projects approved under P.L. \_\_\_\_\_,  
10 c. (C. \_\_\_\_\_) (pending before the Legislature as this bill) and  
11 projects approved under other legislatively established incentives  
12 programs managed by the authority now or in the past, shall  
13 specifically be exempted from Executive Order No. 215 signed on  
14 September 11, 1989.]<sup>2</sup><sup>3</sup>

15  
16 <sup>3</sup>[<sup>2</sup>30.]<sup>4</sup>[<sup>2</sup>29.]<sup>3</sup> 27.<sup>4</sup> (New section) The provisions of this act  
17 shall be severable, and if any of its provisions shall be held to be  
18 unconstitutional, the decision of the court shall not affect the  
19 validity of the remaining provisions of P.L. \_\_\_\_\_, c. (C. \_\_\_\_\_)  
20 (pending before the Legislature as this bill).<sup>2</sup>

21  
22 <sup>1</sup>[21.] <sup>2</sup>[22.]<sup>1</sup> <sup>3</sup>[31.]<sup>2</sup> <sup>4</sup>[30.]<sup>3</sup> 28.<sup>4</sup> This act shall take effect  
23 immediately.

24  
25  
26  
27 "New Jersey Economic Opportunity Act of 2013."

# ASSEMBLY, No. 3680

## STATE OF NEW JERSEY 215th LEGISLATURE

INTRODUCED JANUARY 14, 2013

**Sponsored by:**

**Assemblyman ALBERT COUTINHO**

**District 29 (Essex)**

**Assemblyman TROY SINGLETON**

**District 7 (Burlington)**

**Assemblywoman BONNIE WATSON COLEMAN**

**District 15 (Hunterdon and Mercer)**

**Assemblyman RUBEN J. RAMOS, JR.**

**District 33 (Hudson)**

**Assemblyman JERRY GREEN**

**District 22 (Middlesex, Somerset and Union)**

**Assemblyman JON M. BRAMNICK**

**District 21 (Morris, Somerset and Union)**

**Assemblyman ANTHONY M. BUCCO**

**District 25 (Morris and Somerset)**

**Co-Sponsored by:**

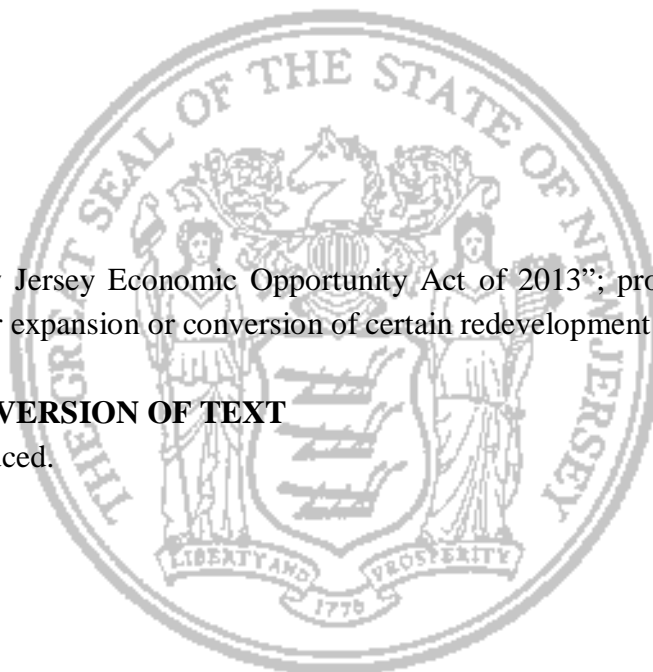
**Assemblymen Burzichelli, Coughlin, Assemblywoman Stender,  
Assemblyman Fuentes, Assemblywomen Mosquera, Riley, Lampitt and  
N.Munoz**

**SYNOPSIS**

“The New Jersey Economic Opportunity Act of 2013”; provides financial incentives for expansion or conversion of certain redevelopment projects.

**CURRENT VERSION OF TEXT**

As introduced.



(Sponsorship Updated As Of: 3/15/2013)

1 AN ACT concerning financial incentives for the expansion or  
2 conversion of certain redevelopment projects and amending  
3 various parts of the statutory law.

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

7  
8 1. (New section) This act shall be known and may be cited as  
9 the “New Jersey Economic Opportunity Act of 2013.”

10  
11 2. Section 3 of P.L.1996, c.25 (C.34:1B-114) is amended to  
12 read as follows:

13 3. a. The Business Retention and Relocation Assistance Grant  
14 Program is hereby established as a program under the jurisdiction of  
15 the New Jersey Economic Development Authority and shall be  
16 administered by the authority. The purpose of the program is to  
17 encourage economic development and job creation and to preserve  
18 jobs that currently exist in New Jersey but which are in danger of  
19 being relocated to premises outside of the State. To implement that  
20 purpose, and to the extent that funding for the program is available,  
21 the program may provide grants of tax credits. To be eligible for  
22 any grant of tax credits pursuant to P.L.1996, c.25 (C.34:1B-112 et  
23 seq.), a business shall demonstrate to the authority, at the time of  
24 application, that the grant of tax credits and resultant retention of  
25 full-time jobs and any capital investment will yield a net positive  
26 benefit to the State. The net benefit resulting from the retention of  
27 full-time jobs and any capital investment by a business that has had  
28 grant pre-application meetings with the authority and has executed  
29 contracts relating to the new business location during the period  
30 commencing May 1, 2010 until the enactment of P.L.2010, c.123,  
31 shall be calculated from the date of the initial grant pre-application  
32 meeting.

33 b. (1) To the extent that an application under P.L.1996, c.25  
34 (C.34:1B-112 et seq.) has been received by the authority prior to the  
35 effective date of the “New Jersey Economic Opportunity Act of  
36 2013,” P.L. , c. (C. ) (pending before the Legislature as this  
37 bill), and, to the extent that there remains sufficient financial  
38 authorization for the grant of tax credits, the authority is authorized  
39 to consider such application in the same manner as had previously  
40 been provided and to make a grant of tax credits to eligible  
41 applicants, provided that the authority shall take final action on  
42 such grant of tax credits no later than 180 calendar days after the  
43 effective date of the “New Jersey Economic Opportunity Act of  
44 2013,” P.L. , c. (C. ) (pending before the Legislature as this  
45 bill).

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

**Matter underlined thus is new matter.**

1       (2) A business shall apply for a grant of tax credits under the  
2 Business Retention and Relocation Assistance Grant Program prior  
3 to the effective date of the “New Jersey Economic Opportunity Act  
4 of 2013,” P.L. , c. (C. ) (pending before the Legislature as  
5 this bill), and shall submit its documentation for approval of a grant  
6 of tax credits no later than July 1, 2013.

7       (3) If any business has submitted an application under P.L.1996,  
8 c.25 (C.34:1B-112 et seq.) and such application has not been  
9 approved for any reason, such lack of approval shall not serve to  
10 prejudice in any way the consideration of any new application as  
11 may be submitted by a business for the provision of incentives  
12 offered pursuant to the “New Jersey Economic Opportunity Act of  
13 2013,” P.L. , c. (C. ) (pending before the Legislature as this  
14 bill).

15 (cf: P.L.2010, c.123, s.2)

16  
17       3. Section 4 of P.L.1996, c.26 (C.34:1B-127) is amended to  
18 read as follows:

19       4. a. A business may apply to the authority for a grant for any  
20 project which:

21       (1) Will create at least 25 eligible positions in the base years; or

22       (2) Will create at least 10 eligible positions in the base years if  
23 the business is an advanced computing company, an advanced  
24 materials company, a biotechnology company, an electronic device  
25 technology company, an environmental technology company, or a  
26 medical device technology company.

27       b. In the case of a business which is a landlord, the business  
28 may apply to the authority for a grant for any project in which at  
29 least 25 eligible positions are created in the base years.

30       c. A project which consists solely of point-of-final-purchase  
31 retail facilities shall not be eligible for a grant under **[this act]**  
32 P.L.1996, c.26 (C.34:1B-124 et seq.). If a project consists of both  
33 point-of-final-purchase retail facilities and non-retail facilities, only  
34 the portion of the project consisting of non-retail facilities shall be  
35 eligible for a grant, and only the withholdings from new employees  
36 which are employed in the portion of the project which represents  
37 non-retail facilities shall be used to determine the amount of the  
38 grant. If a warehouse facility is part of a point-of-final-purchase  
39 retail facility and supplies only that facility, the warehouse facility  
40 shall not be eligible for a grant. For the purposes of **[this act]**  
41 P.L.1996, c.26 (C.34:1B-124 et seq.), catalog distribution centers  
42 shall not be considered point-of-final-purchase retail facilities.

43       d. (1) To the extent that an application under P.L.1996, c.26  
44 (C.34:1B-124 et seq.) has been received by the authority prior to the  
45 effective date of the “New Jersey Economic Opportunity Act of  
46 2013,” P.L. , c. (C. ) (pending before the Legislature as this  
47 bill), and, to the extent that there remains sufficient financial  
48 authorization for the grant, the authority is authorized to consider

1 such application in the same manner as had previously been  
2 provided and to make a grant to eligible applicants, provided that  
3 the authority shall take final action on such grant no later than 180  
4 calendar days after the effective date of the “New Jersey Economic  
5 Opportunity Act of 2013,” P.L. , c. (C. ) (pending before the  
6 Legislature as this bill).

7 (2) A business shall apply for a grant under the Business  
8 Employment Incentive Program prior to the effective date of the  
9 “New Jersey Economic Opportunity Act of 2013,”  
10 P.L. , c. (C. ) (pending before the Legislature as this bill), and  
11 shall submit its documentation for approval of a grant no later than  
12 July 1, 2013.

13 (3) If any business has submitted an application under P.L.1996,  
14 c.26 (C.34:1B-124 et seq.) and such application has not been  
15 approved for any reason, such lack of approval shall not serve to  
16 prejudice in any way the consideration of any new application as  
17 may be submitted by a business for the provision of incentives  
18 offered pursuant to the “New Jersey Economic Opportunity Act of  
19 2013,” P.L. , c. (C. ) (pending before the Legislature as this  
20 bill).

21 (cf: P.L.2003, c.166, s.2)

22

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

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

39 (2) A business, other than a tenant eligible pursuant to  
40 paragraph (3) of this subsection, shall make or acquire capital  
41 investments totaling not less than \$50,000,000 in a qualified  
42 business facility, at which the business shall employ not fewer than  
43 250 full-time employees to be eligible for a credit under this  
44 section. A business that acquires a qualified business facility shall  
45 also be deemed to have acquired the capital investment made or  
46 acquired by the seller.

47 (3) A business that is a tenant in a qualified business facility, the  
48 owner of which has made or acquired capital investments in the



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

19 (4) A business shall not be allowed tax credits under this section  
20 if the business participates in a business employment incentive  
21 grant relating to the same capital and employees that qualify the  
22 business for this credit, or if the business receives assistance  
23 pursuant to P.L.1996, c.25 (C.34:1B-112 et seq.). A business that is  
24 allowed a tax credit under this section shall not be eligible for  
25 incentives authorized pursuant to P.L.2002, c.43 (C.52:27BBB-1 et  
26 al.). A business shall not qualify for a tax credit under this section,  
27 based upon capital investment and employment of full-time  
28 employees, if that capital investment or employment was the basis  
29 for which a grant was provided to the business pursuant to the  
30 "InvestNJ Business Grant Program Act," P.L.2008, c.112 (C.34:1B-  
31 237 et seq.).

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

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

40 (7) A business shall be allowed a tax credit of 100 percent of its  
41 capital investment, made after the effective date of P.L.2011, c.89  
42 but prior to its submission of documentation pursuant to subsection  
43 c. of this section, in a qualified business facility that is part of a  
44 mixed use project, provided that (a) the qualified business facility  
45 represents at least \$17,500,000 of the total capital investment in the  
46 mixed use project, (b) the business employs not fewer than 250 full-  
47 time employees in the qualified business facility, and (c) the total  
48 capital investment in the mixed use project of which the qualified

1 business facility is a part is not less than \$50,000,000. The  
2 allowance of credits under this paragraph shall be subject to the  
3 restrictions and requirements, to the extent that those are not  
4 inconsistent with the provisions of this paragraph, set forth in  
5 paragraphs (1) through (6) of this subsection, including but not  
6 limited to the requirement that the business shall demonstrate to the  
7 authority, at the time of application, that the State's financial  
8 support of the proposed capital investment in a qualified business  
9 facility will yield a net positive benefit to both the State and the  
10 eligible municipality.

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

44 b. (1) To the extent that applications under P.L.2007, c.346  
45 (C.34:1B-207 et seq.) have been received by the authority prior to  
46 the effective date of the "New Jersey Economic Opportunity Act of  
47 2013," P.L. , c. (C. ) (pending before the Legislature as this  
48 bill), and, to the extent that there remains sufficient financial

1 authorization for the award of a tax credit, the authority is  
2 authorized to consider such applications in the same manner as had  
3 previously been provided and to make awards of tax credits to  
4 eligible applicants, provided that the authority must take final  
5 action on such awards not later than 180 calendar days after the  
6 effective date of the “New Jersey Economic Opportunity Act of  
7 2013,” P.L. , c. (C. ) (pending before the Legislature as this  
8 bill).

9 (2) A business shall apply for the credit under the “Urban  
10 Transit Hub Tax Credit Act,” P.L.2007, c.346 (C.34:1B-207 et seq.)  
11 prior to **[July 1, 2014]** the effective date of P.L. , c. (C. )  
12 (pending before the Legislature as this bill), and shall submit its  
13 documentation for approval of its credit amount no later than **[July**  
14 **28, 2017]** April 26, 2017.

15 (3) If any business has submitted an application under P.L.2007,  
16 c.346 (C.34:1B-207 et seq.) and such application has not been  
17 approved for any reason, such lack of approval shall not serve to  
18 prejudice in any way the consideration of any new application as  
19 may be submitted by such project for the provision of incentives  
20 offered pursuant to the “New Jersey Economic Opportunity Act of  
21 2013,” P.L. , c. (C. ) (pending before the Legislature as this  
22 bill).

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

37 The credit amount for any tax period ending after July 28, 2017  
38 during which the documentation of a business' credit amount  
39 remains uncertified shall be forfeited, although credit amounts for  
40 the remainder of the years of the 10-year credit period shall remain  
41 available to it.

42 The credit amount that may be taken for a tax period of the  
43 business that exceeds the final liabilities of the business for the tax  
44 period may be carried forward for use by the business in the next 20  
45 successive tax periods, and shall expire thereafter, provided that the  
46 value of all credits approved by the authority against tax liabilities  
47 pursuant to P.L.2007, c.346 (C.34:1B-207 et seq.) in any fiscal year  
48 shall not exceed \$150,000,000.

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' total lease payments for occupancy of the qualified  
4 business facility for the tax period.

5       (2) A business that is a partnership shall not be allowed a credit  
6 under this section directly, but the amount of credit of an owner of a  
7 business shall be determined by allocating to each owner of the  
8 partnership that proportion of the credit of the business that is equal  
9 to the owner of the partnership's share, whether or not distributed,  
10 of the total distributive income or gain of the partnership for its tax  
11 period ending within or with the owner's tax period, or that  
12 proportion that is allocated by an agreement, if any, among the  
13 owners of the partnership that has been provided to the Director of  
14 the Division of Taxation in the Department of the Treasury by such  
15 time and accompanied by such additional information as the  
16 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 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  
23 of the business at the qualified business facility are employed in  
24 new full-time positions, the amount of the credit otherwise  
25 determined pursuant to final calculation of the award of tax credits  
26 pursuant to subsection c. of this section shall be reduced by 20  
27 percent for that tax period and each subsequent tax period until the  
28 first period for which documentation demonstrating the restoration  
29 of the 200 full-time employees employed in new full-time positions  
30 at the qualified business facility 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; provided, however,  
33 that for businesses applying before January 1, 2010, there shall be  
34 no reduction if a business relocates to an urban transit hub from  
35 another location or other locations in the same municipality. For  
36 the purposes of this paragraph, a "new full-time position" means a  
37 position created by the business at the qualified business facility  
38 that did not previously exist in this State.

39       (2) If, in any tax period, the business reduces the total number  
40 of 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'  
47 Statewide workforce to the threshold levels required by this  
48 paragraph has been reviewed and approved by the authority, for

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

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

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

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

48 (2) Through regulation, the Economic Development Authority

1 shall establish standards based on the green building manual  
2 prepared by the Commissioner of Community Affairs pursuant to  
3 section 1 of P.L.2007, c.132 (C.52:27D-130.6), regarding the use of  
4 renewable energy, energy-efficient technology, and non-renewable  
5 resources in order to reduce environmental degradation and  
6 encourage long-term cost reduction.  
7 (cf: P.L.2012, c.35, s.1)

8  
9 5. Section 33 of P.L.2009, c.346 (C.34:1B-209.1) is amended  
10 to read as follows:

11 33. A business may apply to the Director of the Division of  
12 Taxation in the Department of the Treasury and the executive  
13 director of the authority for a tax credit transfer certificate, covering  
14 one or more years, in lieu of the business being allowed any amount  
15 of the credit against the tax liability of the business. The tax credit  
16 transfer certificate, upon receipt thereof by the business from the  
17 director and the executive director of the authority, may be sold or  
18 assigned, in full or in part, to any other person that may have a tax  
19 liability pursuant to section 5 of P.L.1945, c.162 (C.54:10A-5),  
20 pursuant to sections 2 and 3 of P.L.1945, c.132 (C.54:18A-2 and  
21 54:18A-3), pursuant to section 1 of P.L.1950, c.231 (C.17:32-15),  
22 or pursuant to N.J.S.17B:23-5. The certificate provided to the  
23 business shall include a statement waiving the business's right to  
24 claim that amount of the credit against the taxes that the business  
25 has elected to sell or assign. The sale or assignment of any amount  
26 of a tax credit transfer certificate allowed under this section shall  
27 not be exchanged for consideration received by the business of less  
28 than 75 percent of the transferred credit amount before considering  
29 any further discounting to present value which shall be permitted.  
30 Any amount of a tax credit transfer certificate used by a purchaser  
31 or assignee against a tax liability shall be subject to the same  
32 limitations and conditions that apply to the use of the credit by the  
33 business that originally applied for and was allowed the credit.  
34 (cf: P.L.2009, c.90, s.33)

35  
36 6. Section 2 of P.L.2011, c.149 (C.34:1B-243) is amended to  
37 read as follows:

38 2. As used in **[this act]** P.L.2011, c.149 (C.34:1B-242 et seq.):  
39 "Affiliate" means an entity that directly or indirectly controls, is  
40 under common control with, or is controlled by the business.  
41 Control exists in all cases in which the entity is a member of a  
42 controlled group of corporations as defined pursuant to section 1563  
43 of the Internal Revenue Code of 1986 (26 U.S.C.s.1563) or the  
44 entity is an organization in a group of organizations under common  
45 control as defined pursuant to subsection (b) or (c) of section 414 of  
46 the Internal Revenue Code of 1986 (26 U.S.C.s.414). A taxpayer  
47 may establish by clear and convincing evidence, as determined by  
48 the Director of the Division of Taxation in the Department of the

1 Treasury, that control exists in situations involving lesser  
2 percentages of ownership than required by those statutes. An  
3 affiliate of a business may contribute to meeting either the qualified  
4 investment or full-time employee requirements of a business that  
5 applies for a credit under section 3 of P.L.2007, c.346 (C.34:1B-  
6 209).

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

9 "Business" means an applicant proposing to own or lease  
10 premises in a qualified business facility that is a corporation that is  
11 subject to the tax imposed pursuant to section 5 of P.L.1945, c.162  
12 (C.54:10A-5), a corporation that is subject to the tax imposed  
13 pursuant to sections 2 and 3 of P.L.1945, c.132 (C.54:18A-2 and  
14 54:18A-3), section 1 of P.L.1950, c.231 (C.17:32-15) or  
15 N.J.S.17B:23-5, or is a partnership, an S corporation, **[or]** a limited  
16 liability corporation, or a non-profit corporation. A business shall  
17 include an affiliate of the business if that business applies for a  
18 credit based upon any capital investment made by or full-time  
19 employees of an affiliate.

20 "Capital investment" in a qualified business facility means  
21 expenses by a business or any affiliate of the business incurred after  
22 application **[, but before the end of the tenth year after, the effective**  
23 **date of P.L.2011, c.149 (C.34:1B-242 et al.)]** for: a. site preparation  
24 and construction, repair, renovation, improvement, equipping, or  
25 furnishing on real property or of a building, structure, facility, or  
26 improvement to real property; and b. obtaining and installing  
27 furnishings and machinery, apparatus, or equipment for the  
28 operation of a business on real property or in a building, structure,  
29 facility, or improvement to real property. In addition to the  
30 foregoing, if a business acquires or leases premises in a qualified  
31 business facility, the capital investment made or acquired by the  
32 seller or owner, as the case may be, if pertaining primarily to the  
33 premises, shall be considered a capital investment by the business  
34 and, if pertaining generally to the qualified business facility, shall  
35 be allocated to each premises in the qualified business facility on  
36 the basis of the gross leasable area of each premises in relation to  
37 the total gross leasable in the facility. The capital investment  
38 described herein may include any capital investment made or  
39 acquired prior to the date of application by the business so long as  
40 the amount of capital investment made or acquired by the business,  
41 any affiliate of the business, or any owner after the date of  
42 application equals at least 50 percent of the amount of capital  
43 investment made or acquired prior to the date of application.

44 "Deep poverty pocket" means any area comprised of three or  
45 more contiguous census tracts determined by the United States  
46 Census Bureau as having, at the time of an application for a project,  
47 an average federal poverty level of 20 percent or more.

1       “Disaster recovery project” means a redevelopment project  
2 located on property that has been damaged or destroyed as a result  
3 of a federally-declared disaster.

4       “Distressed municipality” means a municipality, other than a  
5 municipality qualifying under section 2 of P.L.2007, c.346  
6 (C.34:1B-208), a municipality qualified to receive assistance under  
7 P.L.1978, c.14 (C.52:27D-178 et seq.), a municipality under the  
8 supervision of the Local Finance Board pursuant to the provisions  
9 of the "Local Government Supervision Act (1947)," P.L.1947, c.151  
10 (C.52:27BB-1 et seq.), or a municipality identified by the Director  
11 of the Division of Local Government Services in the Department of  
12 Community Affairs to be facing serious fiscal distress.

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

21       "Eligible position" means a full-time **【employee】** position  
22 **【retained or created by】** in a business in this State **【for which a**  
23 **business provides employee health benefits under a group health**  
24 **plan as defined under section 14 of P.L.1997, c.146 (C.17B:27-54),**  
25 **a health benefits plan as defined under section 1 of P.L.1992, c.162**  
26 **(C.17B:27A-17), or a policy or contract of health insurance**  
27 **covering more than one person issued pursuant to Article 2 of**  
28 **chapter 27 of Title 17B of the New Jersey Statutes】** which the  
29 business either has filled with a new full-time employee or a  
30 retained full-time employee.

31       "Full-time employee" means a person employed by the business  
32 for consideration for at least 35 hours a week, or who renders any  
33 other standard of service generally accepted by custom or practice  
34 as full-time employment, or a person who is employed by a  
35 professional employer organization pursuant to an employee leasing  
36 agreement between the business and the professional employer  
37 organization, in accordance with P.L.2001, c.260 (C.34:8-67 et  
38 seq.) for at least 35 hours a week, or who renders any other standard  
39 of service generally accepted by custom or practice as full-time  
40 employment, and whose wages are subject to withholding as  
41 provided in the "New Jersey Gross Income Tax Act," N.J.S.54A:1-1  
42 et seq. or **【an employee】** a person who is a resident of another State  
43 but whose income is not subject to the "New Jersey Gross Income  
44 Tax Act," N.J.S.54A:1-1 et seq. or who is a partner of a business  
45 who works for the partnership for at least 35 hours a week, or who  
46 renders any other standard of service generally accepted by custom  
47 or practice as full-time employment, and whose distributive share of  
48 income, gain, loss, or deduction, or whose guaranteed payments, or



1 any combination thereof, is subject to the payment of estimated  
2 taxes, as provided in the "New Jersey Gross Income Tax Act,"  
3 N.J.S.54A:1-1 et seq., with a person to be provided, by the business,  
4 with employee health benefits under a group health plan as defined  
5 under section 14 of P.L.1997, c.146 (C.17B:27-54), a health  
6 benefits plan as defined under section 1 of P.L.1992, c.162  
7 (C.17B:27A-17), or a policy or contract of health insurance  
8 covering more than one person issued pursuant to Article 2 of  
9 chapter 27 of Title 17B of the New Jersey Statutes. With respect to  
10 the maritime industry, a standard of service generally accepted by  
11 custom or practice as full-time employment shall include, but not be  
12 limited to, employees that have been hired by way of a labor union  
13 hiring hall or its equivalent. For purposes of the foregoing  
14 sentence, 35 hours of employment per week at a qualified business  
15 facility shall constitute one "full-time employee," regardless of  
16 whether or not the hours of work were performed by one or more  
17 persons. Also in respect to the maritime industry, the requirement  
18 that employee health benefits are to be provided shall be deemed to  
19 be satisfied if such benefits are provided in accordance with  
20 industry practice by a third party obligated to provide such benefits  
21 pursuant to a collective bargaining agreement. "Full-time  
22 employee" shall not include any person who works as an  
23 independent contractor or on a consulting basis for the business.

24 "Full-time job" means an eligible position which exists within  
25 the business at the qualified business facility that is either a new  
26 full-time job or a retained full-time job.

27 "Incentive agreement" means the contract between the business  
28 and the authority, which sets forth the terms and conditions under  
29 which the business shall be eligible to receive the incentives  
30 authorized pursuant to the "New Jersey Economic Opportunity Act  
31 of 2013," P.L. , c. (C. ) (pending before the Legislature as  
32 this bill).

33 "Incentive effective date" means the date, after approval of an  
34 application for incentives from the Grow New Jersey Assistance  
35 Program by the authority, on which the business has completed all  
36 of the actions required in order to qualify for the commencement of  
37 its receipt of those incentives, with such completion evidenced by  
38 the issuance of a certification to that effect by the authority.

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

46 "New full-time employee" means a full-time employee who is  
47 employed by the business in an eligible position that did not exist

1 prior to the date on which the business submitted an application to  
2 the Grow New Jersey Assistance Program.

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

8 "Other eligible areas" means any qualified incentive area other  
9 than a site in an urban transit hub municipality, a site in a distressed  
10 municipality, or a site in other priority areas.

11 "Other priority areas" means any area, other than a site in an  
12 urban transit hub municipality or a site in a distressed municipality,  
13 designated pursuant to P.L.1985, c.398 (C.52:18A-196 et seq.) as  
14 Planning Area 1 (Metropolitan), Planning Area 2 (Suburban) as  
15 well as any location in the State that is a deep poverty pocket, a  
16 designated center or a designated growth center in an endorsed plan,  
17 the site of a proposed qualified incubator facility, transit oriented  
18 development, disaster recovery project, or tourism destination  
19 project, or any federally owned land approved for closure under a  
20 federal Base Realignment Closing Commission action, or any  
21 vacant commercial building having over 400,000 square feet of  
22 office, laboratory, or industrial space available for occupancy for a  
23 period of over one year or any site that has been negatively  
24 impacted by the approval of a "qualified business facility," as  
25 defined pursuant to section 2 of P.L.2007, c.346 (C.34:1B-208).

26 "Owner" means an entity that owns all or part of a qualified  
27 business facility in which a business proposes to lease or purchase  
28 premises, subject to the award of tax credits under the Grow New  
29 Jersey Assistance Program.

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

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

35 "Program" means the "Grow New Jersey Assistance Program"  
36 established pursuant to section 3 of P.L.2011, c.149 (C.34:1B-244),  
37 as amended by the "New Jersey Economic Opportunity Act of  
38 2013," P.L. , c. (C. ) (pending before the Legislature as this  
39 bill).

40 "Qualified business facility" means any building, complex of  
41 buildings or structural components of buildings, and all machinery  
42 and equipment located within a qualified incentive area, used in  
43 connection with the operation of a business.

44 "Qualified incentive area" means **[an]** any area designated  
45 pursuant to P.L.1985, c.398 (C.52:18A-196 et seq.) as Planning  
46 Area 1 (Metropolitan), Planning Area 2 (Suburban), **[or any urban,**  
47 regional, or town] Planning Area 3 (Fringe Planning Area), or  
48 Planning Area 4A (Rural Planning Area), a designated center under

1 the State Development and Redevelopment Plan [; an area zoned  
2 for development pursuant to] ; or a designated growth center in an  
3 endorsed plan until June 30, 2013, or until the State Planning  
4 Commission revises and readopts New Jersey's State Strategic Plan  
5 and adopts regulations to refine this definition as it pertains to  
6 Statewide planning areas, whichever is later; a smart growth area  
7 and planning area designated in a master plan adopted by the New  
8 Jersey Meadowlands Commission pursuant to subsection (i) of  
9 section 6 of P.L.1968, c.404 (C.13:17-6) [or subject to a  
10 redevelopment plan adopted by the New Jersey Meadowlands  
11 Commission pursuant to section 20 of P.L.1968, c.404 (C.13:17-  
12 21); any land owned by the New Jersey Sports and Exposition  
13 Authority, established pursuant to P.L.1971, c.137 (C.5:10-1 et  
14 seq.), within the boundaries of the Hackensack Meadowlands  
15 District as delineated in section 4 of P.L.1968, c.404 (C.13:17-4); a  
16 pinelands regional growth area, a pinelands town management area,  
17 a pinelands village, or a military and federal installation area  
18 established pursuant to the pinelands comprehensive management  
19 plan adopted pursuant to P.L.1979, c.111 (C.13:18A-1 et seq.); an  
20 area designated for development, redevelopment, or economic  
21 growth within the Highlands Region; federally owned land  
22 approved for closure under any federal Base Closure and  
23 Realignment Commission action]; a regional growth area, village,  
24 and town, designated in the comprehensive management plan  
25 prepared and adopted by the Pinelands Commission pursuant to  
26 section 7 of the "Pinelands Protection Act," P.L.1979, c.111  
27 (C.13:18A-8); the planning area of the Highlands Region as defined  
28 in section 3 of the "Highlands Water Protection and Planning Act,"  
29 P.L.2004, c.120 (C.13:20-3), and any Highlands center designated  
30 by the Highlands Water Protection and Planning Council,  
31 established pursuant to section 4 of P.L.2004, c.120 (C.13:20-4); an  
32 urban enterprise zone designated pursuant to P.L.1983, c.303  
33 (C.52:27H-60 et seq.) or P.L.2001, c.347 (C.52:27H-66.2 et al.); an  
34 area determined to be in need of redevelopment pursuant to sections  
35 5 and 6 of P.L.1992, c.79 (C.40A:12A-5 and C.40A:12A-6) and as  
36 approved by the Department of Community Affairs; or similar area  
37 designated by the Department of Environmental Protection.  
38 "Qualified incentive area" shall not include an area designated  
39 pursuant to the State Development and Redevelopment Plan  
40 adopted, as of the effective date of P.L.2008, c.78, pursuant to  
41 P.L.1985, c.398 (C.52:18A-196 et seq.) as Planning Area 4B  
42 (Rural/Environmentally Sensitive) or Planning Area 5  
43 (Environmentally Sensitive), except for any area within Planning  
44 Area 4B or Planning Area 5 that is a deep poverty pocket, a  
45 designated center or a designated growth center in an endorsed plan,  
46 the site of a qualified incubator facility, transit oriented  
47 development, disaster recovery project, tourism destination project,  
48 or any federally owned land approved for closure under a federal

1 Base Realignment Closing Commission action, or any [property  
2 consisting of a] vacant commercial building having over 400,000  
3 square feet of office, laboratory, or industrial space available for  
4 occupancy for a period of over one year or [is] any site that has  
5 been negatively impacted by the approval of a "qualified business  
6 facility," as defined pursuant to section 2 of P.L.2007, c.346  
7 (C.34:1B-208).

8 "Qualified incubator facility" means a commercial building  
9 having over 100,000 square feet of office, laboratory, or industrial  
10 space with at least 75 percent of its gross leasable area restricted to  
11 use by technology startup companies during the period established  
12 pursuant to section 4 of P.L.2011, c.149 (C.34:1B-245).

13 "Retained full-time employee" means a full-time employee who,  
14 prior to the submission of an application to the Grow New Jersey  
15 Assistance Program, was working in New Jersey but which, because  
16 of a potential relocation by the business, is at risk of being lost to  
17 another state or country.

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

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

30 "Tourism destination project" means a redevelopment project  
31 that will be among the most visited privately owned or operated  
32 tourism or recreation sites in the State as determined at the  
33 discretion of the authority.

34 "Transit oriented development" means a project located within a  
35 1/2-mile radius surrounding the mid-point of a New Jersey Transit  
36 Corporation, Port Authority Transit Corporation, or Port Authority  
37 Trans-Hudson Corporation rail, bus, or ferry station platform area,  
38 including all light rail stations.

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

48 (cf: PL.2011, c.149, s.2)

1       7. Section 3 of P.L.2011, c.149 (C.34:1B-244) is amended to  
2 read as follows:

3       3. a. The Grow New Jersey Assistance Program is hereby  
4 established as a program under the jurisdiction of the New Jersey  
5 Economic Development Authority and shall be administered by the  
6 authority. The purpose of the program is to encourage economic  
7 development and job creation and to preserve jobs that currently  
8 exist in New Jersey but which are in danger of being relocated  
9 outside of the State. To implement this purpose, [and to the extent  
10 that funding for the program is available,] the program may provide  
11 tax credits to eligible businesses for a term not to exceed 10 years.  
12 To be eligible for any tax credits pursuant to P.L.2011, c.149  
13 (C.34:1B-242 et al.), as amended by the “New Jersey Economic  
14 Opportunity Act of 2013,” P.L. , c. (C. ) (pending before the  
15 Legislature as this bill), a business's chief executive officer or  
16 equivalent officer shall demonstrate to the authority, at the time of  
17 application, that: (1) the business , an affiliate, or its owner, will  
18 make, acquire, or lease a capital investment [of at least  
19 \$20,000,000] equal to, or greater than, the applicable amount set  
20 forth in subsection b. of this section at a qualified business facility  
21 at which it will: (a) employ [at least 100] full-time employees in  
22 retained full-time jobs in excess of the applicable number set forth  
23 in subsection c. of this section[, or] ; (b) create [at least 100] and  
24 employ new full-time jobs [in an industry identified by the  
25 authority as desirable for the State to maintain or attract; (2)] in an  
26 amount equal to or greater than the applicable number set forth in  
27 subsection c. of this section; or (c) employ a combination of  
28 retained and new full-time jobs in an amount equal to or greater  
29 than the applicable number set forth in subsection c. of this section;  
30 (2) the qualified business facility shall be constructed in accordance  
31 with the minimum environmental and sustainability standards  
32 established pursuant to the “New Jersey Economic Opportunity Act  
33 of 2013,” P.L. , c. (C. ) (pending before the Legislature as  
34 this bill); (3) the capital investment resultant from the award of tax  
35 credits and the resultant retention and creation of eligible positions  
36 will yield a net positive benefit to the State; and, except as provided  
37 in subsection [d.] f. of this section, [(3)] (4) the award of tax  
38 credits will be a material factor in the business's decision to create  
39 or retain the minimum number of full-time jobs for eligibility under  
40 the program.

41       b. The minimum capital investment required to be eligible  
42 under this program shall be as follows: (1) for the rehabilitation of  
43 an existing industrial premises for continued industrial use by the  
44 business, a minimum investment of \$40 per square foot of gross  
45 leasable area; (2) for the new construction of an industrial premises  
46 for industrial use by the business, a minimum investment of \$80 per  
47 square foot of gross leasable area; (3) for the rehabilitation of an

1 existing non-industrial premises for continued non-industrial use by  
2 the business, a minimum investment of \$80 per square foot of gross  
3 leasable area; and (4) for the new construction of a non-industrial  
4 premises for non-industrial use by the business, a minimum  
5 investment of \$160 per square foot of gross leasable area.

6 c. The minimum number of full-time employees required to be  
7 eligible under this program shall be as follows: (1) for a business  
8 that is a technology startup company, a minimum of ten (10) full-  
9 time employees; (2) for a business engaged primarily in  
10 manufacturing, a minimum of 25 full-time employees; (3) for a  
11 business engaged primarily in a targeted industry other than any  
12 industry included in paragraphs (1) or (2) of this subsection, a  
13 minimum of 35 full-time employees; and (4) for any other business,  
14 a minimum of 50 full-time employees.

15 d. To assist the authority in determining whether a proposed  
16 capital investment will yield a net positive benefit, the business's  
17 chief executive officer, or equivalent officer, shall submit a  
18 certification to the authority indicating that any [existing] retained  
19 full-time jobs are at risk of leaving the State and the date or dates at  
20 which it is expected that such retained full-time jobs would leave  
21 the State, that any projected creation of new full-time jobs would  
22 not occur but for the provision of tax credits under the program, and  
23 that the business's chief executive officer, or equivalent officer, has  
24 reviewed the information submitted to the authority and that the  
25 representations contained therein are accurate. In the event that this  
26 certification by the business's chief executive officer, or equivalent  
27 officer, is found to be willfully false, the authority may revoke any  
28 award of tax credits in their entirety, which revocation shall be in  
29 addition to any other criminal or civil penalties that the business  
30 and the officer may be subject to. When considering an application  
31 involving intra-State job transfers, the authority shall require the  
32 business to submit the following information as part of its  
33 application: a full economic analysis of all locations under  
34 consideration by the business; all lease agreements, ownership  
35 documents, or substantially similar documentation for the business's  
36 current in-State locations; and all lease agreements, ownership  
37 documents, or substantially similar documentation for the potential  
38 out-of-State location alternatives, to the extent they exist. Based on  
39 this information, and any other information deemed relevant by the  
40 authority, the authority shall independently verify and confirm, by  
41 way of making a factual finding by separate vote of the authority's  
42 board, the business's assertion that the jobs are actually at risk of  
43 leaving the State and as to the date or dates at which the authority  
44 expects that such jobs would actually leave the State, before a  
45 business may be awarded any tax credits under this section.

46 [c.] e. A project that consists solely of point-of-final-purchase  
47 retail facilities shall not be eligible for a grant of tax credits. If a  
48 project consists of both point-of-final-purchase retail facilities and

1 non-retail facilities, only the portion of the project consisting of  
2 non-retail facilities shall be eligible for a grant of tax credits. If a  
3 warehouse facility is part of a point-of-final-purchase retail facility  
4 and supplies only that facility, the warehouse facility shall not be  
5 eligible for a grant of tax credits. For the purposes of this section,  
6 catalog distribution centers shall not be considered point-of-final-  
7 purchase retail facilities.

8 **[d.] f.** The authority may determine as eligible for tax credits  
9 under the program any business that is required to respond to a  
10 request for proposals and to fulfill a contract with the federal  
11 government although the business's chief executive officer or  
12 equivalent officer has not demonstrated to the authority that the  
13 award of tax credits will be a material factor in the business's  
14 decision to retain **[at least 100]** the minimum number of full-time  
15 jobs, as otherwise required by **[paragraph (3) of subsection a. of]**  
16 this section. The authority may, in its discretion, consider the  
17 economic benefit of the retained jobs servicing the contract in  
18 conducting a net benefit analysis required by paragraph **[(2)] 3** of  
19 subsection a. of this section. For the purposes of this subsection,  
20 "retained jobs" includes jobs that are at risk of being eliminated.  
21 Applications to the authority for eligibility under the program  
22 pursuant to the criteria set forth in this subsection shall be  
23 completed by **[March]** July 31, [2012] 2013. Submission of a  
24 proposal to the federal government prior to authority approval shall  
25 not disqualify a business from the program.  
26 (cf: PL.2011, c.149, s.3)

27  
28 8. Section 4 of P.L.2011, c.149 (C.34:1B-245) is amended to  
29 read as follows:

30 4. The authority shall require an eligible business to enter into  
31 an incentive agreement prior to the issuance of tax credits. The  
32 incentive agreement shall include, but shall not be limited to, the  
33 following:

34 a. A detailed description of the proposed project which will  
35 result in job creation or retention, and the number of full-time  
36 **[employees]** jobs that will be provided.

37 b. The term of the tax credits, and the first year for which the  
38 tax credits may be claimed.

39 c. Personnel information that will enable the authority to  
40 administer the program.

41 d. A requirement that the applicant maintain the project at a  
42 location in New Jersey for a period of at least 1.5 times the  
43 **[number of years]** duration of the **[term of the tax credits]**  
44 eligibility period, with at least the minimum number of full-time  
45 employees as required by **[section 6 of P.L.2011, c.149 (C.34:1B-**  
46 **247)]** this program and a provision to permit the authority to  
47 recapture all or part of any tax **[credit]** credits awarded, at its

1 discretion, if the business does not remain **[at the site]** in  
2 compliance with this provision for the required term, with such  
3 permitted recapture not to exceed the portion of the tax credits as  
4 were awarded for periods when the business was not in compliance  
5 with this provision.

6 e. A method for the business to report annually to the authority  
7 the number of full-time employees for which the tax credits are to  
8 be made.

9 f. A provision permitting an audit of the payroll records of the  
10 business from time to time, as the authority deems necessary.

11 g. A provision which permits the authority to amend the  
12 agreement.

13 h. A provision establishing the conditions under which the  
14 agreement may be terminated **[and awarded tax credits are**  
15 **recaptured, in whole or in part, by the authority at its discretion]** .

16 (cf: P.L.2011, c.149, s.4)

17

18 9. Section 5 of P.L.2011, c.149 (C.34:1B-246) is amended to  
19 read as follows:

20 5. a. The **[value]** initial amount of **[each]** tax credit for an  
21 eligible business **[shall be equal to \$5,000 per year for a period of**  
22 **ten years]** for each **[new or retained]** full-time **[job]** employee  
23 determined by the authority pursuant to **[section 3 of P.L.2011,**  
24 **c.149 (C.34:1B-244) to be located at the qualified business facility,**  
25 **subject to the provisions of this section]** the “New Jersey Economic  
26 Opportunity Act of 2013,” P.L. , c. (C. ) (pending before the  
27 Legislature as this bill) shall be as set forth in subsection b. of this  
28 section. The initial amount shall be credited to the applicant  
29 annually for each year of the eligibility period.

30 b. **[In addition to any grant of tax credits determined pursuant**  
31 **to subsection a. of this section, a bonus award of up to an additional**  
32 **\$3,000 per job of the amount of the original tax credits may be**  
33 **made to any eligible business as determined by the authority. In**  
34 **making a bonus award to an eligible business, the authority shall**  
35 **consider the following factors, such that whether the business: (1) is**  
36 **an industry identified by the authority as desirable for the State to**  
37 **maintain or attract; (2) locates or relocates to a location within a**  
38 **qualified incentive area adjacent to, or within walking distance or**  
39 **short-distance-shuttle service of, a public transit facility, as**  
40 **determined by the authority, by regulation; (3) creates jobs using**  
41 **full-time employees in eligible positions whose annual salaries,**  
42 **according to the Department of Labor and Workforce Development,**  
43 **are greater than the average full-time salary in this State; or (4) is**  
44 **locating to a project site that is or has been negatively impacted by**  
45 **the approval of a "qualified business facility," as defined pursuant**  
46 **to section 2 of P.L.2007, c.346 (C.34:1B-208).]** The initial amount  
47 of the tax credit each full-time employee for projects in each class



1 of qualified incentive area shall be as follows: (1) for a project  
2 located within an urban transit hub municipality, \$5,000 per year;  
3 (2) for a project in a distressed municipality, \$4,000 per year; (3)  
4 for a project in other priority areas, \$3,000 per year; and (4) for a  
5 project in other eligible areas, \$2,000 per year.

6 c. **【Notwithstanding the provisions of subsections a. and b. of**  
7 **this section, (1) the amount of tax credits available to be applied by**  
8 **the business annually shall not exceed the lesser of one tenth of the**  
9 **capital investment certified by the authority pursuant to section 6 of**  
10 **P.L.2011, c.149 (C.34:1B-247) or \$4,000,000, and (2) the number**  
11 **of new full-time jobs for which a business receives a tax credit shall**  
12 **not exceed the number of retained full-time jobs for which a**  
13 **business receives a tax credit, unless the business qualifies by**  
14 **creating at least 100 new full-time jobs in an industry identified by**  
15 **the authority as desirable for the State to maintain or attract.】 In**  
16 **addition to the initial amount of the tax credit, the amount of the tax**  
17 **credit to be awarded for each full-time employee shall be increased**  
18 **by the amounts indicated if the project meets any of the following**  
19 **priority criteria: (1) for projects located in a deep poverty pocket or**  
20 **in an area that is the subject of a Choice Neighborhoods**  
21 **Transformation Plan funded by the federal Department of Housing**  
22 **and Urban Development, an increase of \$1,500 per year; (2) for a**  
23 **project located in a qualified incubator facility, an increase of \$500**  
24 **per year; (3) for a project located in a mixed-use development that**  
25 **incorporates sufficient workforce housing on site to accommodate a**  
26 **minimum of 20 percent of the full-time employees of the business,**  
27 **an increase of \$500 per year; (4) for a project located within a 1/2-**  
28 **mile radius surrounding the mid-point of a New Jersey Transit**  
29 **Corporation, Port Authority Transit Corporation, or Port Authority**  
30 **Trans-Hudson Corporation rail, bus, or ferry station platform area,**  
31 **including all light rail stations and property located within a one-**  
32 **mile radius of the mid-point of the platform area of such a rail, bus,**  
33 **or ferry station if the property is in a qualified municipality under**  
34 **the "Municipal Rehabilitation and Economic Recovery Act,"**  
35 **P.L.2002, c.43 (C.52:27BBB-1 et seq.), or within a transit oriented**  
36 **development, an increase of \$1,500 per year; (5) for a project not**  
37 **eligible for the increase set forth in paragraph (4) of this subsection**  
38 **and at which a shuttle service is available to a commuter rail, bus,**  
39 **or ferry station during rush hour periods on all business days during**  
40 **the commitment period, an increase of \$500 per year, (6) for a**  
41 **project whose location includes or is directly connected by rail spur**  
42 **to a freight rail line if the applicant utilizes that freight line as a**  
43 **regular part of the operation of its business during the commitment**  
44 **period, an increase of \$1,500 per year; (7) for a project not eligible**  
45 **for the increase set forth in paragraph (6) of this subsection and**  
46 **whose location is within one mile of a freight rail line spur if the**  
47 **applicant utilizes that freight line as a regular part of the operation**  
48 **of its business during the commitment period, an increase of \$500**

1 per year; (8) for a project at which the capital investment is in  
2 excess of the minimum amount required for eligibility pursuant to  
3 this act, an increase \$500 per year for each additional amount of  
4 investment that exceeds the minimum amount by 20 percent, with a  
5 maximum increase of \$1,500 per year; (9) for a business that  
6 employs full-time positions at the project with an average salary in  
7 excess of the existing average salary for the county in which the  
8 project is located, an increase of \$250 per year during the  
9 commitment period for each 35 percent by which the project's  
10 average salary levels exceeds the county average salary, with a  
11 maximum increase of \$1,500 per year; (10) for a business that  
12 employs or retains large numbers of new or existing full-time  
13 employees during the commitment period, the increases shall be in  
14 accordance with the following schedule: (a) if the number of  
15 qualified full-time employees is between 251 and 400, \$500 per  
16 year; (b) if the number of qualified full-time employees is between  
17 401 and 600, \$750 per year; (c) if the number of qualified full-time  
18 employees is between 601 and 800, \$1000 per year; (d) if the  
19 number of qualified full-time employees is between 801 and 1,000,  
20 \$1,250 per year; (e) if the number of qualified full-time employees  
21 is in excess of 1,001, \$1,500 per year; (11) for a business in a  
22 targeted industry, an increase of \$500 per year; (12) for a business  
23 that employ a significant number of chronically unemployed or  
24 military veterans during the commitment period, an increase of  
25 \$100 per year for each ten percent of the new full-time employees  
26 that are either chronically unemployed or military veterans, with a  
27 maximum increase of \$500 per year; and (13) for a project  
28 materially exceeding the minimum environmental and sustainability  
29 standards by way of energy efficiency or renewable energy features,  
30 measures, or upgrades, an increase of \$250 per year; and (14) for a  
31 project exceeding the Leadership in Energy and Environmental  
32 Design's "Silver" rating standards, an additional increase of \$250  
33 per year, with a total increase of \$500 per year.

34 d. The total amount of the base tax credit for an eligible  
35 business for each new or retained full-time employee determined by  
36 the authority pursuant to the "New Jersey Economic Opportunity  
37 Act of 2013," P.L. , c. (C. ) (pending before the Legislature  
38 as this bill) shall be the sum of the initial amount as pursuant to  
39 subsection b. of this section and the various additional amounts for  
40 which the project is eligible pursuant to subsection c. of this  
41 section, subject to the following limitations: (1) for a project located  
42 within in an urban transit hub municipality, the base amount per  
43 full-time employee shall not exceed \$10,000 per year; (2) for a  
44 project in a distressed municipality, other than located within an  
45 urban transit hub, the base amount per full-time employee shall not  
46 exceed \$8,000 per year; (3) for a project in other priority areas, the  
47 base amount per full-time employee shall not exceed \$6,000 per

1 year; and (4) for a project in other eligible areas, the base amount  
2 per full-time employee shall not exceed \$4,000 per year.

3 e. After the determination by the authority of the base amount  
4 of tax credits for which a business is eligible for each full-time  
5 employee, the final amount of tax credits to be awarded shall be  
6 calculated as follows: (1) for each new full-time employee  
7 employed by the business or an affiliate at the qualified business  
8 facility, the business shall be entitled to tax credits equaling 100%  
9 of the base amount of tax credits per full-time employee; and (2) for  
10 each retained full-time employee employed by the business or an  
11 affiliate at the qualified business facility, the business shall be  
12 entitled to tax credits equaling 80 percent of the base amount of tax  
13 credits per full-time employee.

14 (cf: P.L.2011, c.149, s.5)

15

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

18 6. a. **[(1) The value of all credits approved by the authority**  
19 **pursuant to P.L.2011, c.149 (C.34:1B-242 et al.) shall not exceed**  
20 **\$200,000,000, except that the value of all credits approved by the**  
21 **authority pursuant to this section may exceed \$200,000,000 if the**  
22 **board of the authority determines the credits to be reasonable,**  
23 **justifiable, and appropriate; provided, however, the combined value**  
24 **of all credits approved by the authority pursuant to P.L.2007, c.346**  
25 **(C.34:1B-207 et seq.) and P.L.2011, c.149 (C.34:1B-242 et al.)**  
26 **shall not exceed \$1,750,000,000.] (Deleted by amendment, P.L. ,**  
27 **c. ) (pending before the Legislature as this bill)**

28 **[(2)A business, including any affiliate of the business or any**  
29 **business that is a tenant within any qualified business facility, shall**  
30 **make or acquire capital investments totaling not less than**  
31 **\$20,000,000 in a qualified business facility, at which the business**  
32 **shall employ not fewer than 100 full-time employees to be eligible**  
33 **for a credit pursuant to P.L.2011, c.149. A business that acquires or**  
34 **leases a qualified business facility shall also be deemed to have**  
35 **acquired the capital investment made or acquired by the seller or**  
36 **landlord, as the case may be.] (Deleted by amendment,**  
37 **P.L. , c. ) (pending before the Legislature as this bill)**

38 **[(3) A business shall not be allowed tax credits pursuant to**  
39 **P.L.1996, c.25 (C.34:1B-112 et seq.) or P.L.1996, c.26 (C.34:1B-**  
40 **124 et seq.) relating to the same capital and employees that qualify**  
41 **the business for tax credits pursuant to P.L.2011, c.149. A business**  
42 **that is allowed a tax credit under this section shall not be eligible**  
43 **for incentives authorized pursuant to P.L.2002, c.43 (C.52:27BBB-1**  
44 **et al.). A business shall not qualify for a tax credit under this**  
45 **section, based upon capital investment and employment of full-time**  
46 **employees, if that capital investment or employment was the basis**  
47 **for which a grant was provided to the business pursuant to the**

1 "Urban Transit Hub Tax Credit Act," P.L.2007, c.346 (C.34:1B-207  
2 et seq.).] (Deleted by amendment, P.L. , c. ) (pending before  
3 the Legislature as this bill)

4 [(4) Full-time employment for an accounting or privilege period  
5 shall be determined as the average of the monthly full-time  
6 employment for the period.] (Deleted by amendment, P.L. , c. )  
7 (pending before the Legislature as this bill)

8 [(5) The capital investment of the owner of a qualified business  
9 facility is that percentage of the capital investment made or  
10 acquired by the owner of the building that the percentage of net  
11 leasable area of the qualified business facility not leased to tenants  
12 is of the total net leasable area of the qualified business facility. For  
13 a business that is a tenant, the amount of capital investment in a  
14 facility that a leased area represents shall be equal to that  
15 percentage of the owner's total capital investment in the facility that  
16 the percentage of net leasable area leased by the tenant is of the  
17 total net leasable area of the qualified business facility. Capital  
18 investments made by a tenant shall be deemed to be included in the  
19 calculation of the capital investment made or acquired by the  
20 owner, but only to the extent necessary to meet the owner's  
21 minimum capital investment of \$20,000,000. Capital investments  
22 made by a tenant and not allocated to meet the owner's minimum  
23 capital investment threshold of \$20,000,000 shall be added to the  
24 amount of capital investment represented by the tenant's leased area  
25 in the qualified business facility.] (Deleted by amendment, P.L. ,  
26 c. ) (pending before the Legislature as this bill)

27 b. [A business shall apply for the tax credit prior to July 1,  
28 2014, and shall submit its documentation indicating that it has met  
29 the capital investment and employment specified in the project  
30 agreement for certification of its credit amount no later than July  
31 28, 2017.] Full-time employment for an accounting or privilege  
32 period shall be determined as the average of the monthly full-time  
33 employment for the period.

34 c. (1) [The amount of credit allowed shall not exceed the  
35 capital investment made by the business or the capital investment  
36 represented by the business' leased area, as certified by the authority  
37 pursuant to subsection b. of this section, as having met the  
38 investment capital and employment qualifications, subject to any  
39 reduction or disqualification as provided by subsection d. of this  
40 section as determined by annual review by the authority.] In  
41 conducting its annual review, the authority may require a business  
42 to submit any information determined by the authority to be  
43 necessary and relevant to its review.

44 The credit amount for any tax period [ending after July 28, 2017,  
45 during] for which the documentation of a business' credit amount  
46 remains uncertified as of a date three years after the closing date of  
47 that period shall be forfeited, although credit amounts for the

1 remainder of the years of the **【10-year credit】** eligibility period  
2 shall remain available to it.

3 The credit amount that may be taken for a tax period of the  
4 business that exceeds the final liabilities of the business for the tax  
5 period may be carried forward for use by the business in the next 20  
6 successive tax periods, and shall expire thereafter **【**, provided that  
7 the value of all credits approved by the authority against tax  
8 liabilities pursuant to P.L.2011, c.149, in any fiscal year shall not  
9 exceed \$150,000,000 and the combined value of all credits  
10 approved by the authority pursuant to P.L.2007, c.346 (C.34:1B-  
11 207 et seq.) and P.L.2011, c.149 (C.34:1B-242 et al.) shall not  
12 exceed \$1,750,000,000**】**.

13 The amount of credit allowed for **【a tax】** the eligibility period to  
14 a business that is a tenant in a qualified business facility shall not  
15 exceed the business' total lease payments and other documented  
16 occupancy costs for use and occupancy of the qualified business  
17 facility for the **【tax】** eligibility period.

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

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

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

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 [100 or 80 percent  
4 of] the minimum number of [new and retained] full-time jobs  
5 [specified in the project agreement] required by this program, then  
6 the business shall forfeit its credit amount for that tax period and  
7 each subsequent tax period, until the first tax period for which  
8 documentation demonstrating the restoration of the number of full-  
9 time employees employed by the business at the qualified business  
10 facility to [100] the minimum number of full-time jobs required by  
11 this program.

12 (3) If, in any tax period, the number of full-time employees  
13 employed by the business at the qualified business facility located  
14 within a qualified incentive area drops below the level on which a  
15 bonus was calculated pursuant to paragraph (1) of subsection c. of  
16 section 5 of P.L.2011, c.149 (C.34:1B-246), then the business shall  
17 forfeit the amount of its tax credits attributable to such bonus for  
18 that tax period and each subsequent tax period, until the first tax  
19 period for which documentation demonstrating the restoration of the  
20 number of full-time employees employed by the business at the  
21 qualified business facility to the amount required by P.L.2011,  
22 c.149 (C.34:1B-242 et seq.) to qualify for such bonus is provided.

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

29 (b) If a [tenant] business leases or subleases its [tenancy]  
30 premises in the qualified business facility in whole or in part during  
31 the [10-year] eligibility period, the new tenant or subtenant shall  
32 not acquire the [credit] tax credits of the [sublessor] business, and  
33 the [sublessor tenant] business shall forfeit all credits for the tax  
34 period of its lease or sublease and all subsequent tax periods.  
35 Notwithstanding such forfeiture, a tenant that subleases less than all  
36 of its premises and does not thereby reduce its full-time employee  
37 count below the minimum number of new and retained full-time  
38 jobs required in section 3 of P.L.2011, c.149 (C.34:1B-244) shall  
39 not be affected by this paragraph.

40 e. If any business that applies to the program has previously  
41 received incentives authorized under the "Business Retention and  
42 Relocation Assistance Act," P.L.1996, c.25 (C.34:1B-112 et seq.) or  
43 the "Business Employment Incentive Program Act," P.L.1996, c.26  
44 (C.34:1B-124 et seq.), the business shall be required to make  
45 repayment to the State in accordance with the following: if the  
46 business enters into an incentive agreement pursuant to this  
47 program and, as of the occurrence of the incentive effective date,

1 the obligations of the business under the previously awarded  
2 incentive agreement have not ended, the authority shall be  
3 permitted to recapture a portion of the incentives previously  
4 awarded to the business, with such permitted recapture not to  
5 exceed a percentage of the total incentives as were previously  
6 awarded, with that percentage to be equal to the percentage that the  
7 amount of time remaining until the prior obligations would have  
8 been completed bears to the total duration of the prior obligations.

9 (cf: P.L.2012, c.35, s.4)

10

11 11. Section 8 of P.L.2011, c.149 (C.34:1B-249) is amended to  
12 read as follows:

13 8. a. The chief executive officer of the authority, in  
14 consultation with the Director of the Division of Taxation in the  
15 Department of the Treasury, shall adopt rules in accordance with  
16 the "Administrative Procedure Act," P.L.1968, c.410 (C.52:14B-1 et  
17 seq.) as are necessary to implement P.L.2011, c.149 (C.34:1B-242  
18 et al.), including but not limited to: examples of and the  
19 determination of capital investment; the enumeration of qualified  
20 incentive areas; the enumeration of specific targeted industries;  
21 specific delineation of **[these]** the incentive areas; the  
22 determination of the limits, if any, on the expense or type of  
23 furnishings that may constitute capital improvements; the  
24 promulgation of procedures and forms necessary to apply for a tax  
25 credit, including the enumeration of the certification procedures and  
26 allocation of tax credits for different phases of a qualified business  
27 facility; and provisions for tax credit applicants to be charged an  
28 initial application fee, and ongoing service fees, to cover the  
29 administrative costs related to the tax credit.

30 b. Through regulation, the authority shall establish standards  
31 by which qualified business facilities shall be constructed or  
32 renovated **[based on the green building manual prepared by the**  
33 **Commissioner of Community Affairs pursuant to section 1 of**  
34 **P.L.2007, c.132 (C.52:27D-130.6), regarding the use of renewable**  
35 **energy, energy-efficient technology, and non-renewable resources**  
36 **in order to reduce environmental degradation and encourage long-**  
37 **term cost reduction]** in compliance with the minimum  
38 environmental and sustainability standards.

39 (cf: P.L.2011, c.149, s.8)

40

41 12. Section 1 of P.L.2009, c.136 (C.52:18-42) is amended to  
42 read as follows:

43 1. As used in this act:

44 "Business" means a corporation; sole proprietorship; partnership;  
45 corporation that has made an election under Subchapter S of  
46 Chapter One of Subtitle A of the Internal Revenue Code of 1986, or  
47 any other business entity through which income flows as a  
48 distributive share to its owners; limited liability company; nonprofit

1 corporation; or any other form of business organization located  
2 either within or outside this State, but excluding any public or  
3 private institution of higher education.

4 "Environmental infrastructure project" means the acquisition,  
5 construction, improvement, repair or reconstruction of all or part of  
6 any structure, facility or equipment, or real or personal property  
7 necessary for or ancillary to any (1) wastewater treatment system  
8 project, including any stormwater management or combined sewer  
9 overflow abatement projects; or (2) water supply project, as  
10 authorized pursuant to P.L.1985, c.334 (C.58:11B-1 et seq.) or  
11 P.L.1997, c.224 (C.58:11B-10.1 et al.), including any water  
12 resources project, as authorized pursuant to P.L.2003, c.162, but  
13 excluding the acquisition, construction, repair, or reconstruction of  
14 any building or other improvements to real property, or the  
15 acquisition or installation of any equipment or other personal  
16 property, that, upon completion, shall constitute a qualified  
17 employment incentive facility.

18 "Financial assistance" means funds made available as a grant or  
19 loan, including funds derived as proceeds from the issuance of tax-  
20 exempt bonds by the entity providing such assistance.

21 "Lead public agency" means the public entity designated by the  
22 State Treasurer pursuant to section 4 of this act to serve as the point  
23 of contact between a business and every State governmental entity  
24 having oversight of, or involvement in, a project for which the  
25 entity or entities are providing or will provide the business with  
26 financial assistance.

27 "Public entity" means the State, other than the Judicial branch of  
28 State government, any county, municipality, district, or other  
29 political subdivision thereof, and any agency, authority, or  
30 instrumentality of the foregoing, including, but not limited to, any  
31 county improvement authority and any economic development  
32 agency, authority, or other entity.

33 "Qualified employment incentive facility" means any building or  
34 other structure or portion of a building or other structure that,  
35 following the date on which occupation of the building or structure  
36 shall have commenced, shall be used exclusively as the premises of  
37 a project, related to the creation, relocation, or retention of jobs,  
38 that qualifies for incentives under the Business Retention and  
39 Relocation Assistance Grant Program established by section 3 of  
40 P.L.1996, c.25 (C.34:1B-114), the Business Employment Incentive  
41 Program established by section 3 of P.L.1996, c.26 (C.34:1B-126),  
42 the Grow New Jersey Assistance Program established by P.L.2011,  
43 c.149 (C.34:1B-242 et seq.), the Economic Redevelopment and  
44 Growth Grant program established by sections 3 through 18 of  
45 P.L.2009, c.90 (C.52:27D-489c et al.), the corporation business tax  
46 credit and insurance premium tax credit certificate transfer program  
47 established pursuant to section 17 of P.L.2004, c.65 (C.34:1B-  
48 120.2), the sales and use tax exemption certificate program



1 established pursuant to section 20 of P.L.2004, c.65 (C.34:1B-186),  
2 the exemption of retail sales of energy and utility service to  
3 qualified businesses within an urban enterprise zone from the sales  
4 and use tax pursuant to section 23 of P.L.2004, c.65 (C.52:27H-  
5 87.1), the urban transit hub tax credit program established pursuant  
6 to section 3 of P.L.2007, c.346 (C.34:1B-209), or any other  
7 program as the State Treasurer shall deem to be of similar kind and  
8 purpose; provided, however, that such exclusive use shall continue  
9 for the minimum period of time prescribed by the applicable law or  
10 any regulation adopted pursuant thereto, or under any project  
11 agreement or other contract executed pursuant to such law or  
12 regulation, or if no such minimum period shall be so prescribed, for  
13 a period of four years.

14 "Redevelopment project" means a specific work or improvement,  
15 including lands, buildings, structures, improvements, real and  
16 personal property or any interest therein, including lands under  
17 water, riparian rights, space rights and air rights, acquired, owned,  
18 cleared, graded, developed or redeveloped, constructed,  
19 reconstructed, rehabilitated or improved, undertaken by a  
20 developer, but excluding the acquisition, construction, repair, or  
21 reconstruction of any building or other improvements to real  
22 property, or the acquisition or installation of any equipment or other  
23 personal property, that, upon completion, shall constitute a qualified  
24 employment incentive facility.

25 "Remediation" or "remediate" means all necessary actions to  
26 investigate and clean up or respond to any known, suspected, or  
27 threatened discharge of contaminants, including, as necessary, the  
28 preliminary assessment, site investigation, remedial investigation,  
29 and remedial action, provided, however, that "remediation" or  
30 "remediate" shall not include the payment of compensation for  
31 damage to, or loss of, natural resources, and shall not include the  
32 acquisition, construction, repair, or reconstruction of any building  
33 or other improvements to real property, or the acquisition or  
34 installation of any equipment or other personal property, that, upon  
35 completion, shall constitute a qualified employment incentive  
36 facility.

37 "State governmental entity" means the Executive and Legislative  
38 branches of the State government, any agency or instrumentality of  
39 the State, including any board, bureau, commission, corporation,  
40 department, or division, any independent State authority, including,  
41 but not limited to, any economic development authority or agency,  
42 and any State institution of higher education. A county,  
43 municipality, or school district, or any agency or instrumentality  
44 thereof, shall not be deemed a State governmental entity.

45 (cf: P.L.2009, c.136, s.1)

46

47 13. Section 18 of P.L.2008, c.46 (C.52:27D-329.9) is amended  
48 to read as follows:

1 18. a. Notwithstanding any rules of the council to the contrary,  
2 for developments consisting of newly-constructed residential units  
3 located, or to be located, within the jurisdiction of any regional  
4 planning entity required to adopt a master plan or comprehensive  
5 management plan pursuant to statutory law, including the New  
6 Jersey Meadowlands Commission pursuant to subsection (i) of  
7 section 6 of P.L.1968, c.404 (C.13:17-6), the Pinelands Commission  
8 pursuant to section 7 of the "Pinelands Protection Act," P.L.1979,  
9 c.111 (C.13:18A-8), the Fort Monmouth Economic Revitalization  
10 Planning Authority pursuant to section 5 of P.L.2006, c.16  
11 (C.52:27I-5), or its successor, and the Highlands Water Protection  
12 and Planning Council pursuant to section 11 of P.L.2004, c.120  
13 (C.13:20-11), but excluding joint planning boards formed pursuant  
14 to section 64 of P.L.1975, c.291 (C.40:55D-77), there shall be  
15 required to be reserved for occupancy by low or moderate income  
16 households at least 20 percent of the residential units constructed, to  
17 the extent this is economically feasible.

18 b. Subject to the provisions of subsection d. of this section, a  
19 developer of a project consisting of newly-constructed residential  
20 units being financed in whole or in part with State funds, including,  
21 but not limited to, transit villages designated by the Department of  
22 Transportation and units constructed on State-owned property, shall  
23 be required to reserve at least 20 percent of the residential units  
24 constructed for occupancy by low or moderate income households,  
25 as those terms are defined in section 4 of P.L.1985, c.222  
26 (C.52:27D-304), with affordability controls as required under the  
27 rules of the council, unless the municipality in which the property is  
28 located has received substantive certification from the council and  
29 such a reservation is not required under the approved affordable  
30 housing plan, or the municipality has been given a judgment of  
31 repose or a judgment of compliance by the court, and such a  
32 reservation is not required under the approved affordable housing  
33 plan.

34 c. (1) The Legislature recognizes that regional planning entities  
35 are appropriately positioned to take a broader role in the planning  
36 and provision of affordable housing based on regional planning  
37 considerations. In recognition of the value of sound regional  
38 planning, including the desire to foster economic growth, create a  
39 variety and choice of housing near public transportation, protect  
40 critical environmental resources, including farmland and open space  
41 preservation, and maximize the use of existing infrastructure, there  
42 is created a new program to foster regional planning entities.

43 (2) The regional planning entities identified in subsection a. of  
44 this section shall identify and coordinate regional affordable  
45 housing opportunities in cooperation with municipalities in areas  
46 with convenient access to infrastructure, employment opportunities,  
47 and public transportation. Coordination of affordable housing  
48 opportunities may include methods to regionally provide housing in

1 line with regional concerns, such as transit needs or opportunities,  
2 environmental concerns, or such other factors as the council may  
3 permit; provided, however, that such provision by such a regional  
4 entity may not result in more than a 50 percent change in the fair  
5 share obligation of any municipality; provided that this limitation  
6 shall not apply to affordable housing units directly attributable to  
7 development by the New Jersey Sports and Exposition Authority  
8 within the New Jersey Meadowlands District.

9 (3) In addition to the entities identified in subsection a. of this  
10 section, the Casino Reinvestment Development Authority, in  
11 conjunction with the Atlantic County Planning Board, shall identify  
12 and coordinate regional affordable housing opportunities directly  
13 attributable to Atlantic City casino development, which may be  
14 provided anywhere within Atlantic County, subject to the  
15 restrictions of paragraph (4) of this subsection.

16 (4) The coordination of affordable housing opportunities by  
17 regional entities as identified in this section shall not include  
18 activities which would provide housing units to be located in those  
19 municipalities that are eligible to receive aid under the "Special  
20 Municipal Aid Act," P.L.1987, c.75 (C.52:27D-118.24 et seq.), or  
21 are coextensive with a school district which qualified for  
22 designation as a "special needs district" pursuant to the "Quality  
23 Education Act of 1990," P.L.1990, c.52 (C.18A:7D-1 et al.), or at  
24 any time in the last 10 years have been qualified to receive  
25 assistance under P.L.1978, c.14 (C.52:27D-178 et seq.) and that fall  
26 within the jurisdiction of any of the regional entities specified in  
27 subsection a. of this section.

28 d. Notwithstanding the provisions of subsection b. of this  
29 section, or any other law or regulation to the contrary, for purposes  
30 of mixed use projects or qualified residential projects in which a  
31 business receives a tax credit pursuant to P.L.2007, c.346 (C.34:1B-  
32 207 et seq.) or a tax credit pursuant to section 35 of P.L.2009, c.90  
33 (C.34:1B-209.3) or a tax credit pursuant to section 6 of P.L.2009,  
34 c.90 (C.52:27D-489f), as amended by the "New Jersey Economic  
35 Opportunity Act of 2013," P.L. , c. (C. ) (pending before the  
36 Legislature as this bill), or both, an "eligible municipality," as  
37 defined in section 2 of P.L.2007, c.346 (C.34:1B-208), or the  
38 municipality in which a redevelopment project, as defined in  
39 section 3 of P.L.2009, c.90 (C.52:27D-489c), is located, as  
40 applicable, shall have the option of deciding the percentage of  
41 newly-constructed residential units within the project, up to 20  
42 percent of the total, required to be reserved for occupancy by low or  
43 moderate income households. For a mixed use project or a  
44 qualified residential project that has received preliminary or final  
45 site plan approval prior to the effective date of P.L.2011, c.89, the  
46 percentage shall be deemed to be the percentage, if any, of units

1 required to be reserved for low or moderate income households in  
2 accordance with the terms and conditions of such approval.

3 (cf: P.L.2011, c.89, s.5)

4

5 14. Section 3 of P.L.2009, c.90 (C.52:27D-489c) is amended to  
6 read as follows:

7 3. As used in sections 3 through 18 of P.L.2009, c.90  
8 (C.52:27D-489c et al.):

9 "Applicant" means a developer proposing to enter into a  
10 redevelopment incentive grant agreement.

11 "Ancillary infrastructure project" means **[public]** structures or  
12 improvements that are located **[in the public right-of-way]** outside  
13 the project area of a redevelopment project, including parking  
14 garages, freight rail spurs, roadway overpasses, and train station  
15 platforms, provided a developer or municipal redeveloper has  
16 demonstrated that the redevelopment project would not be  
17 economically viable or promote the use of public transportation  
18 without such improvements.

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

22 "Deep poverty pocket" means any area comprised of three or  
23 more contiguous census tracts determined by the United States  
24 Census Bureau as having, at the time of an application for a project,  
25 an average federal poverty level of 20 percent or more.

26 "Disaster recovery project" means a redevelopment project  
27 located on property that has been damaged or destroyed as a result  
28 of a federally-declared disaster.

29 "Distressed municipality" means an eligible municipality under  
30 section 2 of P.L.2007, c.346 (C.34:1B-208), a municipality  
31 qualified to receive assistance under P.L.1978, c.14 (C.52:27D-178  
32 et seq.), a municipality under the supervision of the Local Finance  
33 Board pursuant to the provisions of the "Local Government  
34 Supervision Act (1947)," P.L.1947, c.151 (C.52:27BB-1 et seq.), or  
35 a municipality identified by the Director of the Division of Local  
36 Government Services in the Department of Community Affairs to  
37 be facing serious fiscal distress.

38 "Exempt business" means a business unrelated to the developer  
39 that operates a premises at the site of the redevelopment project but  
40 whose incurred costs to construct its respective premises are  
41 excluded from the project cost. An exempt business shall not be  
42 subject to the requirements of the Economic Redevelopment and  
43 Growth Grant program.

44 "Low income housing" means housing affordable according to  
45 federal Department of Housing and Urban Development or other  
46 recognized standards for home ownership and rental costs and  
47 occupied or reserved for occupancy by households with a gross  
48 household income equal to 50 percent or less of the median gross

1 household income for households of the same size within the  
2 housing region in which the housing is located.

3 "Developer" means any person who enters or proposes to enter  
4 into a redevelopment incentive grant agreement pursuant to the  
5 provisions of section 9 of P.L.2009, c.90 (C.52:27D-489i). A  
6 developer also may be a municipal government or a redevelopment  
7 agency as defined in section 3 of P.L.1992, c.79 (C.40A:12A-3).

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

10 "Eligible revenue" means the property tax increment and any  
11 other incremental revenues set forth in section 11 of P.L.2009, c.90  
12 (C.52:27D-489k).

13 "Incentive grant" means reimbursement of all or a portion of the  
14 project financing gap of a redevelopment project through the State  
15 or a local Economic Redevelopment and Growth Grant program  
16 pursuant to section 4 or section 5 of P.L.2009, c.90 (C.52:27D-489d  
17 or C.52:27D-489e).

18 "Infrastructure improvements in the public right-of-way" mean  
19 public structures or improvements located in the public right of way  
20 that are located within a project area or that constitute an ancillary  
21 infrastructure project.

22 "Municipal redeveloper" means a municipal government or a  
23 redevelopment agency acting on behalf of a municipal government  
24 as defined in section 3 of P.L.1992, c.79 (C.40A:12A-3) that is an  
25 applicant for a redevelopment incentive grant agreement.

26 "Project area" means land or lands under common ownership or  
27 control including through one or more property owners  
28 associations, a joint venture between one or more property owners,  
29 a redevelopment agreement with a municipality, or as otherwise  
30 established by a municipality.

31 "Project cost" means the costs incurred in connection with the  
32 redevelopment project by the developer and such landlords, tenants,  
33 or other business occupants as may be part of the project until the  
34 issuance of a permanent certificate of occupancy, or until such other  
35 time specified by the authority, for a specific investment or  
36 improvement, including lands, buildings, improvements, real or  
37 personal property, or any interest therein, including leases  
38 discounted to present value, including lands under water, riparian  
39 rights, space rights and air rights acquired, owned, developed or  
40 redeveloped, constructed, reconstructed, rehabilitated or improved,  
41 any environmental remediation costs, plus costs not directly related  
42 to construction, of an amount not to exceed 20 percent of the total  
43 costs, capitalized interest paid to third parties, and the cost of  
44 infrastructure improvements, including ancillary infrastructure  
45 projects, but excluding any particular costs for which the project  
46 has received federal, State, or local funding.

47 "Project financing gap" means: a. the part of the total  
48 **[redevelopment]** project cost, including return on investment, that

1 remains to be financed after all other sources of capital have been  
2 accounted for, including, but not limited to, developer contributed  
3 capital, which may include the appraised value of any existing  
4 improvements in the project area owned or controlled by the  
5 developer, and which shall not be less than 20 percent of the total  
6 project cost, excluding the cost of infrastructure improvements in  
7 the public right-of-way and investor or financial entity capital or  
8 loans for which the developer, after making all good faith efforts to  
9 raise additional capital, certifies that additional capital cannot be  
10 raised from other sources on a non-recourse basis; b. the cost of  
11 infrastructure improvements including any ancillary infrastructure  
12 project; and c. the amount by which total project cost exceeds the  
13 cost of an alternative location for the redevelopment project.

14 "Project revenue" means all rents, fees, sales, and payments  
15 generated by a project, less taxes or other government payments.

16 "Property tax increment" means the amount obtained by:

17 (1) multiplying the general tax rate levied each year by the  
18 taxable value of all the property assessed within a project area in  
19 the same year, excluding any special assessments; and

20 (2) multiplying that product by a fraction having a numerator  
21 equal to the taxable value of all the property assessed within the  
22 project area, minus the property tax increment base, and having a  
23 denominator equal to the taxable value of all property assessed  
24 within the project area.

25 For the purpose of this definition, "property tax increment base"  
26 means the aggregate taxable value of all property assessed which is  
27 located within the redevelopment project area as of October 1st of  
28 the year preceding the year in which the redevelopment incentive  
29 grant agreement is authorized.

30 "Qualified incubator facility" means a commercial building  
31 having over 100,000 square feet of office, laboratory, or industrial  
32 space with at least 75 percent of its gross leasable area restricted to  
33 use by technology startup companies during the commitment  
34 period.

35 "Qualified residential project" means the portion of a  
36 redevelopment project that consists of multi-family residential units  
37 and represents at least \$17,500,000 of the total project cost or  
38 \$10,000,000 of the total project cost if the project is a disaster  
39 recovery project.

40 "Qualifying economic redevelopment and growth grant incentive  
41 area" means any area designated pursuant to P.L.1985, c.398  
42 (C.52:18A-196 et seq.) as Planning Area 1 (Metropolitan), Planning  
43 Area 2 (Suburban), [or a center as designated by the State Planning  
44 Commission; an area zoned for development pursuant to] Planning  
45 Area 3 (Fringe Planning Area), or Planning Area 4A (Rural  
46 Planning Area); a designated center, or a designated growth center  
47 in an endorsed plan until June 30, 2013, or until the State Planning  
48 Commission revises and readopts New Jersey's State Strategic Plan

1 and adopts regulations to refine this definition as it pertains to  
2 Statewide planning areas, whichever is later; a smart growth area  
3 and planning area designated in a master plan adopted by the New  
4 Jersey Meadowlands Commission pursuant to subsection (i) of  
5 section 6 of P.L.1968, c.404 (C.13:17-6) [or subject to a  
6 redevelopment plan adopted by the New Jersey Meadowlands  
7 Commission pursuant to section 20 of P.L.1968, c.404 (C.13:17-  
8 21); any land owned by the New Jersey Sports and Exposition  
9 Authority, established pursuant to P.L.1971, c.137 (C.5:10-1 et  
10 seq.), within the boundaries of the Hackensack Meadowlands  
11 District as delineated in section 4 of P.L.1968, c.404 (C.13:17-4); a  
12 pinelands regional growth area, a pinelands town management area,  
13 a pinelands village, or a military and federal installation area  
14 established pursuant to the pinelands comprehensive management  
15 plan adopted pursuant to P.L.1979, c.111 (C.13:18A-1 et seq.); a  
16 transit village, as determined by the Commissioner of  
17 Transportation; and federally owned land approved for closure  
18 under a federal Base Realignment Closing Commission action] ;  
19 regional growth areas, villages, and towns, designated in the  
20 comprehensive management plan prepared and adopted by the  
21 Pinelands Commission pursuant to section 7 of the "Pinelands  
22 Protection Act," P.L.1979, c.111 (C.13:18A-8); the planning area of  
23 the Highlands Region as defined in section 3 of the "Highlands  
24 Water Protection and Planning Act," P.L.2004, c.120 (C.13:20-3),  
25 and any Highlands center designated by the Highlands Water  
26 Protection and Planning Council, established pursuant to section 4  
27 of P.L.2004, c.120 (C.13:20-4); an urban enterprise zone designated  
28 pursuant to P.L.1983, c.303 (C.52:27H-60 et seq.) or P.L.2001,  
29 c.347 (C.52:27H-66.2 et al.); an area determined to be in need of  
30 redevelopment pursuant to sections 5 and 6 of P.L.1992, c.79  
31 (C.40A:12A-5 and 40A:12A-6) and as approved by the Department  
32 of Community Affairs; or similar areas designated by the  
33 Department of Environmental Protection. "Qualifying economic  
34 redevelopment and growth grant incentive area" shall not include an  
35 area designated pursuant to the State Development and  
36 Redevelopment Plan adopted, as of the effective date of P.L.2008,  
37 c.78, pursuant to "State Planning Act," P.L.1985, c.398 (C.52:18A-  
38 196 et al.) as Planning Area 4B (Rural/Environmentally Sensitive)  
39 or Planning Area 5 (Environmentally Sensitive), except for any area  
40 within Planning Area 4B or Planning Area 5 that is a deep poverty  
41 pocket, a designated center or a designated growth center in an  
42 endorsed plan, any property consisting of a disaster recovery  
43 project, qualified incubator facility, tourism destination project,  
44 transit project, or vacant health facility project, any vacant  
45 commercial building, or any federally owned land approved for  
46 closure under a federal Base Realignment Closing Commission  
47 action.

1 "Redevelopment incentive grant agreement" means an agreement  
2 between, (1) the State and the New Jersey Economic Development  
3 Authority and a developer, or (2) a municipality and a developer, or  
4 a municipal ordinance authorizing a project to be undertaken by a  
5 municipal redeveloper, under which, in exchange for the proceeds  
6 of an incentive grant, the developer agrees to perform any work or  
7 undertaking necessary for a redevelopment project, including the  
8 clearance, development or redevelopment, construction, or  
9 rehabilitation of any structure or improvement of commercial,  
10 industrial, residential, or public structures or improvements within a  
11 qualifying economic redevelopment and growth grant incentive area  
12 or a transit village.

13 "Redevelopment project" means a specific **[work]** investment or  
14 improvement, including lands, buildings, improvements, real and  
15 personal property or any interest therein, including lands under  
16 water, riparian rights, space rights and air rights, acquired, owned,  
17 leased, developed or redeveloped, constructed, reconstructed,  
18 rehabilitated or improved, undertaken by a developer, owner or  
19 tenant, or both, within a project area and any ancillary infrastructure  
20 project **[associated therewith]** including infrastructure  
21 improvements in the public right of way, as set forth in an  
22 application to be made to the authority. The use of the term  
23 "redevelopment project" in sections 3 through 18 of P.L.2009, c.90  
24 (C.52:27D-489c et al.) shall not be limited to only redevelopment  
25 projects located in areas determined to be in need of redevelopment  
26 pursuant to sections 5 and 6 of P.L. 1992, c.79 (C.40A:12A-5 and  
27 40A:12A-6).

28 "Redevelopment utility" means a self-liquidating fund created by  
29 a municipality pursuant to section 12 of P.L.2009, c.90 (C.52:27D-  
30 489l) to account for revenues collected and incentive grants paid  
31 pursuant to section 11 of P.L.2009, c.90 (C.52:27D-489k), or other  
32 revenues dedicated to a redevelopment project.

33 "Revenue increment base" means the amounts of all eligible  
34 revenues from sources within the redevelopment project area in the  
35 calendar year preceding the year in which the redevelopment  
36 incentive grant agreement is executed, as certified by the State  
37 Treasurer for State revenues, and the chief financial officer of the  
38 municipality for municipal revenues.

39 "Tourism destination project" means a redevelopment project  
40 that will be among the most visited privately owned or operated  
41 tourism or recreation sites in the State as determined at the  
42 discretion of the authority.

43 "Transit project" means a redevelopment project located within a  
44 1/2-mile radius surrounding the mid-point of a New Jersey Transit  
45 Corporation, Port Authority Transit Corporation, or Port Authority  
46 Trans-Hudson Corporation rail, bus, or ferry station platform area,  
47 including all light rail stations.



1 "Transit village" means a community with a bus, train, light rail,  
2 or ferry station that has developed a plan to achieve its economic  
3 development and revitalization goals and has been designated by  
4 the New Jersey Department of Transportation as a transit village.

5 "Urban transit hub sites" means project locations within a 1/2-  
6 mile radius surrounding the mid-point of a New Jersey Transit  
7 Corporation, Port Authority Transit Corporation or Port Authority  
8 Trans-Hudson Corporation rail, bus, or ferry station platform area,  
9 including all light rail stations, or adjacent to freight rail, in any  
10 municipality considered an "eligible municipality," as defined in  
11 section 2 of P.L.2007, c.346 (C.34:1B-208), as of December 31,  
12 2012.

13 "Vacant commercial building" means any commercial building  
14 or complex of commercial buildings having over 400,000 square  
15 feet of office, laboratory, or industrial space that is more than 70  
16 percent unoccupied at the time of application to the authority or is  
17 negatively impacted by the approval of a "qualified business  
18 facility," as defined pursuant to section 2 of P.L.2007, c.346  
19 (C.34:1B-208).

20 "Vacant health facility project" means a redevelopment project  
21 where a health facility currently exists and is considered vacant. A  
22 health facility shall be considered vacant if at least 70 percent of  
23 that facility is not been open to the public or utilized to serve any  
24 patients at the time of application to the authority.

25 "Workforce housing" means housing affordable according to  
26 federal Department of Housing and Urban Development or other  
27 recognized standards for home ownership and rental costs and  
28 occupied or reserved for occupancy by households with a gross  
29 household income equal to more than 50 percent but less than 120  
30 percent of the median gross household income for households of the  
31 same size within the housing region in which the housing is located.  
32 (cf: P.L.2011, c.89, s.6)

33  
34 15. Section 6 of P.L.2009, c.90 (C.52:27D-489f) is amended to  
35 read as follows:

36 6. a. Up to the limits established in subsection b. of this section  
37 and in accordance with a redevelopment incentive grant agreement,  
38 beginning upon the receipt of occupancy permits for any portion of  
39 the project, or upon such other event evidencing project completion  
40 as set forth in the incentive grant agreement, the State Treasurer  
41 shall pay to the developer incremental State revenues directly  
42 realized from businesses operating on or at the site of the  
43 redevelopment project **【premises】**, including exempt businesses,  
44 from the following taxes: the Corporation Business Tax Act (1945),  
45 P.L.1945, c.162 (C.54:10A-1 et seq.), the tax imposed on marine  
46 insurance companies pursuant to R.S.54:16-1 et seq., the tax  
47 imposed on insurers generally, pursuant to P.L.1945, c.132  
48 (C.54:18A-1 et seq.), the public utility franchise tax, public utilities

1 gross receipts tax and public utility excise tax imposed on sewerage  
2 and water corporations pursuant to P.L.1940, c.5 (C.54:30A-49 et  
3 seq.), those tariffs and charges imposed by electric, natural gas,  
4 telecommunications, water and sewage utilities, and cable television  
5 companies under the jurisdiction of the New Jersey Board of  
6 Utilities, or comparable entity, related to societal benefits charges  
7 assessed pursuant to section 12 of P.L.1999, c.23 (C.48:3-60), any  
8 charges paid for compliance with the "Global Warming Response  
9 Act," P.L.2007, c.112 (C.26:2C-37 et seq.), transitional energy  
10 facility assessment unit taxes paid pursuant to section 67 of  
11 P.L.1997, c.162 (C.48:2-21.34), and the sales and use taxes on  
12 public utility and cable television services and commodities, the tax  
13 derived from net profits from business, a distributive share of  
14 partnership income, or a pro rata share of S corporation income  
15 under the "New Jersey Gross Income Tax Act," N.J.S.54A:1-1 et  
16 seq., the tax derived from a business at the site of a redevelopment  
17 project that is required to collect the tax pursuant to the "Sales and  
18 Use Tax Act," P.L.1966, c.30 (C.54:32B-1 et seq.), the tax imposed  
19 pursuant to P.L.1966, c.30 (C.54:32B-1 et seq.) from the purchase  
20 of furniture, fixtures and equipment, or materials [used] for the  
21 remediation, the construction of new structures [, or the  
22 construction of new residences] or residences, or the renovation of  
23 same, at the site of a redevelopment project, the tax imposed  
24 pursuant to P.L.1966, c.30 (C.54:32B-1 et seq.) from purchases of  
25 goods and services used in the ongoing operation of a business at  
26 the site of the redevelopment project, the hotel and motel occupancy  
27 fee imposed pursuant to section 1 of P.L.2003, c.114 (C.54:32D-1),  
28 or the portion of the fee imposed pursuant to section 3 of P.L.1968,  
29 c.49 (C.46:15-7) derived from the sale of real property at the site of  
30 the redevelopment project and paid to the State Treasurer for use by  
31 the State, that is not credited to the "Shore Protection Fund" or the  
32 "Neighborhood Preservation Nonlapsing Revolving Fund" ("New  
33 Jersey Affordable Housing Trust Fund") pursuant to section 4 of  
34 P.L.1968, c.49 (C.46:15-8).

35 b. Up to an average of 75 percent of the projected annual  
36 incremental revenues, averaged over the length of time during  
37 which the reimbursement shall be granted, may be pledged towards  
38 the State portion of an incentive grant. In the case of a qualified  
39 residential project, if the actual amount of incremental revenues so  
40 pledged towards the State portion of an incentive grant shall in any  
41 year of the incentive grant be inadequate to fully fund the amount of  
42 such State portion of the incentive grant for such year specified in  
43 the incentive grant agreement, the developer shall be awarded tax  
44 credits equal to the difference between the two amounts. The value  
45 of all credits approved by the authority pursuant to subsection b. of  
46 this section shall not exceed \$500,000,000, of which \$150,000,000  
47 of such credits shall be restricted to qualified residential projects  
48 located on urban transit hub sites that are commuter rail in nature or

1 in deep poverty pockets, \$100,000,000 of such credits shall be  
2 restricted to qualified residential projects in distressed  
3 municipalities outside of urban transit hub sites or deep poverty  
4 pockets, and \$100,000,000 of such credits shall be restricted to  
5 qualified residential projects that are disaster recovery projects.  
6 Not more than \$33,000,000 of credits shall be awarded to any  
7 qualified residential project in a deep poverty pocket or distressed  
8 municipality and not more than \$20,000,000 of credits shall be  
9 awarded to any other qualified residential project. The developer of  
10 a qualified residential project seeking an award of credits towards  
11 the funding of its incentive grant shall submit an incentive grant  
12 application prior to July 1, 2015 and if approved shall submit a  
13 temporary certificate of occupancy for such project no later than  
14 July 28, 2018. Credits shall be awarded by the authority on the  
15 basis of one or more competitive solicitations. Credits shall not be  
16 awarded to more than four qualified residential projects in any  
17 distressed municipality or to more than two qualified residential  
18 projects in any other municipality falling within a qualifying  
19 economic redevelopment and growth grant incentive area. Credits  
20 awarded to an developer pursuant to subsection b. of this section  
21 shall be utilized or transferred by the developer as if such credits  
22 had been awarded to the developer pursuant to P.L.2009, c.90  
23 (C.52:27D-489a et al.) for qualified residential projects thereunder.  
24 No portion of the revenues pledged pursuant to the “New Jersey  
25 Economic Opportunity Act of 2013,” P.L. , c. (C. ) (pending  
26 before the Legislature as this bill) shall be subject to withholding or  
27 retainage for adjustment, in the event the developer or taxpayer  
28 waives its rights to claim a refund thereof.

29 c. All administrative costs associated with the incentive grant  
30 shall be assessed to the applicant and be retained by the State  
31 Treasurer from the annual incentive grant payments.

32 d. The incremental revenue for the revenues listed in  
33 subsection a. of this section shall be calculated as the difference  
34 between the amount collected in any fiscal year from any eligible  
35 revenue source included in the State redevelopment incentive grant  
36 agreement, less the revenue increment base for that eligible  
37 revenue.

38 e. The municipality is authorized to collect any and all  
39 information necessary to facilitate grants under this program and  
40 remit that information, as may be required from time to time, in  
41 order to assist in the calculation of incremental revenue.

42 (cf: P.L.2010, c.10, s.6)

43

44 16. Section 8 of P.L.2009, c.90 (C.52:27D-489h) is amended to  
45 read as follows:

46 8. a. (1) The **【New Jersey Economic Development Authority】**  
47 authority, in consultation with the State Treasurer, shall promulgate

1 an incentive grant application form and procedure for the Economic  
2 Redevelopment and Growth Grant program.

3 (2) (a) The Local Finance Board, in consultation with the [New  
4 Jersey Economic Development Authority] authority, shall develop  
5 a minimum standard incentive grant application form for municipal  
6 Economic Redevelopment and Growth Grant programs.

7 (b) Through regulation, the [Economic Development Authority]  
8 authority shall establish standards for redevelopment projects  
9 seeking State or local incentive grants based on the green building  
10 manual prepared by the Commissioner of Community Affairs  
11 pursuant to section 1 of P.L.2007, c.132 (C.52:27D-130.6),  
12 regarding the use of renewable energy, energy-efficient technology,  
13 and non-renewable resources in order to reduce environmental  
14 degradation and encourage long-term cost reduction.

15 b. Within each incentive grant application, a developer shall  
16 certify information concerning:

17 (1) the status of control of the entire redevelopment project site;

18 (2) all required State and federal government permits that have  
19 been issued for the redevelopment project, or will be issued pending  
20 resolution of financing issues;

21 (3) local planning and zoning board approvals, as required, for  
22 the redevelopment project;

23 (4) estimates of the revenue increment base, the eligible  
24 revenues for the project, and the assumptions upon which those  
25 estimates are made.

26 c. (1) With regard to State tax revenues proposed to be pledged  
27 for an incentive grant the authority and the State Treasurer shall  
28 review the [redevelopment] project costs, evaluate and validate the  
29 project financing gap estimated by the developer, and conduct a  
30 State fiscal impact analysis to ensure that the overall public  
31 assistance provided to the project will result in net benefits to the  
32 State including, without limitation, both direct and indirect  
33 economic benefits and non-financial community revitalization  
34 objectives, including but not limited to, the promotion of the use of  
35 public transportation in the case of the ancillary infrastructure  
36 project portion of any transit project.

37 (2) With regard to local incremental revenues proposed to be  
38 pledged for an incentive grant the authority and the Local Finance  
39 Board shall review the [redevelopment] project costs, and except  
40 with respect to an application by a municipal redeveloper, evaluate  
41 and validate the project financing gap projected by the developer,  
42 and conduct a local fiscal impact analysis to ensure that the overall  
43 public assistance provided to the project will result in net benefits to  
44 the municipality wherein the redevelopment project is located  
45 including, without limitation, both direct and indirect economic  
46 benefits and non-financial community revitalization objectives,  
47 including but not limited to, the promotion of the use of public

1 transportation in the case of the ancillary infrastructure project  
2 portion of any transit project.

3 (3) The authority, State Treasurer, and Local Finance Board  
4 may act cooperatively to administer and review applications, and  
5 shall consult with the Office of State Planning on matters  
6 concerning State, regional, and local development and planning  
7 strategies.

8 (4) The costs of the aforementioned reviews shall be assessed to  
9 the applicant as an application fee.  
10 (cf: P.L.2010, c.10, s.8)

11  
12 17. Section 9 of P.L.2009, c.90 (C.52:27D-489i) is amended to  
13 read as follows:

14 9. a. The authority is authorized to enter into a redevelopment  
15 incentive grant agreement with a developer for any redevelopment  
16 project located within a qualifying economic redevelopment and  
17 growth grant incentive area that does not qualify as such area solely  
18 by virtue of being a transit village.

19 b. The decision whether or not to enter into a redevelopment  
20 incentive grant agreement is solely within the discretion of the  
21 authority and the State Treasurer, provided that they both agree to  
22 enter into an agreement.

23 c. The Chief Executive Officer of the **【New Jersey Economic**  
24 **Development Authority】** authority, in consultation with the State  
25 Treasurer shall negotiate the terms and conditions of any  
26 redevelopment incentive grant agreement on behalf of the State.

27 d. The redevelopment incentive grant agreement shall specify  
28 the maximum amount of project costs, the amount of the incentive  
29 grant to be awarded the developer, the frequency of payments, and  
30 the length of time, which shall not exceed 20 years, during which  
31 that reimbursement shall be granted. Except for redevelopment  
32 incentive grant agreements with a municipal redeveloper or with the  
33 developer of a redevelopment project solely with respect to the cost  
34 of infrastructure improvements in the public right-of-way including  
35 any ancillary infrastructure project in the public right-of-way, in no  
36 event shall the combined amount of the reimbursements under  
37 redevelopment incentive grant agreements with the State or  
38 municipality exceed **【20】** 35 percent of the total project cost **【of the**  
39 **project】**. The authority shall be permitted to increase the amount of  
40 the reimbursement under the redevelopment incentive grant  
41 agreement with the State by up to five percent of the total project  
42 cost if the project is: (1) located in a distressed municipality which  
43 lacks adequate access to nutritious food in the judgment of the  
44 Chief Executive Officer of the authority and will include either a  
45 supermarket or grocery store with a minimum of 15,000 square feet  
46 of selling space devoted to the sale of consumable products or a  
47 prepared food establishment selling only nutritious ready to serve  
48 meals as a result of financial inducements to be given by the

1 developer to the operator of such premises; (2) located in a  
2 distressed municipality which lacks adequate access to health care  
3 and health services in the judgment of the Chief Executive Officer  
4 of the authority and will include a health care and health services  
5 support center with a minimum of 10,000 square feet of space  
6 devoted to the provision of health care and health services as a  
7 result of financial inducements to be given by the developer to the  
8 operator of such premises; (3) located in a distressed municipality  
9 which has a business located therein that is required to respond to a  
10 request for proposal to fulfill a contract with the federal government  
11 as set forth in subsection d. of section 3 of P.L.2011, c.149  
12 (C.34:1B-244); (4) a transit project; (5) a qualified residential  
13 project in which at least 10 percent of the residential units are  
14 constructed as and reserved for workforce housing; or (6) a disaster  
15 recovery project. In addition, if there remains a project financing  
16 gap with respect to a developer's redevelopment project after the  
17 maximum combined amounts provided in this paragraph are  
18 considered, then the authority shall be permitted to make a bonus  
19 award increasing the amount of the reimbursement under the  
20 redevelopment incentive grant agreement with the State by up to 15  
21 percent of the total project cost. In making a bonus award to a  
22 developer, the authority shall consider any factors that are found to  
23 contribute to the remaining project financing gap, such as whether  
24 the project: (a) is located in a distressed municipality and there  
25 exists a financial gap between the fair market commercial rental  
26 rates in the relevant marketplace and the commercial rental rates  
27 that are necessary to make the redevelopment project economically  
28 feasible; (b) is located on an environmentally contaminated site  
29 requiring remediation; (c) is a qualified residential project in which  
30 at least ten percent of the residential units are constructed as and  
31 reserved for low income housing; (d) would include energy  
32 efficiency or renewable energy features, measures or upgrades in  
33 excess of the green building requirements of the Economic  
34 Redevelopment and Growth Grant program which requirements  
35 shall be as set forth in the New Jersey Green Building Manual  
36 prepared by the Department of Community Affairs; or (e) is a  
37 qualified incubator facility. For the purposes of calculating the total  
38 project cost [of all projects], the cost of [infrastructure  
39 improvements in the public right-of-way and] publicly owned  
40 facilities, other than infrastructure improvements including any  
41 ancillary infrastructure project, shall not be included. The amount  
42 of the redevelopment incentive grant for a municipal redeveloper or  
43 for the developer of a redevelopment project solely with respect to  
44 the cost of infrastructure improvements in the public right-of-way  
45 including any ancillary infrastructure project in the public right-of-  
46 way may include the total cost of such infrastructure improvements  
47 and publicly owned facilities.

1 e. The authority and the State Treasurer may enter into a  
2 redevelopment incentive grant agreement only if they make a  
3 finding that the State revenues to be realized from the  
4 redevelopment project will be in excess of the amount necessary to  
5 reimburse the developer for its project financing gap. This finding  
6 may be made by an estimation based upon the professional  
7 judgment of the Chief Executive Officer of the [New Jersey  
8 Economic Development Authority] authority and the State  
9 Treasurer.

10 f. In deciding whether or not to recommend entering into a  
11 redevelopment incentive grant agreement and in negotiating a  
12 redevelopment agreement with a developer, the Chief Executive  
13 Officer of the [New Jersey Economic Development Authority]  
14 authority shall consider the following factors:

15 (1) the economic feasibility of the redevelopment project;

16 (2) the extent of economic and related social distress in the  
17 municipality and the area to be affected by the redevelopment  
18 project or the level of site specific distress to include dilapidated  
19 conditions, brownfields designation, environmental contamination,  
20 pattern of vacancy, abandonment, or under utilization of the  
21 property, or other site conditions as determined by the authority;

22 (3) the degree to which the redevelopment project will advance  
23 State, regional, and local development and planning strategies;

24 (4) the likelihood that the redevelopment project shall, upon  
25 completion, be capable of generating new tax revenue in an amount  
26 in excess of the amount necessary to reimburse the developer for  
27 project costs incurred as provided in the redevelopment incentive  
28 grant agreement, it being expressly understood that any tax revenue  
29 generated by a redevelopment project that is a disaster recovery  
30 project shall be considered new tax revenue even if the same or  
31 more tax revenue was generated at or on the site prior to the  
32 disaster;

33 (5) the relationship of the redevelopment project to a  
34 comprehensive local development strategy, including other major  
35 projects undertaken within the municipality;

36 (6) the need of the redevelopment incentive grant agreement to  
37 the viability of the redevelopment project or the promotion of the  
38 use of public transportation; and

39 (7) the degree to which the redevelopment project enhances and  
40 promotes job creation and economic development or the promotion  
41 of the use of public transportation.

42 g. (1) A developer that has entered into a redevelopment  
43 incentive grant agreement with the authority and the State Treasurer  
44 pursuant to this section may, upon notice to and consent of the  
45 authority and the State Treasurer, pledge and assign as security or  
46 support for any loan or bond, any or all of its right, title and interest  
47 in and to such agreements and in the incentive grants payable  
48 thereunder, and the right to receive same, along with the rights and

1 remedies provided to the developer under such agreement. Any  
2 such assignment shall be an absolute assignment for all purposes,  
3 including the federal bankruptcy code.

4 (2) Any pledge of incentive grants made by the developer shall  
5 be valid and binding from the time when the pledge is made and  
6 filed in the records of the authority. The incentive grants so  
7 pledged and thereafter received by the developer shall immediately  
8 be subject to the lien of the pledge without any physical delivery  
9 thereof or further act, and the lien of any pledge shall be valid and  
10 binding as against all parties having claims of any kind in tort,  
11 contract, or otherwise against the developer irrespective of whether  
12 the parties have notice thereof. Neither the redevelopment  
13 incentive grant agreement nor any other instrument by which a  
14 pledge under this section is created need be filed or recorded except  
15 with the authority.

16 (cf: P.L.2010, c.10, s.9)

17

18 18. Section 11 of P.L.2009, c.90 (C.52:27D-489k) is amended to  
19 read as follows:

20 11. a. The governing body of a municipality is authorized to  
21 enter into a redevelopment incentive grant agreement with a  
22 developer, which shall not be effective until adopted by ordinance,  
23 for any redevelopment project located within a qualifying economic  
24 redevelopment and growth grant incentive area.

25 b. The redevelopment incentive grant agreement shall specify  
26 the maximum amount of project costs, the amount of the incentive  
27 grant to be awarded the developer, the frequency of payments, and  
28 the length of time, which shall not exceed 20 years, during which  
29 that reimbursement shall be granted. Except for redevelopment  
30 incentive grants with a municipal redeveloper or with the developer  
31 of a redevelopment project solely with respect to the cost of  
32 infrastructure improvements in the public right-of-way including  
33 any ancillary infrastructure project in the public right-of-way, in no  
34 event shall the combined amount of the reimbursements under  
35 redevelopment incentive grant agreements with the State or  
36 municipality exceed **[20] 35** percent of the total project cost **[of the**  
37 **project]** plus any bonus award of the State portion of such  
38 combined amount as set forth in subsection d. of section 9 of  
39 P.L.2009, c.90 (C.52:27D-489i). For the purposes of calculating  
40 the total project cost **[of all projects]**, the cost of **[infrastructure**  
41 **improvements in the public right-of-way and]** publicly owned  
42 facilities, other than infrastructure improvements including any  
43 ancillary infrastructure project, shall not be included. The amount  
44 of the redevelopment incentive grant for a municipal redeveloper or  
45 for the developer of a redevelopment project solely with respect to  
46 the cost of infrastructure improvements in the public right-of-way  
47 including any ancillary infrastructure project in the public right-of-



1 way may include the total cost of such infrastructure improvements  
2 and publicly owned facilities.

3 c. The municipality may enter into a redevelopment incentive  
4 grant agreement only if the chief financial officer of the  
5 municipality makes a finding that the incremental revenues to be  
6 realized from the redevelopment project will be in excess of the  
7 amount necessary to reimburse the developer for its project  
8 financing gap. Such finding shall be based upon appropriate  
9 documentation and calculations supporting the decision.

10 d. Within a qualifying economic redevelopment and growth  
11 grant incentive area a municipality that has entered into a local  
12 redevelopment incentive grant agreement may pledge eligible  
13 revenues it is authorized to collect as follows:

14 (1) incremental payments in lieu of taxes, with respect to  
15 property located in the district, made pursuant to the "Five-Year  
16 Exemption and Abatement Law," P.L.1991, c.441 (C.40A:21-1 et  
17 seq.), or the "Long Term Tax Exemption Law," P.L.1991, c.431  
18 (C.40A:20-1 et al.);

19 (2) incremental revenues collected from payroll taxes, with  
20 respect to business activities carried on within the area, pursuant to  
21 section 15 of P.L.1970, c.326 (C.40:48C-15);

22 (3) incremental revenue from lease payments made to the  
23 municipality, the developer, or the developer's successors with  
24 respect to property located in the area;

25 (4) incremental revenue collected from parking taxes derived  
26 from parking facilities located within the area pursuant to section 7  
27 of P.L.1970, c.326 (C.40:48C-7);

28 (5) incremental admissions and sales taxes derived from the  
29 operation of a public facility within the area pursuant to section 1 of  
30 P.L.2007, c.302 (C.40:48G-1);

31 (6) (a) incremental sales and excise taxes which are derived  
32 from activities within the area and which are rebated to or retained  
33 by the municipality pursuant to the "New Jersey Urban Enterprise  
34 Zones Act," P.L.1983, c.303 (C.52:27H-60 et seq.) or any other law  
35 providing for such rebate or retention;

36 (b) within Planning Area 1 (Metropolitan) under the State  
37 Development and Redevelopment Plan adopted pursuant to the  
38 "State Planning Act," sections 1 through 12 of P.L.1985, c.398  
39 (C.52:18A-196 et seq.), a municipality may impose the entire State  
40 sales tax on business activities within a redevelopment project  
41 located in an urban enterprise zone that would ordinarily be entitled  
42 to collect reduced rate revenues under section 21 of P.L.1983, c.303  
43 (C.52:27H-80), and pledge the excess revenues to a local  
44 redevelopment incentive grant agreement;

45 (7) incremental parking revenue collected, pursuant to section 7  
46 of P.L.1970, c.326 (C.40:48C-7), from public parking facilities built  
47 as part of a redevelopment project, except for public parking

1 facilities owned by parking authorities pursuant to the "Parking  
2 Authority Law," P.L.1948, c.198 (C.40:11A-1 et seq.);

3 (8) incremental revenues collected, pursuant to section 3 of  
4 P.L.2003, c.114 (C.40:48F-1), P.L.1981, c.77 (C.40:48E-1 et seq.),  
5 or P.L.1947, c.71 (C.40:48-8.15 et seq.), from hotel and motel  
6 taxes;

7 (9) upon approval by the Local Finance Board, other  
8 incremental municipal revenues that may become available;

9 (10) the property tax increment.

10 The incremental revenue for the revenues listed in this  
11 subsection, when applicable, shall be calculated as the difference  
12 between the amount collected in any fiscal year from any eligible  
13 revenue source included in the local redevelopment incentive grant  
14 agreement, less the revenue increment base for that eligible  
15 revenue.

16 e. (1) In calculating the general tax rate of a municipality each  
17 year, the aggregate amount of the incremental ratable value over the  
18 property tax increment base in the redevelopment project area that  
19 is pledged as part of a redevelopment incentive grant agreement  
20 shall be excluded from the ratable base of a municipality.

21 (2) The amount of property tax increment not pledged toward a  
22 redevelopment incentive grant agreement shall be allocated  
23 pursuant to the normal tax rate distribution.

24 The full incremental value of a project area shall be included in  
25 the value used for county and regional school tax apportionment  
26 until such time that the Director of the Division of Taxation in the  
27 Department of the Treasury can certify that property tax  
28 management systems are capable of handling the technical and legal  
29 requirements of treating parcels in areas of redevelopment as  
30 exempt from county and regional school apportionment.

31 f. In addition to the incremental revenues that may be pledged  
32 in subsection d. of this section, any amount of tax proceeds  
33 collected from the tax on the rental of motor vehicles pursuant to  
34 section 20 of P.L.2009, c.90 (C.40:48H-2), may be included in a  
35 redevelopment incentive grant agreement with a developer,  
36 regardless of whether or not the redevelopment project area is  
37 within or outside of the designated industrial zone from which the  
38 tax on the rental of motor vehicles is collected.

39 g. (1) A developer that has entered into a redevelopment  
40 incentive grant agreement with a municipality pursuant to this  
41 section may, upon notice to and consent of the municipality, pledge  
42 and assign as security or support for any loan or bond, any or all of  
43 its right, title and interest in and to such agreements and in the  
44 incentive grants payable thereunder, and the right to receive same,  
45 along with the rights and remedies provided to the developer under  
46 such agreement. Any such assignment shall be an absolute  
47 assignment for all purposes, including the federal bankruptcy code.

1       (2) Any pledge of incentive grants made by the developer shall  
2 be valid and binding from the time when the pledge is made and  
3 filed in the office of the municipal clerk. The incentive grants so  
4 pledged and thereafter received by the developer shall immediately  
5 be subject to the lien of the pledge without any physical delivery  
6 thereof or further act, and the lien of any pledge shall be valid and  
7 binding as against all parties having claims of any kind in tort,  
8 contract, or otherwise against the developer irrespective of whether  
9 the parties have notice thereof. Neither the redevelopment  
10 incentive grant agreement nor any other instrument by which a  
11 pledge under this section is created need be filed or recorded except  
12 with the municipality.

13 (cf: P.L.2010, c.10, s.10)

14

15       19. This act shall take effect immediately, but shall remain  
16 inoperative for 60 days following the date of enactment.

17

18

19

#### STATEMENT

20

21       This bill, designated as the “New Jersey Economic Opportunity  
22 Act of 2013,” expands two economic development incentive  
23 programs administered by the New Jersey Economic Development  
24 Authority (authority). They are: (1) the Grow New Jersey  
25 Assistance Program that would be the State's premiere business  
26 attraction and retention incentive, sized and scaled to better match  
27 or surpass the financial incentive packages being offered by  
28 neighboring and other competing states without unnecessarily  
29 exceeding that goal, while also providing bonuses to drive  
30 development to smart growth areas in the State; and (2) the  
31 Economic Redevelopment and Growth Grant program that would be  
32 the State's sole redeveloper incentive, sized and scaled to more  
33 readily close project financing gaps and build public infrastructure  
34 critical to redevelopment projects while also providing bonuses to  
35 achieve public policy objectives, such as bringing fresh produce to  
36 urban “food deserts,” and rebuilding tourism destinations that were  
37 destroyed due to the effects of Hurricane Sandy. In doing so, the  
38 bill phases out the provisions of the Business Retention and  
39 Relocation Assistance Grant Program, the Business Employment  
40 Incentive Program, and the Urban Transit Hub Tax Credit Program,  
41 all of which are also administered by the authority.

# ASSEMBLY BUDGET COMMITTEE

## STATEMENT TO

### ASSEMBLY COMMITTEE SUBSTITUTE FOR ASSEMBLY, No. 3680

# STATE OF NEW JERSEY

DATED: APRIL 25, 2013

The Assembly Budget Committee reports favorably an Assembly Committee Substitute for Assembly Bill No. 3680 entitled the “New Jersey Economic Opportunity Act of 2013.” The substitute merges five economic development incentives into two economic development programs. The purpose of the substitute is to enhance the ability of the State to attract and retain businesses to further the overarching goal of creating and retaining jobs.

Specifically, the substitute phases out the Business Retention and Relocation Assistance Grant Program, the Business Employment Incentive Program, and the Urban Transit Hub Tax Credit Program, while expanding the Grow New Jersey Assistance Program (GROWNJ); and the Economic Redevelopment and Growth Grant Program (ERG).

For the expanded programs, the substitute extends incentive eligibility to greater geographic boundaries within the State and lowers programmatic eligibility thresholds. The substitute’s recalibrated geographic and programmatic eligibility thresholds are designed to increase the capacity of existing New Jersey businesses, including small and mid-size companies, to put New Jersey’s economic development incentives to use for businesses expansion and New Jersey job creation and retention.

As to GROWNJ, the substitute modifies the program to increase the State’s capacity to offer economic development incentive packages to New Jersey businesses, relative to competing states. The substitute expands the geographic boundaries within which businesses can qualify for GROWNJ tax credits and reduces the capital investment and employment eligibility requirements. The substitute also installs bonus award tax credit amounts in the GROWNJ program to drive development into smart growth areas.

As to ERG, the substitute designates ERG as the State’s sole redeveloper incentive program. The substitute resizes and rescales ERG to more readily close project financing gaps and build public infrastructure critical to redevelopment projects. The substitute also equips ERG with public policy-oriented bonus award capacity. The substitute’s ERG bonus awards incentivize redevelopment that may,

among other things, bring fresh produce to urban “food deserts” and rebuilds tourism destinations that were destroyed by Hurricane Sandy.

In addition to the ERG’s programmatic changes, the substitute reconfigures the program’s fiscal limits. The substitute sets the maximum value of tax credits that EDA can approve for the State portion of ERG redevelopment incentive grant agreements at \$600 million. Of that \$600 million, \$250 million is allotted to qualified residential projects located on urban transit hub sites that are commuter rail in nature; \$200 million is allotted to qualified residential projects in distressed municipalities or deep poverty pockets; \$100 million is allotted to qualified residential projects that are disaster recovery projects; and \$50 million is allotted to qualified residential projects in any municipality falling within a qualifying economic redevelopment and growth incentive area.

FISCAL IMPACT:

The Office of Legislative Services (OLS) cannot project the direction or magnitude of the bill's net fiscal impact on the State and local governments. The State fiscal net impact is calculated by adding the direct revenue loss from granting the financial assistance and its opportunity costs (or the fiscal benefits the State forgoes as spending is redirected from one economic activity to another) and subtracting from that sum the indirect revenue gain generated by projects whose implementation is caused by the financial assistance. In addition, the bill might accrue an indirect revenue gain to local governments.

On the one side of the ledger, the OLS notes that the bill will produce an indeterminate multi-year State revenue loss that may amount to billions of dollars from the awarding of additional financial assistance plus the assistance’s indeterminate opportunity costs. The OLS bases its assessment on a) the bill’s expansion of eligibility criteria and benefit amounts for the Grow New Jersey Assistance Program and the Economic Redevelopment and Growth Grant Program, and b) the non-existence of a cap on the granting of certain financial assistance under the bill. Under current law, the issuance of additional financial assistance is limited by the near-depletion of the combined \$1.75 billion cap on Urban Transit Hub Tax Credits and the Grow New Jersey Assistance Program (which the bill will raise to \$1.835 billion in the short-run). As a result, under current law, future applicants are restricted to incentive payments under the uncapped Economic Redevelopment and Growth Grant Program; the Business Employment Incentive Program, which is subject to annual appropriations by the State Legislature; and the Business Retention and Relocation Assistance Grant Program, which has an annual \$20 million cap.

On the other side of the ledger, additional awards of financial assistance that will serve as the impetus for the realization of capital projects will generate indirect fiscal benefits to the State and local

governments that may, or may not, exceed the cost and opportunity cost of providing the assistance. The indirect fiscal effects from projects that would take place with or without the receipt of the financial assistance, however, have to be excluded from the analysis. This is so because whenever the assistance has no bearing on the decision to carry out a project, it merely produces sunk costs to the State, or an expense without a benefit.

The table below summarizes the utilization of the five existing economic development incentive programs since their inception, according to published information on the EDA website as of April 3, 2013.

<b>Lifetime Metrics of Economic Development Incentive Programs Affected by Bill</b>			
<b>Program</b>			
<b>Approved Assistance</b>			
<b>Capital Investments</b>			
<b>Jobs Created or Retained</b>			
<b>Business Employment Incentive Program</b>	\$1,551,524,726	\$12,768,062,289	101,900
<b>Urban Transit Hub Tax Credit Program</b>	\$1,027,430,238	\$2,270,258,051	7,837
<b>Grow New Jersey Assistance Program</b>	\$428,231,293	\$914,556,961	7,713
<b>Economic Redevelopment and Growth Grant Program</b>	\$454,077,839	\$2,726,396,292	10,975
<b>Business Retention and Relocation Assistance Grant Program</b>	\$116,726,550	\$2,039,601,339	29,340
<b>TOTAL</b>	<b>\$3,577,990,646</b>	<b>\$20,718,874,932</b>	<b>157,765</b>

STATEMENT TO

**ASSEMBLY COMMITTEE SUBSTITUTE FOR  
ASSEMBLY, No. 3680**

with Assembly Floor Amendments  
(Proposed by Assemblyman COUTINHO)

ADOPTED: APRIL 29, 2013

These amendments clarify the definition of the new term “tourism development project,” in both the Grow New Jersey Assistance Program (GROWNJ) and the Economic Redevelopment and Growth Grant Program (ERG), to provide that the project must be: among the most visited privately owned or operated tourism or recreation sites in the State, located within the programs’ incentive areas, and determined by the Economic Development Authority to be in an area appropriate for development and in need of economic development incentive assistance.

The amendments also modify the definition of the term “qualified residential project” under ERG to mean a predominantly residential redevelopment project that either is a disaster recovery project or has a total project cost of: at least \$17,500,000, if the project is located in any municipality with a population greater than 200,000; or \$10,000,000, if the project is located in any municipality with a population less than 200,000.

Additionally, the amendments delete from the bill a provision that would have insulated a business that leases a portion of its premises from another provision of the bill concerning forfeiture of GROWNJ tax credits.

The amendments also clarify that the ERG 35% total project cost cap excludes the costs of infrastructure improvements in the public right-of-way and 75 percent of the environmental remediation costs.

Finally, the amendments sunset the local Economic Redevelopment and Growth Grant program on July 1, 2018, the same date that the bill sunsets the State ERG program. Specifically, the amendments provide that a developer must submit an application for a local incentive grant prior to July 1, 2018. The amendments also prohibit the Local Finance Board from approving a local incentive grant unless the application was submitted prior to July 1, 2018.

# LEGISLATIVE FISCAL ESTIMATE

[First Reprint]

ASSEMBLY COMMITTEE SUBSTITUTE FOR

**ASSEMBLY, No. 3680**

**STATE OF NEW JERSEY**

**215th LEGISLATURE**

DATED: MAY 23, 2013

## SUMMARY

- Synopsis:** “The New Jersey Economic Opportunity Act of 2013”; provides financial incentives for expansion or conversion of certain redevelopment projects.
- Type of Impact:** State Revenue Impact
- Agencies Affected:** New Jersey Economic Development Authority (EDA)

### Office of Legislative Services Estimate

<b>Fiscal Impact</b>	<b><u>Year 1</u></b>	<b><u>Year 2</u></b>	<b><u>Year 3</u></b>
<b>Local Revenue</b>	Indeterminate – See comments below		
<b>State Revenue</b>	Indeterminate – See comments below		

- Under the First Reprint of the Assembly Committee Substitute for Assembly Bill No. 3680 of 2013, the amount of tax credit activity under the Grow New Jersey Assistance (GROWNJ) and Economic Redevelopment and Growth Grant (ERG) programs is likely to exceed that of the existing five economic development assistance programs combined. The substitute is also likely to provide for more generous tax incentives than the current programs provide.
- Based on Economic Development Authority (EDA) net benefits calculations, the tax revenues resulting from EDA-supported projects must exceed the value of the increased tax credit awards by at least 10% in order to meet the net benefits test.
- The net benefits calculation is not a measure of opportunity costs and does not attempt to measure the larger impacts of these tax credits on the labor or real estate marketplace outside of the project itself. Due to a high level of uncertainty about the macroeconomic impacts of these programs on the economy, it is not possible to determine the true revenue impact of the bill.



## **BILL DESCRIPTION**

The First Reprint of the Assembly Committee Substitute for Assembly Bill No. 3680 of 2013, entitled the “New Jersey Economic Opportunity Act of 2013,” makes changes to various EDA economic development programs. The bill expands the GROWNJ and the ERG, while phasing out the Business Retention and Relocation Assistance Grant Program (BRRAG), the Business Employment Incentive Program (BEIP), and the Urban Transit Hub Tax Credit Program (UTHTC). The expansions to GROWNJ and ERG incorporate various aspects of the programs phased out under the substitute. The objective of this consolidation of programs is to more effectively administer the State’s premier economic development incentive programs, and to increase access to these programs for small to mid-size businesses.

Major changes made to the UTHTC include: (1) an expansion of the credit that can be taken in the next 20 tax periods from a \$150 million limit on all credits to a \$250 million limit on all credits against tax liabilities under the UTHTC; (2) the deadline for applications to UTHTC is extended from July 1, 2014 to the effective date of the substitute; (3) The EDA is permitted to exceed the \$1.75 billion cap on UTHTC and GROWNJ for any project awards granted to projects which applied between October 24, 2012 and December 21, 2012.

GROWNJ is expanded to make businesses eligible based upon the value of improvements per square foot of leasable space, rather than a \$20 million minimum investment. The program also reduces the requirement for the number of full time jobs created from 100 to a number between 10 and 50 depending on the type of industry. The value of the GROWNJ tax credits are increased from \$5,000 per job, per year, for ten years with up to \$3,000 per job, per year, for 10 years in incentives for meeting certain conditions to a base benefit of between \$1,500 and \$5,000 per job, per year, for up to 10 years with multiple new incentives that would allow the base benefit to be tripled for meeting various objectives, with a total limit on annual credits of between \$2.5 million and \$30 million. The GROWNJ and UTHTC program are limited to a combined \$1.75 billion prior to the 90th day after the enactment of the substitute, after which time there will be no limit on awards under GROWNJ; however the program will expire and stop accepting applications on July 1, 2018.

A cap on the amount of the State portion of tax credits that can be issued under the ERG for qualified residential projects is established at \$600 million, divided among projects in urban transit hubs, distressed municipalities, deep poverty pockets, disaster recovery projects, and economic redevelopment and growth incentive areas. There is no limit to credits that can be awarded under ERG for non-residential projects. The ERG credits are limited to 20% of any project’s cost under current law, but would be expanded to up to 35% for certain types of projects and to close certain financing gaps. A project may exceed the 35% cap for the costs of eligible infrastructure improvements in the public right-of-way which are eligible for a 100% credit and eligible environmental remediation costs which are eligible for a 75% credit. The State and local program is scheduled to expire and stop accepting applications on July 1, 2018.

Applications to the UTHTC will still be possible under the substitute until the effective date of the bill, 60 days after enactment, and the EDA shall have 180 days from the effective date to make final actions on the awards of project applications under the UTHTC.

## **FISCAL ANALYSIS**

### ***EXECUTIVE BRANCH***

None received.

**OFFICE OF LEGISLATIVE SERVICES**

The Office of Legislative Services (OLS) finds that it is not possible to determine the fiscal impact of the substitute, the “New Jersey Economic Opportunity Act of 2013,” at this time; however, the substitute is likely to result in a significant direct reduction in State revenue, relative to existing law, through the distribution of additional tax credits. These credits will incentivize economic activity that will bring in tax revenue equal to at least 110% of those credits. It is not clear how much of that revenue would be realized if those credits were not in place, nor is it clear what, if any, negative impact those credits will have on competing businesses in the State that have not received these tax credits. It also is not clear what economic activity would happen in the absence of such tax credits, resulting in an indeterminate State and local revenue impact.

**Direct Revenue Reduction from Program Awards**

The substitute will result in a direct reduction in tax collections by awarding various tax credits in exchange for the retention or creation of jobs and real estate investment. The objective of these credits is to generate business activity in the State that would not happen if not for these incentives. The direct tax credit awards from impacted incentive programs under existing law are as follows:

<b>Past Spending on Incentives Programs</b>						
Year	BRRAG - FY			BEIP - FY		
	Total Award	Total Investment	Jobs	Total Award	Total Investment	Jobs
2012	\$ 72.9	\$ 388.8	8,075	\$ 71.9	\$ 349.0	3,892
2011	\$ 5.5	\$ 127.8	2,476	\$ 73.2	\$ 165.5	3,632
2010	\$ 3.6	\$ 68.4	2,574	\$ 152.5	\$ 420.0	6,342
2009	\$ 2.1	\$ 40.8	1,508	\$ 84.2	\$ 227.9	3,712
2008	\$ 6.1	\$ 343.3	3,193	\$ 133.4	\$ 668.5	6,991
Year	ERG - CY			GROW - CY		
	Total Award	Total Investment	Jobs	Total Award	Total Investment	Jobs
2012	\$ 104.6	\$ 619.6	2,611	\$ 391.6	\$ 877.9	7,188
2011	\$ 290.0	\$ 1,768.7	5,967			
2010	\$ 44.8	\$ 256.8	797			
2009	\$ 14.6	\$ 81.3	1,600			
2008						
Year	UTHTC - Residential -CY			UTHTC - Commercial - CY		
	Total Award	Total Investment	Jobs	Total Award	Total Investment	Jobs
2012	\$ 46.0	\$ 222.0	46	\$ 333.1	\$ 664.8	3,586
2011	\$ 42.0	\$ 140.0	50	\$ 301.0	\$ 394.9	2,296
2010	\$ 160.5	\$ 591.4	654	\$ 144.7	\$ 255.6	1,205
note: UTHTC and GROW have awarded \$1.41 billion of its \$1.75 billion legislative limit for the life of the program.						
Year	TOTAL					
	Total Award	Total Investment	Jobs			
2012	\$ 1,020.1	\$ 3,122.1	25,398			
2011	\$ 711.7	\$ 2,596.9	14,421			
2010	\$ 506.1	\$ 1,592.2	11,572			
2009	\$ 100.9	\$ 350.0	6,820			
2008	\$ 139.5	\$ 1,011.8	10,184			
Note: FY = Fiscal Year; CY = Calendar Year						
*All dollar amounts are in millions						

The level of tax credits awarded under existing incentive programs has risen dramatically in recent years, from less than \$200 million in 2008 and 2009, to over \$1 billion in 2012. The only existing program with a strict appropriation limit is the combined GROWNJ and UTHTC, which is capped at \$1.75 billion. While this rate of growth in awards is not sustainable, there is a clear trend of increasing utilization of these tax credit incentive programs for economic development. Under the substitute, the annual amount of tax credits awarded would likely remain above the \$1 billion level reached in 2012.

The substitute increases the amount of tax credits awarded under GROWNJ and ERG resulting in higher award amounts for comparable projects than under the existing programs. In addition, by expanding eligibility to a wider pool of applicants, it is reasonable to expect greater participation and a greater amount of awards being granted under these programs.

The only program where the size of potential awards decreases is for projects formerly eligible for the UTHTC, which were eligible for tax credits valued at up to 100% of qualified capital investments. Those projects will now have to apply under the ERG, where they would only be eligible for up to 35% of approved project costs. The substitute permits the UTHTC to continue for a limited period after the passage of the bill and allows the EDA to approve and allocate tax credits for certain qualified residential projects under the UTHTC, and based on awards in 2011 and 2012, it is likely that an amount greater than the full \$1.75 billion permitted under current UTHTC could be expended by that expiration date. There may be a strong flow of applicants in the period before the expiration of that credit in an attempt to take advantage of the remaining \$750 million prior to its expiration, driving the amount of reduced tax revenue higher in the first year.

The substitute also places a limit on the residential project component of the ERG at \$600 million. This places an upper limit on the amount that can be awarded for residential projects under that program. Given the rate of awards in 2011 and 2012, and considering the expansions made to the program, notably making it the primary source of funding for former UTHTC projects, it is likely that the full \$600 million could be expended within two years.

While the available information indicates that applications for these programs and the size of awards will increase under this substitute, it is not possible to place an estimate on the amount of the aggregate increase because the decision about how much to grant under these programs is not predetermined. If the EDA were to limit the total amount awarded each year, the aggregate amount of award value could remain the same, while increasing the selectivity of the programs, and increasing the relative award size given a set amount of project investment or employment.

### **Revenue Increases Resulting from Program Awards**

The business expansions that generally result from EDA programs increase State tax collections. Under the GROWNJ, the tax credit is equal to between \$4,000 and \$15,000 per full time job created. While the amount of business tax revenue is reduced, the State still realizes income taxes from the newly employed individuals, business taxes remitted beyond the amount of the credits, sales taxes from the sale of taxable goods, and local real estate taxes on facilities where these employees work.

The tax credits awarded under the ERG are for between 20% and 35% of the total project cost. These projects result in construction spending and employment; while also creating jobs which result in additional income tax, and increasing corporate taxes based upon the additional business activity created by the project.

For each award made by the EDA, a net benefits test is performed which requires a project to generate a present value of at least 110% of the amount of assistance granted in the form of direct and indirect tax revenues from the project activity. Thus, for every \$1 billion in tax credits

awarded, there should be at least \$1.1 billion in tax revenue generated as a result of the project. If the EDA methodology is accurate, this substitute would then be expected to generate a net revenue increase of at least 10% of the tax credits awarded under the ERG. If the substitute were to result in \$1 billion in increased tax credit awards, the expected impact on State revenues would be an increase of at least \$100 million based upon the net benefits test.

While the net benefits test provides a good estimate for the activity resulting from the investments made in order to obtain the credit, the test is not able to account for what would happen if the credit were not given in the first place. The test attempts to evaluate whether jobs in question are “at risk” of being eliminated or relocated; however it is not possible to know the decision that a business would have made if the tax credit award was different or not offered. It is also not possible to know what activity would take place should a project not happen. State residents that are employed under a tax credit program would not all remain unemployed if a project does not take place. Many of those employees would likely find employment elsewhere, and if a supply of unemployed or underemployed skilled labor were to accumulate in the State, there would be a point at which businesses would move in to fill that void, even without the incentives. At the same time, such levels of unemployment would also lead many individuals to relocate to other states with better job prospects, resulting in secondary impacts on the real estate market and property taxes as out-migration increases.

The net benefits test also is incapable of measuring the second order impacts, on markets and competing businesses that these tax credits have on the economy. It is unclear what impact large tax credits have on existing businesses, especially in situations where the new project results in direct competition with existing businesses. If a business moves into the State with a substantial tax credit, it is realizing an artificially reduced cost of business relative to its in-State competitors. This can place existing businesses at a disadvantage and the increased tax revenue for the incentivized businesses may come at the expense of the business and resultant tax revenues of existing local businesses rather than by drawing in new customers. The net benefit model does not appear to take into account these changes to the business marketplace that will happen as a result of newly incentivized businesses competing with existing businesses without such incentives. Providing large tax credits to businesses in an uneven manner across the State could distort the competitive marketplace in ways that cannot be easily predicted, and with impacts that cannot be easily predicted, even after the programs have been put in place. In situations where the businesses obtaining the tax credits are competing nationally and internationally with businesses in other States and nations, the State impact is notably reduced, and may even generate greater net benefits due to the incentivized business having a comparative advantage over competitors in other States, and resulting in business profits being further reinvested into the State economy. These larger impacts on the economy are uncertain and provide a challenge to estimating the revenue impact of a tax credit program relative to the revenue that would be realized in the absence of such a program.

These questions of what would happen in the absence of the tax credits add a significant amount of uncertainty which is not directly addressed by a net benefits test. While it is likely the case that, under certain circumstances and certain situations, the tax credit programs generate significant net benefits to the State, there are also situations where the net benefit calculation determines that a project should be beneficial to a State; however, uncertainties created by the circumstances of that project can actually result in net revenue losses. Due to these uncertainties in what impact these programs have on the larger economy and related businesses, the OLS finds that the revenue impact of the substitute is indeterminate.

FE to ACS for A3680 [1R]

6

*Section: Authorities, Utilities, Transportation and Communications*

*Analyst: Patrick Brennan  
Associate Fiscal Analyst*

*Approved: David J. Rosen  
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.).

# STATEMENT TO

[Second Reprint]

## ASSEMBLY COMMITTEE SUBSTITUTE FOR **ASSEMBLY, No. 3680**

with Assembly Floor Amendments  
(Proposed by Assemblyman Coutinho)

ADOPTED: JUNE 27, 2013

These amendments:

- Modify the areas of the qualified incentive area under the GROWNJ program and of the qualifying economic redevelopment and growth grant incentive area under the ERG program;
- Add an additional category of municipality within which a designated portion of the \$600 million cap on qualified residential projects under the ERG program will be available; and
- Delete section 29 from the bill.

Section 29 would exempt projects approved under the bill and projects approved under other legislatively established incentives programs managed by the Economic Development Authority, now or in the past, from Executive Order No. 215 of 1989 (EO-215). EO-215 requires departments, agencies, and authorities of the State to prepare and submit environmental assessments or environmental impact statements in support of their major construction projects to the Department of Environmental Protection. EO-215 also applies to major projects receiving at least 20 percent State assistance. EO-215 is intended to reduce or eliminate any potential adverse environmental impacts of projects initiated or funded by the State. This amendment continues this compliance requirement.

**ASSEMBLY COMMITTEE SUBSTITUTE FOR  
ASSEMBLY BILL NO. 3680  
(Third Reprint)**

To the General Assembly:

Pursuant to Article V, Section I, Paragraph 14 of the New Jersey Constitution, I am returning Assembly Committee Substitute for Assembly Bill No. 3680 (Third Reprint) with my recommendations for reconsideration.

This bill would expand the Grow New Jersey ("GrowNJ") and Economic Redevelopment and Growth ("ERG") tax incentive programs, while phasing out the Business Retention and Relocation Assistance Grant, the Business Employment Incentive, and the Urban Transit Hub Tax Credit programs. For the expanded GrowNJ and ERG programs, the bill recalibrates the allocation of tax incentives to maximize economic development and private-sector job growth, while lowering program eligibility thresholds for New Jersey's municipalities in the most need of economic redevelopment.

I commend the sponsors' efforts to improve New Jersey's already successful economic development programs. The new opportunities for our State's businesses, employers, and workers contained in this bill represent a significant and needed modernization. However, I recommend modifications to the level of incentives for certain projects, and different requirements for businesses and developers seeking to invest in New Jersey's economy through these incentive programs. With these minor, but important, modifications incorporated, I look forward to swiftly signing this bill.

Accordingly, I herewith return Assembly Committee Substitute for Assembly Bill No. 3680 (Third Reprint) and recommend that it be amended as follows:

Page 25, Section 8, Line 33: Delete "26" and insert "24"

Page 28, Section 8, Line 31: Delete "July" and insert "December"

Page 29, Section 9, Lines 37-46: Delete in their entirety

Page 30, Section 9, Lines 1-2: Delete in their entirety

Page 43, Section 13, Line 30: Delete "24" and insert "22"

Page 43, Section 13, Line 30: Delete "26" and insert "24"

Page 59, Section 18, Lines 5-23: Delete in their entirety

Page 68, Section 22, Lines 19-48: Delete in their entirety

Page 69, Section 22, Lines 1-10: Delete in their entirety

Page 69, Section 23, Lines 12-48: Delete in their entirety

Page 70, Section 23, Lines 1-47: Delete in their entirety

Page 71, Section 23, Lines 1-22: Delete in their entirety

Page 71, Section 24, Line 24: Delete "24." and insert "22."

Page 72, Section 25, Line 1: Delete "25." and insert "23."

Page 72, Section 25, Line 1: Delete "26" and insert "24"

Page 73, Section 26, Line 17: Delete "26." and insert "24."

Page 75, Section 27, Line 1: Delete "27." and insert "25."

Page 78, Section 28, Line 30: Delete "28." and insert "26."

Page 82, Section 29, Line 23: Delete "29." and insert "27."

Page 82, Section 30, Line 29: Delete "30." and insert "28."

Respectfully,

[seal]

/s/ Chris Christie  
Governor

Attest:

/s/ Charles B. McKenna  
Chief Counsel to the Governor



**LEGISLATIVE FISCAL ESTIMATE**  
 [Fourth Reprint]  
 ASSEMBLY COMMITTEE SUBSTITUTE FOR  
**ASSEMBLY, No. 3680**  
**STATE OF NEW JERSEY**  
**215th LEGISLATURE**

DATED: OCTOBER 9, 2013

**SUMMARY**

**Synopsis:** “The New Jersey Economic Opportunity Act of 2013.”

**Type of Impact:** State and Local Revenue Impact

**Agencies Affected:** New Jersey Economic Development Authority (EDA), Municipal Governments

**Office of Legislative Services Estimate**

<b>Fiscal Impact</b>	<u><b>Year 1</b></u>	<u><b>Year 2</b></u>	<u><b>Year 3</b></u>
<b>Local Revenue</b>	Indeterminate – See comments below		
<b>State Revenue</b>	Indeterminate – See comments below		

- Under the Fourth Reprint of the Assembly Committee Substitute for Assembly Bill No. 3680 of 2013, the amount of tax credit activity under the Grow New Jersey Assistance (GROWNJ) and Economic Redevelopment and Growth Grant (ERG) programs is likely to exceed that of the existing five economic development assistance programs combined. The substitute is also likely to provide more generous tax incentives than the current programs provide.
- The Garden State Growth Zone (GSGZ) property valuation exemption will result in significantly reduced property tax revenues for the cities of Paterson, Passaic, Trenton, and Camden to encourage potential development which may not occur without GSGZ incentives.
- As development incentive award levels increase under the “New Jersey Economic Opportunity Act of 2013” (Economic Opportunity Act), business investment may be expected to grow substantially. While New Jersey Economic Development Authority (EDA) net benefits calculations require a financial benefit to the State before awarding incentives, the benefits test is a projection of future revenues, meaning that the actual revenues realized could be higher or lower than calculated by the net benefits test. Uncertainty about the magnitude of economic impacts from business investment and the resultant contribution to

State and local revenues makes the estimate of incremental tax revenues resulting from incentive awards granted under the Economic Opportunity Act indeterminate.

## **BILL DESCRIPTION**

The Fourth Reprint of the Assembly Committee Substitute for Assembly Bill No. 3680 of 2013, entitled the “New Jersey Economic Opportunity Act of 2013,” makes changes to various EDA economic development programs. The bill expands the Grow New Jersey Assistance Program (GROWNJ) and the Economic Redevelopment and Growth Grant Program (ERG), while phasing out the Business Retention and Relocation Assistance Grant Program (BRRAG), the Business Employment Incentive Program (BEIP), and the Urban Transit Hub Tax Credit Program (UTHTC), and creates a new Garden State Growth Zone (GSGZ). The expansions to GROWNJ and ERG incorporate various aspects of the programs phased out under the substitute. The objective of this consolidation of programs is to more effectively administer the State’s premier economic development incentive programs, and to increase access to these programs for small to mid-size businesses.

Major changes made to the UTHTC include: (1) an expansion of the credit that can be taken in the next 20 tax periods from a \$150 million limit on all credits to a \$260 million limit on all credits against tax liabilities under the UTHTC; (2) the deadline for applications to UTHTC is shifted from July 1, 2014 to the effective date of the bill; (3) acute care medical facility projects may now qualify under UTHTC with lower minimum employment requirements; (4) \$100 million of the \$1.75 billion cap that was dedicated for offshore wind incentive awards has been removed from the cap, effectively providing another \$100 million in capacity for GROW and UTHTC prior to the December 31, 2013 expiration of the cap and removing the expiration date for the \$100 million in authorized offshore wind incentive awards.

GROWNJ is expanded to make businesses eligible for the program based upon the value of improvements per square foot of leasable space rather than a \$20 million minimum investment. The program also reduces the requirement for the number of full time jobs created from 100 to a number between 10 and 50 depending on the type of industry. The value of the GROWNJ tax credits are increased from \$5,000 per job, per year, for 10 years and \$3,000 per job, per year, for 10 years in incentives for meeting certain conditions to a new base benefit of between \$500 and \$5,000 per job, per year, for up to 10 years with multiple new modifiers that would allow the base benefit to increase to between \$2,000 and \$15,000 per job per year. The total limits on project awards are \$20 million or more with the limit being 100% or more of the base capital investment. Mega projects and GSGZ projects have no specified cap and GSGZ projects are able to set their credit per job at an amount equal to the capital investment divided by the number of jobs created, permitting the number of credits to grow above the initial incentive award amount if the number of jobs created is greater than the amount provided in the incentive agreement. The GROWNJ and UTHTC program are limited to a combined \$1.75 billion in awards prior to December 31, 2013, after which time there will be no limit on awards under GROWNJ; however, the program will expire and cease accepting applications on July 1, 2018.

A cap on the amount of the State portion of tax credits that can be issued under ERG for qualified residential projects is established at \$600 million, divided among projects in urban transit hubs, distressed municipalities, deep poverty pockets, disaster recovery projects, and economic redevelopment and growth incentive areas. There is no limit to credits that can be awarded under ERG for non-residential projects. The ERG credits are limited to 20% of any project’s cost under current law, but may be expanded to up to 40% for certain types of projects and to close certain financing gaps. Municipal redevelopers are eligible for credits of between

75% and 100% of project costs. The State and local program is scheduled to expire and cease accepting applications on July 1, 2018.

The new GSGZ designation will increase the ERG and GROW awards for projects within the zones, while also making redevelopers eligible for an exemption from increased property assessments for areas that are redeveloped. Within a GSGZ, all improvements of any type will be exempt from increased assessments on improvements for at least 5 years; redevelopers that earn a profit of 12% or less on their investment will be eligible for a 20 year incentive that provides a full exemption for the first 10 years, followed by a 10 year phase in of the assessment at 10% per year.

Applications to the UTHTC will still be possible under the substitute within the \$1.75 billion award cap, and the EDA shall have until December 31, 2013 to make final actions on the awards of project applications under the UTHTC before the program and the cap expire.

## **FISCAL ANALYSIS**

### ***EXECUTIVE BRANCH***

None received.

### ***OFFICE OF LEGISLATIVE SERVICES***

The Office of Legislative Services finds that it is not feasible to determine the fiscal impact of the substitute, the “New Jersey Economic Opportunity Act of 2013,” however, the substitute is likely to result in a significant direct reduction in State revenue, relative to existing law, through the distribution of additional tax incentive awards to businesses and developers that invest in the State. These awards will incentivize economic activity which will bring in tax revenue equal to at least 110% of those credits, based upon EDA net benefits calculations. It is not clear how much of that revenue would be realized if those credits were not in place, nor is it clear what, if any, negative impact those credits will have on competing businesses in the State that do not receive these tax credits. It also is not clear what economic activity would happen in the absence of such tax credits, or the predictive accuracy of the net benefits calculation, resulting in an indeterminate State and local revenue impact.

### **Direct Revenue Reduction from Program Awards**

The substitute will result in a direct reduction in tax collections by awarding various tax incentive awards in exchange for the retention or creation of jobs and real estate investment. The objective of these credits is to generate business activity in the State that would not happen if not for these incentives. The direct tax credit awards from impacted incentive programs under existing law are as follows:

<b>Past Spending on Incentives Programs</b>						
Year	BRRAG - FY			BEIP - FY		
	Total Award	Total Investment	Jobs	Total Award	Total Investment	Jobs
2012	\$ 72.9	\$ 388.8	8,075	\$ 71.9	\$ 349.0	3,892
2011	\$ 5.5	\$ 127.8	2,476	\$ 73.2	\$ 165.5	3,632
2010	\$ 3.6	\$ 68.4	2,574	\$ 152.5	\$ 420.0	6,342
2009	\$ 2.1	\$ 40.8	1,508	\$ 84.2	\$ 227.9	3,712
2008	\$ 6.1	\$ 343.3	3,193	\$ 133.4	\$ 668.5	6,991
Year	ERG - CY			GROW - CY		
	Total Award	Total Investment	Jobs	Total Award	Total Investment	Jobs
2012	\$ 104.6	\$ 619.6	2,611	\$ 391.6	\$ 877.9	7,188
2011	\$ 290.0	\$ 1,768.7	5,967			
2010	\$ 44.8	\$ 256.8	797			
2009	\$ 14.6	\$ 81.3	1,600			
2008						
Year	UTHTC - Residential -CY			UTHTC - Commercial - CY		
	Total Award	Total Investment	Jobs	Total Award	Total Investment	Jobs
2012	\$ 46.0	\$ 222.0	46	\$ 333.1	\$ 664.8	3,586
2011	\$ 42.0	\$ 140.0	50	\$ 301.0	\$ 394.9	2,296
2010	\$ 160.5	\$ 591.4	654	\$ 144.7	\$ 255.6	1,205
note: UTHTC and GROW have awarded \$1.41 billion of its \$1.75 billion legislative limit for the life of the program.						
Year	TOTAL					
	Total Award	Total Investment	Jobs	Total Award	Total Investment	Jobs
2012	\$ 1,020.1	\$ 3,122.1	25,398			
2011	\$ 711.7	\$ 2,596.9	14,421			
2010	\$ 506.1	\$ 1,592.2	11,572			
2009	\$ 100.9	\$ 350.0	6,820			
2008	\$ 139.5	\$ 1,011.8	10,184			
Note: FY = Fiscal Year; CY = Calendar Year						

(Note: All dollar amounts provided are in millions)

The level of tax credits awarded under existing incentive programs has risen dramatically in recent years, from less than \$200 million in 2008 and 2009, to over \$1 billion in 2012. The only existing program with a strict appropriation limit is the combined GROWNJ and UTHTC, which is capped at \$1.75 billion in incentives. While this rate of growth in awards might not continue, there is a clear trend of increasing utilization of these tax credit incentive programs for economic development. Under the substitute, the annual amount of tax credits awarded would likely remain above the \$1 billion level reached in 2012.

The substitute increases the amount of tax credits awarded under GROWNJ and ERG resulting in higher award amounts for comparable projects than under the existing programs. In addition, by expanding eligibility to a wider pool of applicants, it is reasonable to expect greater participation and a greater amount of awards being granted under these programs.

The per job award limit was approximately \$8,000 per job per year for 10 years through the GROWNJ program. Under the revised GROWNJ program, that job creation award rises to an amount up to \$15,000 per job per year for 10 years, and within GSGZ areas the award is equal to the capital investment divided by the number of jobs created.

For example, there was a UTHTC award in 2011 for \$102 million, 100% of project costs that was expected to retain or create 250 jobs. Under this bill, a similar project would seek assistance under GROWNJ. Under the new GROWNJ in a GSGZ, such a project would remain eligible for 100% of project costs based upon the capital investment (\$102 million) divided by jobs (250), where the incentive award would be \$408,000 per employee over 10 years, or \$40,800 per employee per year, more than 500% higher than the award permissible under the previous

GROWNJ program, reflecting the expansion of the GROWNJ program and the way it replaces UTHTC.

The substitute places a limit on the residential project component of the ERG at \$600 million. This places an upper limit on the amount that can be awarded for residential projects under that program. Given the rate of awards in 2011 and 2012, and considering the expansions made to the program with awards reaching 40% of costs in GSGZ, and that residential projects that would have formerly qualified for incentives under UTHTC will now be eligible under the expanded ERG program, it is likely that the full \$600 million could be expended within two years.

While the available information indicates that applications for these programs and the size of awards will increase under the substitute, it is not possible to place an estimate on the amount of the aggregate increase because the decision about how much to grant under these programs is not predetermined. If the EDA were to limit the total amount awarded each year, the aggregate amount of award value could remain the same, while increasing the selectivity of the programs, and increasing the relative award size given a set amount of project investment or employment.

At the same time, given that under these programs companies are eligible for much higher incentive awards per dollar of investment or per job created than under existing law, it is not unreasonable to expect tax incentive awards to roughly double on a per job and per dollar of investment basis, despite the uncertainty of aggregate incentive award amounts. If the State is foregoing twice as much revenue per additional job or per additional dollar of investment, it is likely that the State's revenue return on incentives is likely to shrink substantially, negatively impacting revenues relative to current law. In order to make up for this reduced return on incentive dollars, the new incentives must either generate much higher quality investments and jobs through higher salaries and greater profitability and growth, or the incentives will have to generate enough additional jobs and investment to offset the reduced return on jobs and investment that could have been realized under the less generous programs, that would now further benefit from the enhanced programs.

### **Revenue Impacts Resulting from Program Awards**

The business expansions that generally result from EDA programs increase State tax collections. Under GROWNJ, the tax incentive is equal to between \$2,000 and \$15,000 per full time job created per year for 10 years. While the amount of tax revenue is reduced relative to the program not existing at all, the State still realizes other taxes: 1) income taxes from the newly employed individuals; 2) business taxes remitted beyond the amount of the credits; 3) sales taxes from the sale of taxable goods; and 4) local real estate taxes on facilities where these employees work. The State also will realize additional revenues when the tax incentives expire, with GROWNJ recipients required to remain in the State for at least 1.5 times the length of their incentive, meaning full tax payments in years 10-15 after the incentives are awarded.

The tax credits awarded under the ERG can be between 20% and 40% of total project costs. These projects result in construction spending and employment while also creating jobs which result in additional income tax and increasing corporate taxes based upon the additional business activity created by the project.

For each award made by the EDA, a net benefits test is conducted which requires a project to generate a present value of at least 110% of the amount of assistance granted in the form of direct and indirect tax revenues from the project activity. Therefore, for every \$1 billion in tax credits awarded, there should be at least \$1.1 billion in tax revenue generated as a result of the project. Assuming that the State actually realizes the projections calculated in the net benefits test, the substitute would then be expected to generate a net revenue increase of at least 10% of the tax credits awarded under the ERG. If the substitute were to result in \$1 billion in increased

tax credit awards, the expected impact on State revenues would be an increase of at least \$100 million based upon the net benefits test.

While the net benefits test provides a good estimate for the direct and indirect activity resulting from the investments made in order to obtain the credit, the test is not able to account for what would happen if the credit were not given in the first place. The test attempts to evaluate whether jobs in question are “at risk” of being eliminated or relocated; however, it is not possible to know the decision that a business would have made if the tax credit award was different or not offered. It is also not possible to know what activity would take place should a project not happen. For example, when a company leaves the State and leaves behind 100 unemployed persons and vacant property, the State will not experience a permanent reduction in revenue equal to all of the collections associated with that business. Eventually another use will be developed for the property and the unemployed State residents will eventually find new jobs or start new businesses of their own. If a supply of unemployed or underemployed skilled labor were to accumulate in the State, there would be a point at which new businesses would move in to fill that void, even without State tax incentives. At the same time, such levels of unemployment would also lead many individuals to relocate to other states with better job prospects, resulting in secondary impacts on the real estate market and property taxes as out-migration increases. The net revenue impact of losing a major employer is clearly negative, but not 100% of the revenue the employer previously generated.

The net benefits test also may not accurately project the second order impacts on markets and competing businesses that these tax incentives have on the economy, notably the economic and market impact caused by the arrival of new businesses with very favorable tax status. It is unclear what impact large tax incentives have on existing businesses, especially in situations where the new project results in direct competition with existing businesses. If a business moves into the State with a substantial tax incentive, it is realizing an artificially reduced cost of doing business relative to its in-State competitors. This can place existing businesses at a disadvantage so that the increased business activity and tax revenue for the incentivized businesses (lower tax rates) may reduce the business activity and profitability of existing local businesses (higher tax rates). That shift not only hurts existing business but also reduces government revenue by shifting business activity from higher tax rate payers to lower tax rate payers. The net benefit model does not appear to take into account these changes to the business marketplace that will happen as a result of newly incentivized businesses competing with existing businesses without such incentives. Providing large tax credits to businesses in an uneven manner across the State could impact the competitive marketplace in ways that cannot be easily predicted and calculated, even after the programs have been put in place.

One aspect of the programs that mitigates the impacts of this competition between local businesses is the restriction on retail business from qualifying for many incentives. Retail businesses generally compete directly with other local retailers. In situations where the businesses obtaining the tax incentives are competing nationally and internationally with businesses in other States and nations, the State impact is notably reduced, and may even generate greater net benefits due to the incentivized business having a comparative advantage over competitors in other States, resulting in business profits being further reinvested into the State economy. The benefit to New Jersey may be smaller than the loss for the competing State, but that would be a question of federal revenue impacts. These larger impacts on the economy are uncertain and provide a challenge to estimating the revenue impact of a tax incentive program relative to the revenue that would be realized in the absence of such a program. It is also a question that is somewhat outside the scope of a net benefits test as these second order impacts do not relate to the business itself, which has no responsibility for the health of

competing businesses, and is not responsible for regulating markets. They are impacts more accurately attributed to the incentive programs themselves.

These questions of what would happen in the absence of the tax credits add a significant amount of uncertainty which is not directly addressed by a net benefits test. While it is likely the case that, under certain circumstances and certain situations, the tax credit programs generate significant net benefits to the State, there are also situations where the net benefit calculation determines that a project should be beneficial to a State; however, uncertainties created by the unique circumstances of that project can actually result in net revenue losses. For example, an electronics company can fulfill all of its commitments under the program by investing the agreed to amount in a facility and maintaining the required staffing and wage levels; however, a downturn in the global electronics market could result in lower profits and the company may not generate as much tax revenue as projected, despite a fixed incentive level based on employment.

A larger dilemma is that the bill requires net benefits calculations to occur over time frames larger than the commitment period under the incentive programs. For instance, net benefits are calculated over 30 years for mega projects and GSGZ projects under GROWNJ. The commitment period for GROWNJ is only for 15 years, meaning that a company can fully realize its incentives and fulfill all of its commitments after just 15 years. The net benefits test is required to assume that the company will remain for a full 30 years. If the company decides to relocate or close operations in years 15-30, the company will not be subject to any penalties under the program, but the net benefits assumed by the EDA will surely fail to be realized. If a project needs 20 years of full tax payments to be worthwhile for the State, but is only guaranteed to pay full taxes for 5 years, there is a chance that an incentive agreement could be executed as designed, yet still generate a significant net revenue loss for the State because the company chooses to relocate early.

Due to these uncertainties in what impact these programs have on the larger economy and related businesses, as well as the possibility that a company will relocate or close operations before the State fully realizes benefits from the incentive programs, there are downside risks that make net revenue losses under the program possible, despite a net benefits test.

The Office of Legislative Services finds that the revenue impact of the substitute is indeterminate with certain revenue losses due to tax incentive agreements which may or may not be fully offset by revenue increases from expanded business activity. The magnitude of the revenue losses from tax incentive agreements cannot be known because ERG and GROWNJ have no aggregate award cap from January 1, 2014 through the program expiration on July 1, 2018.

*Section: Authorities, Utilities, Transportation and Communications*

*Analyst: Patrick Brennan  
Associate Fiscal Analyst*

*Approved: David J. Rosen  
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.).

Home Newsroom Media Administration NJ's Priorities Contact Us

Press Releases Public Addresses Executive Orders Press Kit Reports

Home > Newsroom > Press Releases > 2013

# Governor Christie Signs Bipartisan Bill To Boost New Jersey's Economy And Create Private Sector Jobs

Wednesday, September 18, 2013

Tags: [Jobs and the Economy](#)

## "Garden State Growth Zone" Offers Extra Economic Incentives For New Jersey's Cities

**Trenton, NJ** – Building on his strong record turning New Jersey's economy around, Governor Chris Christie today signed the bipartisan Economic Opportunity Act of 2013. The signing comes on the heels of ribbon-cutting ceremonies this week at Zoetis and Panasonic, two of the more than 250 businesses that have benefitted from the various economic development assistance offered by the Christie Administration.

The Economic Opportunity Act streamlines New Jersey's economic development incentive programs into two categories: GrowNJ, which will become the state's main job creation incentive program, and the Economic Redevelopment and Growth Program (ERG), now New Jersey's sole developer incentive program. Both programs have been extended until July 1, 2019.

"When both parties work together, we can get big things done to make New Jersey's economy stronger, and this bipartisan effort is a perfect example," said Governor Christie. "The Economic Opportunity Act incentivizes job creation, makes our state more competitive and lets private sector employers know that New Jersey is the place where they should open their doors. I once again commend leaders on both sides of the aisle for their hard work, and am pleased to sign this job-creating legislation into law."

The new law also builds on Governor Christie's commitment to reclaiming New Jersey's cities. It places extra emphasis on spurring development and private sector job growth in "Garden State Growth Zones," identified in the legislation as the four lowest median family income cities in the state: Camden, Trenton, Passaic City, and Paterson. Projects in these cities will have significantly lower eligibility thresholds and higher incentive levels. They will also be eligible to give property tax abatements for new development, allowing inner cities like Camden to spur development and compete with Philadelphia for private sector jobs and residential growth.

"Not only will this bill encourage more companies to create jobs throughout New Jersey, it will also give an extra boost to some of our biggest cities," added Governor Christie. "More and better-paying jobs are the keys to thriving cities, which are vital to the economic well-being of our entire state."

###

**Press Contact:**  
Michael Drewniak  
Colin Reed  
609-777-2600

**Stay Connected**  
with Social Media

**Stay Connected**  
with Email Alerts

LIKE THIS PAGE? SHARE IT WITH YOUR FRIENDS.

SHARE   

**Related Content**



Panasonic Headquarters  
September 17, 2013

[View More Photos](#)



[Contact Us](#) | [Privacy Notice](#) | [Legal Statement & Disclaimers](#) | [Accessibility Statement](#) | 

Statewide: [NJ Home](#) | [Services A to Z](#) | [Departments/Agencies](#) | [FAQs](#)  
Office of the Governor: [Home](#) | [Newsroom](#) | [Media](#) | [Administration](#) | [NJ's Priorities](#) | [Contact Us](#)

Copyright © State of New Jersey, 1996-2016  
Office of the Governor  
PO Box 001  
Trenton, NJ 08625  
609-292-6000



Home Newsroom Media Administration NJ's Priorities Contact Us

Press Releases Public Addresses Executive Orders Press Kit Reports

Home > Newsroom > Press Releases > 2013

# Governor Christie: Bipartisanship Is The Key To Success In This State

Wednesday, September 18, 2013

Tags: [Jobs and the Economy](#)

Governor Christie: Bipartisanship Is The Key To Suc...



<http://www.youtube.com/watch?v=v80AC5voUYo>

Stay Connected  
with Social Media

Stay Connected  
with Email Alerts

LIKE THIS PAGE? SHARE IT  
WITH YOUR FRIENDS.

SHARE ...

Related Content



Economic Opportunity Act  
September 18, 2013

[View More Photos](#)

## Transcript:

**GOVERNOR CHRIS CHRISTIE:** Today's signing also demonstrates what can be done when both parties cross the aisle to work behalf of our citizens. And these type of things are things that all of us know can happen when folks work together and that we see not only in other places across the country but in our nation's capital, don't happen when you don't have leaders who are willing to step up and work with each other. We've seen 143,000 new private-sector jobs since January of 2010. Four consecutive years of positive private-sector job growth. \$540 million in targeted tax cuts to help create jobs and help business growth throughout the state. Four balanced budgets in a row. Taxes remaining where they are and in some instances getting lower. And we've reined in a lot of spending. All of those things, every one of those things I just listed are bipartisan accomplishments. Things that could not have been done without the work of the leaders of the Legislature in both parties and this Administration. So with this act we'll achieve even more as we encourage more companies to create jobs to boost our economy and to help our cities thrive which is a very important part of the goal of this legislation, as well. So, I think the Lt. Governor and I are very much looking forward to attending more ribbon-cuttings for years ahead for businesses who recognize that New Jersey is going to be as competitive as anybody in this region when it comes to attracting new private-sector jobs.

**SENATE PRESIDENT STEPHEN SWEENEY:** I want to thank the Governor for working with us. It's true, bipartisanship is not easy to accomplish and doesn't always happen but we've done some good things and this is one of them. Jobs aren't Republicans or Democrats. They're jobs. And people in this state need jobs.

**ASSEMBLY SPEAKER SHEILA OLIVER:** So, I too would like to thank the sponsors of this legislation in both the Senate and the Assembly, the Governor's office who worked with us in tandem for over 14 months to make this day possible. I'd like to thank every member in both houses that cast an affirmative vote for this. And I'd like to say to the citizens of New Jersey today, this is a win-win for you and the communities in which you live.

###