

**34:1B-120; 34:1B-129; 34:1B-209 et al  
LEGISLATIVE HISTORY CHECKLIST**

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**LAWS OF:** 2022                    **CHAPTER:** 134

**NJSA:** 34:1B-120; 34:1B-129; 34:1B-209 et al  
(Concerns accommodations related to COVID-19 public health emergency for businesses participating in certain State economic development programs.)

**BILL NO:** A4929                    (Substituted for S3379 (1R))

**SPONSOR(S)** Eliana Pintor Marin and others

**DATE INTRODUCED:** 12/5/2022

**COMMITTEE:**                    **ASSEMBLY:** Commerce and Economic Development  
Appropriations

**SENATE:** ---

**AMENDED DURING PASSAGE:** Yes

**DATE OF PASSAGE: ASSEMBLY:** 12/15/2022

**SENATE:** 12/19/2022

**DATE OF APPROVAL:** 12/22/2022

**FOLLOWING ARE ATTACHED IF AVAILABLE:**

**FINAL TEXT OF BILL** (Second Reprint enacted)                    Yes

**A4929**

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

**COMMITTEE STATEMENT: ASSEMBLY:**                    Yes                    Commerce and Economic Development  
Appropriations

**SENATE:**                    No

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

**FLOOR AMENDMENT STATEMENT:**                    No

**LEGISLATIVE FISCAL ESTIMATE:**                    Yes                    12/20/2022

**S3379 (1R)**

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

**COMMITTEE STATEMENT: ASSEMBLY:**                    No

**SENATE:**                    Yes                    Environ. & Energy

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

**FLOOR AMENDMENT STATEMENT:**                    No

**LEGISLATIVE FISCAL ESTIMATE:**

Yes 12/21/2022

**VETO MESSAGE:**

No

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

Yes

**FOLLOWING WERE PRINTED:**

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**REPORTS:**

No

**HEARINGS:**

Yes

Committee meeting of Senate Environment and Energy Committee: "The Committee will meet to hear testimony from invited guests on reducing food waste and greenhouse gas emissions through food date labeling," December 15, 2022

Library call number: 974.90 P777, 2022h

Available online at <https://hdl.handle.net/10929/110432>

**NEWSPAPER ARTICLES:**

No

end

P.L. 2022, CHAPTER 134, *approved December 22, 2022*  
Assembly, No. 4929 (*Second Reprint*)

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

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

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

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

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

**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 ACE committee amendments adopted December 5, 2022.

<sup>2</sup>Assembly AAP committee amendments adopted December 12, 2022.

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

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

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

21 (cf: P.L.2010, c.123, s.12)

22

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

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

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

42 (2) The expected duration of those positions;

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

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

- 1 (5) The total dollar investment the business is making in the  
2 project;
- 3 (6) Whether the business is a designated industry;
- 4 (7) Impact of the business on State tax revenues; and
- 5 (8) Such other related factors determined by the authority.
- 6 b. A business may be eligible to be awarded a grant, either in  
7 cash or in tax credits, of up to 80 percent of the withholdings of the  
8 business or up to 50 percent of the estimated tax of the partners of  
9 an eligible partnership if the grant promotes smart growth and the  
10 goals, strategies, and policies of the State Development and  
11 Redevelopment Plan, established pursuant to section 5 of P.L.1985,  
12 c.398 (C.52:18A-200), as determined by and based upon criteria  
13 promulgated by the authority following consultation with the Office  
14 of State Planning in the Department of State.
- 15 c. The term of the grant shall not exceed 10 years.
- 16 d. At the discretion of the authority, the grant may apply to  
17 new employees or partners in eligible positions created during the  
18 base years, and during the remainder of the term of the grant.
- 19 e. Within 180 days of the date of enactment of P.L.2015, c.194  
20 (C.34:1B-137.1 et al.), a business that was approved for a grant  
21 prior to the enactment of P.L.2015, c.194 (C.34:1B-137.1 et al.),  
22 may direct the authority to convert the grant to a tax credit against  
23 the tax liability otherwise due pursuant to section 5 of P.L.1945,  
24 c.162 (C.54:10A-5), sections 2 and 3 of P.L.1945, c.132 (C.54:18A-  
25 2 and 54:18A-3), section 1 of P.L.1950, c.231 (C.17:32-15), or  
26 N.J.S.17B:23-5. The direction to convert the grant to a tax credit  
27 shall be irrevocable. An approved tax credit shall be issued in the  
28 manner and for the amounts as follows and may only be applied in  
29 the tax period for which they are issued and shall not be carried  
30 forward:
- 31 (1) For grants accrued but not paid during calendar years 2008  
32 through 2013, the tax credit shall be equal to an approved amount  
33 and shall be issued in five installments over a five-year period  
34 beginning in the 2017 tax accounting or privilege period of the  
35 business or tax credit transferee in the following percentages: in  
36 year one, five percent of the accrued amount; in year two, 20  
37 percent of the accrued amount; in year three, 25 percent of the  
38 accrued amount; in year four, 25 percent of the accrued amount; in  
39 year five, 25 percent of the accrued amount. To the extent any  
40 amount in this paragraph has not been approved by the authority by  
41 the commencement of State fiscal year 2017, the aggregate tax  
42 credit that would have been issued in State fiscal year 2017 shall be  
43 issued in the year the amount is approved and the five-year period  
44 shall commence in that fiscal year;
- 45 (2) For a grant accrued but not paid during calendar year 2014,  
46 the tax credit shall be equal to any approved amount and shall be  
47 issued in four equal installments over a four-year period beginning

1 in the 2019 tax accounting or privilege period of the business or tax  
2 credit transferee;

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

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

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

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

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

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

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

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

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

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

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

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

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

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

32 (3) Upon the executive director's approval of an application for  
33 a tax credit transfer certificate, the division shall review and issue  
34 the tax credit transfer certificate. The tax credit transfer certificate,  
35 upon receipt thereof by the business, may be sold or assigned, in  
36 full or in part, in an amount not less than \$100,000, or the amount  
37 of the refundable tax credit issued if less than \$100,000, of tax  
38 credits to any other person that may have a tax liability pursuant to  
39 section 5 of P.L.1945, c.162 (C.54:10A-5), sections 2 and 3 of  
40 P.L.1945, c.132 (C.54:18A-2 and 54:18A-3), section 1 of P.L.1950,  
41 c.231 (C.17:32-15), or N.J.S.17B:23-5. The tax credit transfer  
42 certificate provided to the business shall include a statement  
43 waiving the business's right to claim that amount of the credit  
44 against the taxes that the business has elected to sell or assign. The  
45 sale or assignment of any amount of a tax credit transfer certificate  
46 allowed under this section shall not be exchanged for consideration  
47 received by the business of less than 75 percent of the transferred  
48 credit amount before considering any further discounting to present

1 value which shall be permitted. Any amount of a tax credit transfer  
2 certificate used by a purchaser or assignee against a tax liability  
3 shall be subject to the same privileges, limitations, and conditions  
4 that apply to the use of the credit by the business that originally  
5 applied for and was allowed the tax credit, including treating the  
6 amount of excess as an overpayment under subsection f. of this  
7 section. The tax credit transferee may not transfer its tax credit to  
8 any other party.

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

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

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

36 (cf: P.L.2017, c.12, s.1)

37  
38 3. 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  
41 the 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 section 35  
8 of P.L.2009, c.90 (C.34:1B-209.3) and section 6 of P.L.2010, c.57  
9 (C.34:1B-209.4).

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

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

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

1 for which a grant was provided to the business pursuant to the  
2 "InvestNJ Business Grant Program Act," P.L.2008, c.112 (C.34:1B-  
3 237 et seq.).

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

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

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

31 (8) In determining whether a proposed capital investment will  
32 yield a net positive benefit, the authority shall not consider the  
33 transfer of an existing job from one location in the State to another  
34 location in the State as the creation of a new job, unless (a) the  
35 business proposes to transfer existing jobs to a municipality in the  
36 State as part of a consolidation of business operations from two or  
37 more other locations that are not in the same municipality whether  
38 in-State or out-of-State, or (b) the business's chief executive officer,  
39 or equivalent officer, submits a certification to the authority  
40 indicating that the existing jobs are at risk of leaving the State and  
41 that the business's chief executive officer, or equivalent officer, has  
42 reviewed the information submitted to the authority and that the  
43 representations contained therein are accurate, and the business  
44 intends to employ not fewer than 500 full-time employees in the  
45 qualified business facility. In the event that this certification by the  
46 business's chief executive officer, or equivalent officer, is found to  
47 be willfully false, the authority may revoke any award of tax credits  
48 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.2013, c.161 (C.52:27D-  
19 489p et al.), then, to the extent that there remains sufficient  
20 financial authorization for the award of a tax credit, the authority is  
21 authorized to consider those applications and to make awards of tax  
22 credits to eligible applicants, provided that the authority shall take  
23 final action on those applications no later than December 31, 2013.

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

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

36 (4) Tax credits awarded pursuant to P.L.2007, c.346 (C.34:1B-  
37 207 et seq.) for applications submitted to and approved by the  
38 authority prior to the effective date of the "New Jersey Economic  
39 Opportunity Act of 2013," P.L.2013, c.161 (C.52:27D-489p et al.),  
40 shall be administered by the authority in the manner established  
41 prior to that date.

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

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

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

23 <sup>1</sup>【The credit amount for any tax period ending after December  
24 31, 2023 during which the documentation of a business's credit  
25 amount remains uncertified shall be forfeited, although credit  
26 amounts for the remainder of the years of the 10-year credit period  
27 shall remain available to it.】<sup>1</sup>

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

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

39 <sup>1</sup>A business may elect to suspend its obligations for the 2020,  
40 2021, 2022, 2023 tax period, or any combination thereof, due to the  
41 COVID-19 pandemic, provided that the business shall make such  
42 election in writing to the authority before the issuance of the tax  
43 credit for the corresponding tax year and such suspension shall  
44 extend the term of the eligibility period by a corresponding amount  
45 of time. The authority shall modify the approval letter, and the  
46 business shall execute the modification within the time period  
47 provided by the authority. The modification shall provide that the

1 failure to submit the annual report due to the suspension shall not be  
2 a forfeiture or an uncertified tax period.<sup>1</sup>

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

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

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

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

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

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

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

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

40 <sup>1</sup>[(1)] (i) any full-time employee employed by the business  
41 shall spend at least 10 percent of the employee's time at the  
42 qualified business facility through the 2023 tax period; and

43 <sup>1</sup>[(2)] (ii) following the receipt by the business of its tax credit  
44 certificate or tax credit transfer certificate for the 2022 tax period,  
45 the business shall make a payment of an amount equal to five  
46 percent of the amount of tax credit the business receives for the  
47 2022 tax period, which payment shall be made to <sup>1</sup>[a local  
48 economic development entity designated by the chief executive of

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

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

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

32 <sup>1</sup>f. A business that has executed an approval letter may request  
33 before December 31, 2023 to terminate the award, commencing  
34 with the 2020 tax period or any subsequent tax period ending on or  
35 before December 31, 2023, due to the COVID-19 public health  
36 emergency; provided that the business shall submit a certification  
37 from the business's chief executive officer or equivalent officer  
38 stating that the termination is due, directly or indirectly, to the  
39 public health emergency and describing the impact of the public  
40 health emergency on the business. All credits for the tax period in  
41 which the termination is requested and all subsequent tax periods  
42 shall be forfeited, provided however that any credits of the business  
43 shall remain unaffected. A termination agreement executed by the  
44 authority and business shall not be amended.<sup>1</sup>

45 (cf: P.L.2020, c.138, s.1)

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

3       6. a. (1) The combined value of all credits approved by the  
4 authority pursuant to P.L.2007, c.346 (C.34:1B-207 et seq.) and  
5 P.L.2011, c.149 (C.34:1B-242 et al.) prior to December 31, 2013  
6 shall 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 section 35  
8 of P.L.2009, c.90 (C.34:1B-209.3). Following the enactment of the  
9 "New Jersey Economic Opportunity Act of 2013," P.L.2013, c.161  
10 (C.52:27D-489p et al.), there shall be no monetary cap on the value  
11 of credits approved by the authority attributable to the program  
12 pursuant to the "New Jersey Economic Opportunity Act of 2013,"  
13 P.L.2013, c.161 (C.52:27D-489p et al.).

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

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

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

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

18       b. (1) A business shall submit an application for tax credits  
19 prior to July 1, 2019. The authority shall not approve an application  
20 for tax credits unless the application was submitted prior to July 1,  
21 2019.

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

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

42       (c) If the Governor declares an emergency, then the chief  
43 executive officer of the authority shall have the discretion to grant  
44 an extension for the duration of the emergency and the board of the  
45 authority, upon recommendation of the chief executive officer, may  
46 grant two additional six-month extensions; provided that (i) the  
47 extensions are due to the economic disruption caused by the  
48 emergency; (ii) the project is delayed due to unforeseeable acts



1 related to the project beyond the eligible business's control and  
2 without its fault or negligence; (iii) the eligible business is using  
3 best efforts, with all due diligence, to proceed with the completion  
4 of the project and the submission of the certification; and (iv) the  
5 eligible business has made, and continues to make, all reasonable  
6 efforts to prevent, avoid, mitigate, and overcome the delay.

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

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

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

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

22 The credit amount may be taken by the tax certificate holder for  
23 the tax period for which it was issued or may be carried forward for  
24 use by the tax certificate holder in any of the next 20 successive tax  
25 periods, and shall expire thereafter. The tax certificate holder may  
26 transfer the tax credit amount on or after the date of issuance or at  
27 any time within three years of the date of issuance for use by the  
28 transferee in the tax period for which it was issued or in any of the  
29 next 20 successive tax periods. Notwithstanding the foregoing, no  
30 more than the amount of tax credits equal to the total credit amount  
31 divided by the duration of the eligibility period in years may be  
32 taken in any tax period.

33 A business may elect to suspend its obligations for the 2020  
34 '2021, 2022, 2023' tax period <sup>1</sup>**and, if the public health emergency**  
35 **or state of emergency declared** <sup>1</sup>**, or any combination thereof,** due  
36 to the COVID-19 pandemic <sup>1</sup>**extends past March 2021, the 2021**  
37 **tax period** <sup>1</sup>**, provided that the business shall make such election in**  
38 **writing to the authority before the** <sup>1</sup>**date the annual report is due**  
39 **issuance of the tax credit for the corresponding tax year** <sup>1</sup> **and such**  
40 **suspension shall extend the term of the eligibility period by a**  
41 **corresponding amount of time. The authority shall amend the**  
42 **incentive agreement, and the business shall execute the amended**  
43 **incentive agreement within the time period provided by the**  
44 **authority. The amended incentive agreement shall provide that the**  
45 **failure to submit the annual report due to the suspension shall not be**  
46 **a forfeiture or an uncertified tax period.**

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

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

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

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

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

44 (3) (a) If the qualified business facility is sold by the owner in  
45 whole or in part during the eligibility period, the new owner shall  
46 not acquire the capital investment of the seller and the seller shall  
47 forfeit all credits for the tax period in which the sale occurs and all

1 subsequent tax periods, provided however that any credits of the  
2 business shall remain unaffected.

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

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

39 (b) For a project located within a Garden State Growth Zone  
40 which qualifies under the "Municipal Rehabilitation and Economic  
41 Recovery Act," P.L.2002, c.43 (C.52:27BBB-1 et al.), or which  
42 contains a Tourism District as established pursuant to section 5 of  
43 P.L.2011, c.18 (C.5:12-219) and regulated by the Casino  
44 Reinvestment Development Authority, and which qualifies for a tax  
45 credit pursuant to subsubparagraph (ii) of subparagraphs (a) through  
46 (e) of paragraph (6) of subsection d. of section 5 of P.L.2011, c.149  
47 (C.34:1B-246), if, in any tax period the number of full-time  
48 employees employed by the business at the qualified business

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

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

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

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

29 f. A business which has already applied for a tax credit  
30 incentive award prior to the effective date of the "New Jersey  
31 Economic Opportunity Act of 2013," P.L.2013, c.161 (C.52:27D-  
32 489p et al.), but who has not yet been approved for the tax credits,  
33 or has not executed an agreement with the authority, may proceed  
34 under that application or seek to amend the application or reapply  
35 for a tax credit incentive award for the same project or any part  
36 thereof for the purpose of availing itself of any more favorable  
37 provisions of the program.

38 g. A business that has entered into an incentive agreement may  
39 request before December 31, **2022** 2023 to terminate the  
40 incentive agreement, commencing with the 2020 tax period or any  
41 subsequent tax period ending on or before December 31, 2023, due  
42 to the COVID-19 public health emergency; provided that the  
43 business shall submit a certification from the business's chief  
44 executive officer or equivalent officer stating that the termination is  
45 due, directly or indirectly, to the public health emergency and  
46 describing the impact of the public health emergency on the  
47 business. All credits for the tax period in which the termination  
48 occurs and all subsequent tax periods shall be forfeited, provided

1 however that any credits of the business shall remain unaffected. <sup>1</sup>A  
2 termination agreement executed by the authority and business shall  
3 not be amended.<sup>1</sup>

4 h. A business that has entered into an incentive agreement may  
5 request, before December 31, ~~[2021]~~ 2023, to reduce the number of  
6 new or retained full-time jobs specified in the incentive agreement  
7 based on a certification of the business of the eligible positions at  
8 the qualified business facility commencing with the 2020 tax period  
9 and, at the discretion of the business, whether the reduction shall  
10 continue for each subsequent tax period remaining in the eligibility  
11 period, provided that the business maintains the minimum number  
12 of new or retained full-time jobs required to be eligible pursuant to  
13 subsection c. of section 3 of P.L.2011, c.149 (C.34:1B-244). The  
14 reduction in employment shall first apply to the number of new full-  
15 time employees, and then shall apply to the number of retained full-  
16 time employees.

17 The authority shall calculate a new tax credit total amount for the  
18 2020 tax period and the remainder of the eligibility period based on  
19 the reduced employment and shall amend the incentive agreement  
20 to reflect the recalculated award amount. In no event shall the  
21 modification result in an increase in employment or tax credit  
22 amount.

23 i. Following the termination of the public health emergency  
24 declared by the Governor pursuant to Executive Order No. 103 of  
25 2020, as extended, a business that has entered into an incentive  
26 agreement may elect, before December 31, 2023, to waive, for the  
27 period beginning on July 1, 2022 and ending on December 31,  
28 2023, the requirement that a full-time employee who is employed  
29 by the business shall spend at least 60 percent of the employee's  
30 time at the qualified business facility; provided, however, that a  
31 business that makes such an election shall satisfy the following  
32 criteria:

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

36 (2) following the receipt by the business of its tax credit  
37 certificate or tax credit transfer certificate for the 2022 tax period,  
38 the business shall make a payment of an amount equal to five  
39 percent of the amount of tax credit the business receives for the  
40 2022 tax period, which payment shall be made to <sup>1</sup>[a local  
41 economic development entity designated by the chief executive of  
42 the municipality in which the qualified business facility is located]  
43 the authority, and which payment the authority shall hold <sup>2</sup>[,  
44 allocate, and distribute] and make available for the provision of  
45 loans, guarantees, equity investments, and grants, or other forms of  
46 financing<sup>2</sup> to support small business and downtown <sup>2</sup>or commercial  
47 corridor<sup>2</sup> activation activities <sup>2</sup>within the municipality in which the

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

3 (cf: P.L.2021, c.160, s.57)

4

5 5. This act shall take effect immediately.

6

7

8

9

10 Concerns accommodations related to COVID-19 public health  
11 emergency for businesses participating in certain State economic  
12 development programs.

# ASSEMBLY, No. 4929

## STATE OF NEW JERSEY 220th LEGISLATURE

INTRODUCED DECEMBER 5, 2022

**Sponsored by:**

**Assemblywoman ELIANA PINTOR MARIN**

**District 29 (Essex)**

**SYNOPSIS**

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

**CURRENT VERSION OF TEXT**

As introduced.



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

3

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

6

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

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

35 b. Following the termination of the public health emergency  
36 declared by the Governor pursuant to Executive Order No. 103 of  
37 2020, as extended, a business that has entered into an incentive  
38 agreement may elect, before December 31, 2023, to waive, for the  
39 period beginning on July 1, 2022 and ending on December 31,  
40 2023, the requirement that a full-time employee who is employed  
41 by the business shall spend at least 60 percent of the employee's  
42 time at the qualified business facility; provided, however, that a  
43 business that makes such an election shall satisfy the following  
44 criteria: (1) any full-time employee employed by the business shall  
45 spend at least 10 percent of the employee's time at the qualified

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

Matter underlined thus is new matter.



1 business facility through the 2023 tax period; and (2) following the  
2 receipt by the business of its tax credit certificate or tax credit  
3 transfer certificate for the 2022 tax period, the business shall make  
4 a payment of an amount equal to five percent of the amount of tax  
5 credit the business receives for the 2022 tax period, which payment  
6 shall be made to a local economic development entity designated by  
7 the chief executive of the municipality in which the qualified  
8 business facility is located.

9 (cf: P.L.2010, c.123, s.12)

10

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

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

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

30 (2) The expected duration of those positions;

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

1 business that makes such an election shall satisfy the following  
2 criteria: (1) any full-time employee employed by the business shall  
3 spend at least 10 percent of the employee's time at the qualified  
4 business facility through the 2023 tax period; and (2) following the  
5 receipt by the business of its tax credit certificate or tax credit  
6 transfer certificate for the 2022 tax period, the business shall make  
7 a payment of an amount equal to five percent of the amount of tax  
8 credit the business receives for the 2022 tax period, which payment  
9 shall be made to a local economic development entity designated by  
10 the chief executive of the municipality in which the qualified  
11 business facility is located.

12 (cf: P.L.2017, c.12, s.1)

13

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

46 The credit amount for any tax period ending after December 31,  
47 2023 during which the documentation of a business's credit amount  
48 remains uncertified shall be forfeited, although credit amounts for



1 the remainder of the years of the 10-year credit period shall remain  
2 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 the  
7 value of all credits approved by the authority against tax liabilities  
8 pursuant to P.L.2007, c.346 (C.34:1B-207 et seq.) in any fiscal year  
9 shall not exceed \$260,000,000.

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

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

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

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

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

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

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

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

42 (5) Following the termination of the public health emergency  
43 declared by the Governor pursuant to Executive Order No. 103 of  
44 2020, as extended, a business that has entered into an incentive  
45 agreement may elect, before December 31, 2023, to waive, for the  
46 period beginning on July 1, 2022 and ending on December 31,  
47 2023, the requirement that a full-time employee who is employed  
48 by the business shall spend at least 60 percent of the employee's

1 time at the qualified business facility; provided, however, that a  
2 business that makes such an election shall satisfy the following  
3 criteria: (1) any full-time employee employed by the business shall  
4 spend at least 10 percent of the employee's time at the qualified  
5 business facility through the 2023 tax period; and (2) following the  
6 receipt by the business of its tax credit certificate or tax credit  
7 transfer certificate for the 2022 tax period, the business shall make  
8 a payment of an amount equal to five percent of the amount of tax  
9 credit the business receives for the 2022 tax period, which payment  
10 shall be made to a local economic development entity designated by  
11 the chief executive of the municipality in which the qualified  
12 business facility is located.

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

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

36 (cf: P.L.2020, c.138, s.1)

37

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

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

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

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

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

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

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

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

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

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

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

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

47 (4) A business seeking a credit for a mega project shall apply for  
48 the credit within four years after the effective date of the "New

1 Jersey Economic Opportunity Act of 2013," P.L.2013, c.161  
2 (C.52:27D-489p et al.).

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

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

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

22 A business may elect to suspend its obligations for the 2020 tax  
23 period and, if the public health emergency or state of emergency  
24 declared due to the COVID-19 pandemic extends past March 2021,  
25 the 2021 tax period, provided that the business shall make such  
26 election in writing to the authority before the date the annual report  
27 is due and such suspension shall extend the term of the eligibility  
28 period by a corresponding amount of time. The authority shall  
29 amend the incentive agreement, and the business shall execute the  
30 amended incentive agreement within the time period provided by  
31 the authority. The amended incentive agreement shall provide that  
32 the failure to submit the annual report due to the suspension shall  
33 not be a forfeiture or an uncertified tax period.

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

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

46 (4) In order to respond to the profoundly negative impact of the  
47 COVID-19 pandemic on the State's economy and finances, the  
48 authority may request a tax certificate holder, at the tax certificate

1 holder's discretion, to defer the application of a credit amount  
2 allowed pursuant to this section to a later tax period. Upon request,  
3 the authority and the tax certificate holder shall negotiate the terms  
4 of the deferral, which shall hold the certificate holder harmless,  
5 which will be made in the incentive agreement or as an addendum  
6 to the incentive agreement.

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

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

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

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

1 partners, or other ownership or leasing participants in accordance  
2 with their respective interests. If the business entity or entities or  
3 their members, shareholders, partners, or other ownership or leasing  
4 participants lease space in the facility to members, shareholders,  
5 partners, or other ownership or leasing participants or others as  
6 tenants in the facility, the leases shall be treated as a lease to an  
7 affiliate, and the business entity or entities shall not be subject to  
8 forfeiture of the credits. For the purposes of this section, leasing  
9 shall include subleasing and tenants shall include subtenants.

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

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

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

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

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

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

23 g. A business that has entered into an incentive agreement may  
24 request before December 31, **[2022]** 2023 to terminate the  
25 incentive agreement, commencing with the 2020 tax period or any  
26 subsequent tax period ending on or before December 31, 2023, due  
27 to the COVID-19 public health emergency; provided that the  
28 business shall submit a certification from the business's chief  
29 executive officer or equivalent officer stating that the termination is  
30 due, directly or indirectly, to the public health emergency and  
31 describing the impact of the public health emergency on the  
32 business. All credits for the tax period in which the termination  
33 occurs and all subsequent tax periods shall be forfeited, provided  
34 however that any credits of the business shall remain unaffected.

35 h. A business that has entered into an incentive agreement may  
36 request, before December 31, **[2021]** 2023, to reduce the number of  
37 new or retained full-time jobs specified in the incentive agreement  
38 based on a certification of the business of the eligible positions at  
39 the qualified business facility commencing with the 2020 tax period  
40 and, at the discretion of the business, whether the reduction shall  
41 continue for each subsequent tax period remaining in the eligibility  
42 period, provided that the business maintains the minimum number  
43 of new or retained full-time jobs required to be eligible pursuant to  
44 subsection c. of section 3 of P.L.2011, c.149 (C.34:1B-244). The  
45 reduction in employment shall first apply to the number of new full-  
46 time employees, and then shall apply to the number of retained full-  
47 time employees.



1 The authority shall calculate a new tax credit total amount for the  
2 2020 tax period and the remainder of the eligibility period based on  
3 the reduced employment and shall amend the incentive agreement  
4 to reflect the recalculated award amount. In no event shall the  
5 modification result in an increase in employment or tax credit  
6 amount.

7 i. Following the termination of the public health emergency  
8 declared by the Governor pursuant to Executive Order No. 103 of  
9 2020, as extended, a business that has entered into an incentive  
10 agreement may elect, before December 31, 2023, to waive, for the  
11 period beginning on July 1, 2022 and ending on December 31,  
12 2023, the requirement that a full-time employee who is employed  
13 by the business shall spend at least 60 percent of the employee's  
14 time at the qualified business facility; provided, however, that a  
15 business that makes such an election shall satisfy the following  
16 criteria: (1) any full-time employee employed by the business shall  
17 spend at least 10 percent of the employee's time at the qualified  
18 business facility through the 2023 tax period; and (2) following the  
19 receipt by the business of its tax credit certificate or tax credit  
20 transfer certificate for the 2022 tax period, the business shall make  
21 a payment of an amount equal to five percent of the amount of tax  
22 credit the business receives for the 2022 tax period, which payment  
23 shall be made to a local economic development entity designated by  
24 the chief executive of the municipality in which the qualified  
25 business facility is located.

26 (cf: P.L.2021, c.160, s.57)

27  
28 5. This act shall take effect immediately.  
29  
30

### 31 STATEMENT

32  
33 This bill provides certain accommodations to businesses  
34 participating in the Business Employment Incentive Program, the  
35 Business Retention and Relocation Assistance Grant Program, the  
36 Grow New Jersey Assistance Program, and the Urban Transit Hub  
37 Program.

38 During the COVID-19 public health emergency, the New Jersey  
39 Economic Development Authority (EDA) implemented certain  
40 accommodations for businesses that had previously been approved  
41 awards under these programs. As part of these accommodations,  
42 the EDA waived the requirement that a full-time employee  
43 employed by a business participating in any of the programs is to  
44 spend at least 80 percent of the employee's time at the qualified  
45 business facility to be eligible for an award under the program. The  
46 New Jersey Economic Recovery Act of 2020 lowered the  
47 requirement for spending time at the qualified business facility to  
48 60 percent of the employee's time.

1       This bill provides an additional waiver to eligible businesses for  
2 the period beginning on July 1, 2022 and ending on December 31,  
3 2023. Specifically, the bill allows businesses to waive the  
4 requirement that a full-time employee who is employed by the  
5 business is to spend at least 60 percent of the employee's time at the  
6 qualified business facility. A business that makes such an election  
7 is required to satisfy the following criteria: (1) any full-time  
8 employee employed by the business is required to spend at least 10  
9 percent of the employee's time at the qualified business facility  
10 through the 2023 tax period; and (2) following the receipt by the  
11 business of its tax credit certificate or tax credit transfer certificate  
12 for the 2022 tax period, the business is required to make a payment  
13 of an amount equal to five percent of the amount of tax credit the  
14 business receives for the 2022 tax period, which payment is to be  
15 made to a local economic development entity designated by the  
16 chief executive of the municipality in which the qualified business  
17 facility is located.

18       During the COVID-19 public health emergency, the EDA also  
19 allowed businesses participating in the Grow New Jersey Assistance  
20 Program to terminate their program agreements any time before  
21 December 31, 2022 without the EDA recapturing previously  
22 distributed tax credits. The bill extends this accommodation for one  
23 calendar year, allowing business to terminate their program  
24 agreements any time before December 31, 2023, commencing with  
25 the 2020 tax period or any subsequent tax period ending on or  
26 before December 31, 2023.

ASSEMBLY COMMERCE AND ECONOMIC DEVELOPMENT  
COMMITTEE

STATEMENT TO  
**ASSEMBLY, No. 4929**

with committee amendments

**STATE OF NEW JERSEY**

DATED: DECEMBER 5, 2022

The Assembly Commerce and Economic Development Committee reports favorably Assembly Bill No. 4929, with committee amendments.

This bill, as amended, would provide certain accommodations to businesses participating in the Business Employment Incentive Program (BEIP), the Business Retention and Relocation Assistance Grant (BRAG) Program, the Grow New Jersey Assistance (GROW) Program, and the Urban Transit Hub (HUB) Program.

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

This bill would provide an additional waiver to eligible businesses for the period beginning on July 1, 2022 and ending on December 31, 2023. Specifically, the bill would allow businesses to waive the requirement that a full-time employee who is employed by the business must spend at least 60 percent of the employee's time at the qualified business facility if the business satisfies the following criteria: (1) any full-time employee employed by the business must spend at least 10 percent of the employee's time at the qualified business facility through the 2023 tax period; and (2) the business must pay to EDA five percent of the amount of the tax credit the business receives for the 2022 tax period, which payment EDA would use to support small business and downtown activation activities.

During the COVID-19 public health emergency, the EDA also allowed businesses participating in the Grow New Jersey Assistance Program to terminate their program agreements any time before December 31, 2022 without the EDA recapturing previously

distributed tax credits. The bill extends this accommodation for one calendar year, allowing a business to terminate its program agreements any time before December 31, 2023, commencing with the 2020 tax period or any subsequent tax period ending on or before December 31, 2023. The bill prohibits any amendment to a termination agreement once executed by the EDA and the business. The bill would provide this same accommodation to a business that has executed an approval letter under the Urban Transit Hub program.

The bill would also extend the time allowed under current law for a business to suspend its obligations under a GROW tax credit, and to extend the term of eligibility for the same period of time. Current law allows a suspension of a business's obligations for the 2020 and 2021 tax periods. The bill would extend this provision to include the 2022 and 2023 tax periods as well. The bill would also extend the ability of a business to suspend its obligations for the same period under the Urban Transit Hub program for the same period of time being afforded to GROW program recipients.

#### COMMITTEE AMENDMENTS:

Proposed committee amendments would:

(1) require a business which waives the requirement for full-time employees to be on-site at least 60 percent of the employee's time at the qualified business facility (under BEIP, BRAG, GROW, or HUB) to pay to the EDA five percent of the amount of the tax credit the business receives for the 2022 tax period, and requires EDA to use the payment to support small business and downtown activation activities. The bill as introduced would have required payments to be made to a local economic development entity.

(2) extend the ability of a GROW program recipient, and allow a HUB program recipient, to suspend its obligations under an incentive agreement for the 2020-2023 tax periods.

(3) extend the ability of a GROW program recipient to terminate an incentive agreement due to COVID-19 for an additional year, through December 31, 2023, and allow HUB program recipients the same accommodation for the 2020-2023 tax periods.

# ASSEMBLY APPROPRIATIONS COMMITTEE

## STATEMENT TO

[First Reprint]

## ASSEMBLY, No. 4929

with committee amendments

# STATE OF NEW JERSEY

DATED: DECEMBER 12, 2022

The Assembly Appropriations Committee reports favorably Assembly Bill No. 4929 (1R), with committee amendments.

As amended, this bill would provide certain accommodations to businesses participating in the Business Employment Incentive Program (BEIP), the Business Retention and Relocation Assistance Grant (BRAG) Program, the Grow New Jersey Assistance (GROW) Program, and the Urban Transit Hub (HUB) Program.

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

This bill would provide an additional waiver to eligible businesses for the period beginning on July 1, 2022 and ending on December 31, 2023. Specifically, the bill would allow businesses to waive the requirement that a full-time employee who is employed by the business must spend at least 60 percent of the employee's time at the qualified business facility if the business satisfies the following criteria: (1) any full-time employee employed by the business must spend at least 10 percent of the employee's time at the qualified business facility through the 2023 tax period; and (2) the business must pay to EDA five percent of the amount of the tax credit the business receives for the 2022 tax period, which payment EDA would use to support small business and downtown or commercial corridor activation activities within the municipality in which the qualified business facility is located.

During the COVID-19 public health emergency, the EDA also allowed businesses participating in the Grow New Jersey Assistance Program to terminate their program agreements any time before

December 31, 2022 without the EDA recapturing previously distributed tax credits. The bill extends this accommodation for one calendar year, allowing a business to terminate its program agreements any time before December 31, 2023, commencing with the 2020 tax period or any subsequent tax period ending on or before December 31, 2023. The bill prohibits any amendment to a termination agreement once executed by the EDA and the business. The bill would provide this same accommodation to a business that has executed an approval letter under the Urban Transit Hub program.

The bill would also extend the time allowed under current law for a business to suspend its obligations under a GROW tax credit, and to extend the term of eligibility for the same period of time. Current law allows a suspension of a business's obligations for the 2020 and 2021 tax periods. The bill would extend this provision to include the 2022 and 2023 tax periods as well. The bill would also extend the ability of a business to suspend its obligations for the same period under the Urban Transit Hub program for the same period of time being afforded to GROW program recipients.

#### COMMITTEE AMENDMENTS:

The committee amended the bill to:

- clarify that a business seeking a waiver that elects to pay to the EDA five percent of the amount of the tax credit the business receives for the 2022 tax period would be used by the EDA to support activation activities within the municipality in which the qualified business facility is located;
- require the EDA to use the funds received from a business seeking a waiver to provide loans, guarantees, equity investments, and grants, or other forms of financing; and
- require that funds received from a business seeking a waiver would be used to support commercial corridor activation activities in addition to small business and downtown activation activities.

#### FISCAL IMPACT:

The Office of Legislative Services concludes that the bill will have an indeterminate, multi-year net impact on State finances, comprised of the following components:

- A State revenue decrease to the extent that businesses choose to waive the on-site requirements for full-time employees at qualified business facilities. There will also be an increase in State revenues from payments made by those businesses equal to five percent of the tax credit they receive for the 2022 tax period. This will be offset by an increase in State costs because the bill requires the EDA to use the funds received via these payments to support certain economic development activities.

- A State revenue increase due to the termination of incentive agreements under the Grow New Jersey Assistance (Grow) Program or the execution of waiver letters under the Urban Transit Hub (Hub) Program. Exercising this option would prevent businesses that have been awarded tax credits through the GROW and HUB programs from claiming those credits because any tax credits for which the business has not qualified would be forfeited.
- Provisions of the bill allowing GROW and HUB participants to suspend their obligations under those programs would have no fiscal impact. Although the bill suspends the participants' eligibility for tax credits during the suspension period it also extends the period of time for which a business that makes this election is eligible for tax credits. The length of the extension is equal to the length of the suspension period.

# LEGISLATIVE FISCAL ESTIMATE

[Second Reprint]

**ASSEMBLY, No. 4929**

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

DATED: DECEMBER 21, 2022

### SUMMARY

- Synopsis:** Concerns accommodations related to COVID-19 public health emergency for businesses participating in certain State economic development programs.
- Type of Impact:** Multi-year increase in State expenditures.  
Multi-year net impact on State revenues.
- Agencies Affected:** Economic Development Authority.

#### Office of Legislative Services Estimate

<b>Fiscal Impact</b>	<b><u>FY 2023 &amp; Annually Thereafter</u></b>
<b>State Expenditure Increase</b>	Indeterminate
<b>State Revenue Net Impact</b>	Indeterminate

- The Office of Legislative Services (OLS) concludes that the bill will result in an indeterminate increase in State expenditures and have an indeterminate net impact on State revenues over a multi-year period. The OLS lacks the informational basis to project the magnitude and direction of the bill's countervailing State revenue effects.
- The bill will result in a State revenue decrease to the extent that businesses participating in certain State economic development programs choose to waive the on-site requirements for full-time employees at qualified business facilities because the waiver will allow businesses to remain eligible for tax credits which they may not have received under current law.
- The bill will result in an increase in State revenues from payments made by those businesses equal to five percent of the tax credit they received for the 2022 tax period. This will be offset by an increase in State expenditures because the bill requires the Economic Development Authority to use the funds it receives via these payments to support certain economic development activities.



- The termination of incentive agreements by businesses participating in the Grow New Jersey Assistance (GROW) Program and the Urban Transit Hub Tax Credit (HUB) Program will result in an increase in State revenues because these businesses would not be eligible to receive tax credits for which they may have otherwise qualified.
- Provisions of the bill allowing businesses to suspend their obligations under the GROW and HUB programs will have an indeterminate impact on State revenues. The overall impact of these provisions on State revenues will be driven by taxpayer decisions to claim tax credits in future tax years. The OLS cannot predict how individual taxpayer decisions will impact State finances in this regard.

## **BILL DESCRIPTION**

The bill provides certain accommodations to businesses participating in the Business Employment Incentive Program, the Business Retention and Relocation Assistance Grant Program, the GROW Program, and the HUB Program that were impacted by the COVID-19 public health emergency. Some provisions of the bill apply to businesses participating in all four programs while others impact only businesses enrolled in the GROW and HUB programs.

## **FISCAL ANALYSIS**

### ***EXECUTIVE BRANCH***

None received.

### ***OFFICE OF LEGISLATIVE SERVICES***

The OLS concludes that the bill will result in an indeterminate, multi-year increase in State expenditures and have an indeterminate, multi-year net impact on State revenues.

*Suspension of On-site Attendance Requirements.* Under current law, businesses participating in the Business Employment Incentive Program, the Business Retention and Relocation Assistance Grant Program, and the GROW and HUB programs are awarded economic development incentives in the form of tax credits for meeting certain program thresholds. One of these program thresholds is the creation or retention of a certain number of full-time jobs at a qualified business facility. The number of jobs created or retained varies depending on the program and the location of the qualified business facility. In order for a full-time job to be counted towards satisfying the program requirements under current law, full-time employees must spend at least 60 percent of their time at the qualified business facility.

The bill allows businesses to waive, for the period beginning on July 1, 2022 and ending on December 31, 2023, the requirement that a full-time employee who is employed by the business must spend at least 60 percent of the employee's time at the qualified business facility. A business that elects the waiver must satisfy two criteria. First, any full-time employee employed by the business must spend at least ten percent of the employee's time at the qualified business facility through the 2023 tax period. Second, the business must make a payment to the Economic Development Authority in an amount equal to five percent of the amount of the tax credit that the

business receives for the 2022 tax period. The bill requires the Economic Development Authority to use funds received via these payments to support small business activities and downtown activation or commercial corridor activities.

The OLS concludes that the provisions of the bill allowing businesses to waive the on-site requirements for full-time employees at qualified business facilities will result in a decrease in State revenues. Without the changes to the on-site attendance requirement, these businesses would not be eligible to receive tax credits because they would not satisfy all of the current statutory program thresholds through the applicable program, thereby increasing their State tax liabilities. Because the bill allows a business that elects to use the waiver provision to remain eligible to earn the full amount of the tax credit award, State revenues would be lower than they otherwise would be under current law. The OLS cannot predict how many businesses will use the waiver nor the total amount of tax credits that would be forgone if the waiver were not allowed.

The OLS notes that these provisions also will result in an increase in State revenues because the bill requires businesses that forgo the on-site attendance requirements for full-time employees to make a payment to the Economic Development Authority equal to five percent of the tax credit they receive for the 2022 tax period. This will be offset by an increase in State expenditures because the bill requires the authority to use the funds received via these payments to provide loans, guarantees, equity investments, and other forms of financing to support certain economic development activities noted above.

*Termination of Incentive Agreements.* During the COVID-19 public health emergency, the Economic Development Authority allowed businesses participating in the GROW program to terminate their program agreements any time before December 31, 2022, without the authority recapturing previously distributed tax credits. The bill extends this accommodation to December 31, 2023, commencing with the 2020 tax period or any subsequent tax period ending on or before December 31, 2023. The bill provides this same accommodation to a business that executed an approval letter under the HUB program.

The OLS concludes that these provisions of the bill will result in an indeterminate increase in State revenues. Exercising this option would prevent businesses that have been awarded tax credits through the GROW and HUB programs from claiming any credits not issued prior to termination. Any requested but uncertified or unissued tax credits would be forfeited in consideration of the termination. Assuming these businesses remain New Jersey taxpayers, they would have increased tax liabilities in the tax years or privilege periods following termination of the incentive agreement. Information regarding the number of businesses that have already terminated their GROW incentive agreements is not readily available.

According to information available through the Economic Development Authority, incentive agreement termination is available for all projects demonstrating changes to their business model, real estate decision-making, and job declines related to the COVID-19 pandemic. Businesses may terminate their incentive agreement with no ongoing compliance requirements. Tax credits already awarded to businesses are not subject to recapture. Applicants must explain that the impacts of the public health emergency resulted in changes to the business, the business model, or the continued desire to participate in the GROW program. Once executed, a termination agreement cannot be amended by the authority or the business. Incentive termination agreements include a provision allowing the authority to seek recapture of any tax credits if it is determined that a business's decision to leave the program was made without consideration of COVID-19.

*Temporary Suspension of Program Obligations.* The bill extends the time allowed under current law for a business to suspend its obligations under a GROW tax credit, and to extend the term of eligibility for the same period of time. Current law allows a suspension of a business's obligations for the 2020 and 2021 tax periods. The bill extends this provision to include the 2022 and 2023 tax periods as well. The bill also extends the ability of a business to suspend its

obligations under the HUB program for the same period of time being afforded to GROW program participants.

The OLS concludes that these provisions of the bill would have an indeterminate impact on State revenues. Although the bill allows for the suspension of participants' eligibility for tax credits during certain tax periods, it also extends the period of time for which a business that makes this election is eligible for the tax credits. The length of the extension period being equal to the length of the suspension period. This extension would allow businesses to remain eligible to receive tax credits for a longer period of time than allowed under current law. The overall impact of this provision on State revenues will be driven by taxpayer decisions to claim tax credits in future tax years. The OLS cannot predict how individual taxpayer decisions will impact State finances in this regard.

According to the authority, businesses were required to request a suspension of program requirements for tax year 2020 to the due date for their annual report. Businesses were required to request a suspension of program requirements for 2021 after the end of their tax year but before the due date for filing their annual report. Businesses participating in the GROW and HUB programs may receive tax credits for a period of up to ten years. Under current law, businesses participating in the GROW and HUB programs may carry forward unused tax credits for 20 successive tax periods. Given that current law allows these businesses to suspend GROW and HUB program requirements for two years and the bill allows the suspension period to be extended for two additional years, the tax credit carry forward period for businesses that elect to suspend the GROW and HUB program requirements may be extended for up to four additional years.

*Section: Revenue, Finance, and Appropriations*  
*Analyst: Scott A. Brodsky*  
*Staff Fiscal and Budget Analyst*  
*Approved: Thomas Koenig*  
*Legislative Budget and Finance Officer*

This legislative fiscal estimate has been produced by the Office of Legislative Services due to the failure of the Executive Branch to respond to our request for a fiscal note.

This fiscal estimate has been prepared pursuant to P.L.1980, c.67 (C.52:13B-6 et seq.).

# SENATE, No. 3379

## STATE OF NEW JERSEY 220th LEGISLATURE

INTRODUCED DECEMBER 5, 2022

**Sponsored by:**

**Senator M. TERESA RUIZ**

**District 29 (Essex)**

**Senator NELLIE POU**

**District 35 (Bergen and Passaic)**

**SYNOPSIS**

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

**CURRENT VERSION OF TEXT**

As introduced.



(Sponsorship Updated As Of: 12/15/2022)

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

3

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

6

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

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

35 b. Following the termination of the public health emergency  
36 declared by the Governor pursuant to Executive Order No. 103 of  
37 2020, as extended, a business that has entered into an incentive  
38 agreement may elect, before December 31, 2023, to waive, for the  
39 period beginning on July 1, 2022 and ending on December 31,  
40 2023, the requirement that a full-time employee who is employed  
41 by the business shall spend at least 60 percent of the employee's  
42 time at the qualified business facility; provided, however, that a  
43 business that makes such an election shall satisfy the following  
44 criteria: (1) any full-time employee employed by the business shall  
45 spend at least 10 percent of the employee's time at the qualified

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

Matter underlined thus is new matter.

1 business facility through the 2023 tax period; and (2) following the  
2 receipt by the business of its tax credit certificate or tax credit  
3 transfer certificate for the 2022 tax period, the business shall make  
4 a payment of an amount equal to five percent of the amount of tax  
5 credit the business receives for the 2022 tax period, which payment  
6 shall be made to a local economic development entity designated by  
7 the chief executive of the municipality in which the qualified  
8 business facility is located.

9 (cf: P.L.2010, c.123, s.12)

10

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

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

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

30 (2) The expected duration of those positions;

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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



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

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

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

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

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

1 business that makes such an election shall satisfy the following  
2 criteria: (1) any full-time employee employed by the business shall  
3 spend at least 10 percent of the employee's time at the qualified  
4 business facility through the 2023 tax period; and (2) following the  
5 receipt by the business of its tax credit certificate or tax credit  
6 transfer certificate for the 2022 tax period, the business shall make  
7 a payment of an amount equal to five percent of the amount of tax  
8 credit the business receives for the 2022 tax period, which payment  
9 shall be made to a local economic development entity designated by  
10 the chief executive of the municipality in which the qualified  
11 business facility is located.

12 (cf: P.L.2017, c.12, s.1)

13

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

46 The credit amount for any tax period ending after December 31,  
47 2023 during which the documentation of a business's credit amount  
48 remains uncertified shall be forfeited, although credit amounts for

1 the remainder of the years of the 10-year credit period shall remain  
2 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 the  
7 value of all credits approved by the authority against tax liabilities  
8 pursuant to P.L.2007, c.346 (C.34:1B-207 et seq.) in any fiscal year  
9 shall not exceed \$260,000,000.

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

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

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

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

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

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

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

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

42 (5) Following the termination of the public health emergency  
43 declared by the Governor pursuant to Executive Order No. 103 of  
44 2020, as extended, a business that has entered into an incentive  
45 agreement may elect, before December 31, 2023, to waive, for the  
46 period beginning on July 1, 2022 and ending on December 31,  
47 2023, the requirement that a full-time employee who is employed  
48 by the business shall spend at least 60 percent of the employee's

1 time at the qualified business facility; provided, however, that a  
2 business that makes such an election shall satisfy the following  
3 criteria: (1) any full-time employee employed by the business shall  
4 spend at least 10 percent of the employee's time at the qualified  
5 business facility through the 2023 tax period; and (2) following the  
6 receipt by the business of its tax credit certificate or tax credit  
7 transfer certificate for the 2022 tax period, the business shall make  
8 a payment of an amount equal to five percent of the amount of tax  
9 credit the business receives for the 2022 tax period, which payment  
10 shall be made to a local economic development entity designated by  
11 the chief executive of the municipality in which the qualified  
12 business facility is located.

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

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

36 (cf: P.L.2020, c.138, s.1)

37

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

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



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

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

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

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

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

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

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

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

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

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

47 (4) A business seeking a credit for a mega project shall apply for  
48 the credit within four years after the effective date of the "New

1 Jersey Economic Opportunity Act of 2013," P.L.2013, c.161  
2 (C.52:27D-489p et al.).

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

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

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

22 A business may elect to suspend its obligations for the 2020 tax  
23 period and, if the public health emergency or state of emergency  
24 declared due to the COVID-19 pandemic extends past March 2021,  
25 the 2021 tax period, provided that the business shall make such  
26 election in writing to the authority before the date the annual report  
27 is due and such suspension shall extend the term of the eligibility  
28 period by a corresponding amount of time. The authority shall  
29 amend the incentive agreement, and the business shall execute the  
30 amended incentive agreement within the time period provided by  
31 the authority. The amended incentive agreement shall provide that  
32 the failure to submit the annual report due to the suspension shall  
33 not be a forfeiture or an uncertified tax period.

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

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

46 (4) In order to respond to the profoundly negative impact of the  
47 COVID-19 pandemic on the State's economy and finances, the  
48 authority may request a tax certificate holder, at the tax certificate

1 holder's discretion, to defer the application of a credit amount  
2 allowed pursuant to this section to a later tax period. Upon request,  
3 the authority and the tax certificate holder shall negotiate the terms  
4 of the deferral, which shall hold the certificate holder harmless,  
5 which will be made in the incentive agreement or as an addendum  
6 to the incentive agreement.

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

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

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

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

1 partners, or other ownership or leasing participants in accordance  
2 with their respective interests. If the business entity or entities or  
3 their members, shareholders, partners, or other ownership or leasing  
4 participants lease space in the facility to members, shareholders,  
5 partners, or other ownership or leasing participants or others as  
6 tenants in the facility, the leases shall be treated as a lease to an  
7 affiliate, and the business entity or entities shall not be subject to  
8 forfeiture of the credits. For the purposes of this section, leasing  
9 shall include subleasing and tenants shall include subtenants.

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

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

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

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

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

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

23 g. A business that has entered into an incentive agreement may  
24 request before December 31, **[2022]** 2023 to terminate the  
25 incentive agreement, commencing with the 2020 tax period or any  
26 subsequent tax period ending on or before December 31, 2023, due  
27 to the COVID-19 public health emergency; provided that the  
28 business shall submit a certification from the business's chief  
29 executive officer or equivalent officer stating that the termination is  
30 due, directly or indirectly, to the public health emergency and  
31 describing the impact of the public health emergency on the  
32 business. All credits for the tax period in which the termination  
33 occurs and all subsequent tax periods shall be forfeited, provided  
34 however that any credits of the business shall remain unaffected.

35 h. A business that has entered into an incentive agreement may  
36 request, before December 31, **[2021]** 2023, to reduce the number of  
37 new or retained full-time jobs specified in the incentive agreement  
38 based on a certification of the business of the eligible positions at  
39 the qualified business facility commencing with the 2020 tax period  
40 and, at the discretion of the business, whether the reduction shall  
41 continue for each subsequent tax period remaining in the eligibility  
42 period, provided that the business maintains the minimum number  
43 of new or retained full-time jobs required to be eligible pursuant to  
44 subsection c. of section 3 of P.L.2011, c.149 (C.34:1B-244). The  
45 reduction in employment shall first apply to the number of new full-  
46 time employees, and then shall apply to the number of retained full-  
47 time employees.

1 The authority shall calculate a new tax credit total amount for the  
2 2020 tax period and the remainder of the eligibility period based on  
3 the reduced employment and shall amend the incentive agreement  
4 to reflect the recalculated award amount. In no event shall the  
5 modification result in an increase in employment or tax credit  
6 amount.

7 i. Following the termination of the public health emergency  
8 declared by the Governor pursuant to Executive Order No. 103 of  
9 2020, as extended, a business that has entered into an incentive  
10 agreement may elect, before December 31, 2023, to waive, for the  
11 period beginning on July 1, 2022 and ending on December 31,  
12 2023, the requirement that a full-time employee who is employed  
13 by the business shall spend at least 60 percent of the employee's  
14 time at the qualified business facility; provided, however, that a  
15 business that makes such an election shall satisfy the following  
16 criteria: (1) any full-time employee employed by the business shall  
17 spend at least 10 percent of the employee's time at the qualified  
18 business facility through the 2023 tax period; and (2) following the  
19 receipt by the business of its tax credit certificate or tax credit  
20 transfer certificate for the 2022 tax period, the business shall make  
21 a payment of an amount equal to five percent of the amount of tax  
22 credit the business receives for the 2022 tax period, which payment  
23 shall be made to a local economic development entity designated by  
24 the chief executive of the municipality in which the qualified  
25 business facility is located.

26 (cf: P.L.2021, c.160, s.57)

27  
28 5. This act shall take effect immediately.  
29

### 30 STATEMENT

31  
32  
33 This bill provides certain accommodations to businesses  
34 participating in the Business Employment Incentive Program, the  
35 Business Retention and Relocation Assistance Grant Program, the  
36 Grow New Jersey Assistance Program, and the Urban Transit Hub  
37 Program.

38 During the COVID-19 public health emergency, the New Jersey  
39 Economic Development Authority (EDA) implemented certain  
40 accommodations for businesses that had previously been approved  
41 awards under these programs. As part of these accommodations,  
42 the EDA waived the requirement that a full-time employee  
43 employed by a business participating in any of the programs is to  
44 spend at least 80 percent of the employee's time at the qualified  
45 business facility to be eligible for an award under the program. The  
46 New Jersey Economic Recovery Act of 2020 lowered the  
47 requirement for spending time at the qualified business facility to  
48 60 percent of the employee's time.

1        This bill provides an additional waiver to eligible businesses for  
2 the period beginning on July 1, 2022 and ending on December 31,  
3 2023. Specifically, the bill allows businesses to waive the  
4 requirement that a full-time employee who is employed by the  
5 business is to spend at least 60 percent of the employee's time at the  
6 qualified business facility. A business that makes such an election  
7 is required to satisfy the following criteria: (1) any full-time  
8 employee employed by the business is required to spend at least 10  
9 percent of the employee's time at the qualified business facility  
10 through the 2023 tax period; and (2) following the receipt by the  
11 business of its tax credit certificate or tax credit transfer certificate  
12 for the 2022 tax period, the business is required to make a payment  
13 of an amount equal to five percent of the amount of tax credit the  
14 business receives for the 2022 tax period, which payment is to be  
15 made to a local economic development entity designated by the  
16 chief executive of the municipality in which the qualified business  
17 facility is located.

18        During the COVID-19 public health emergency, the EDA also  
19 allowed businesses participating in the Grow New Jersey Assistance  
20 Program to terminate their program agreements any time before  
21 December 31, 2022 without the EDA recapturing previously  
22 distributed tax credits. The bill extends this accommodation for one  
23 calendar year, allowing business to terminate their program  
24 agreements any time before December 31, 2023, commencing with  
25 the 2020 tax period or any subsequent tax period ending on or  
26 before December 31, 2023.

# SENATE ENVIRONMENT AND ENERGY COMMITTEE

## STATEMENT TO

### **SENATE, No. 3379**

with committee amendments

# **STATE OF NEW JERSEY**

DATED: DECEMBER 15, 2022

The Senate Environment and Energy Committee favorably reports Senate Bill No. 3379, with committee amendments.

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

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

This bill provides an additional waiver to eligible businesses for the period beginning on July 1, 2022 and ending on December 31, 2023. Specifically, the bill allows businesses to waive the requirement that a full-time employee who is employed by the business is to spend at least 60 percent of the employee's time at the qualified business facility. A business that makes such an election is required to satisfy the following criteria: (1) any full-time employee employed by the business is required to spend at least 10 percent of the employee's time at the qualified business facility through the 2023 tax period; and (2) following the receipt by the business of its tax credit certificate or tax credit transfer certificate for the 2022 tax period, the business is required to make a payment of an amount equal to five percent of the amount of tax credit the business receives for the 2022 tax period, which payment is to be made to a local economic development entity designated by the chief executive of the municipality in which the qualified business facility is located.

During the COVID-19 public health emergency, the EDA also allowed businesses participating in the Grow New Jersey Assistance Program to terminate their program agreements any time before



December 31, 2022 without the EDA recapturing previously distributed tax credits. The bill extends this accommodation for one calendar year, allowing business to terminate their program agreements any time before December 31, 2023, commencing with the 2020 tax period or any subsequent tax period ending on or before December 31, 2023.

The committee amendments to the bill would:

(1) require a business waiving the requirement for full-time employees to be on-site at least 60 percent of the time at the qualified business facility (under BEIP, BRAG, GROW, or HUB) to pay the EDA, rather than a local economic development entity, five percent of the amount of the tax credit the business receives in 2022 and clarify that the payment to the EDA is to be used to support activation activities within the municipality in which the qualified business facility is located;

(2) require the EDA to use the funds received from a business seeking a waiver to provide loans, guarantees, equity investments, and grants, or other forms of financing;

(3) require that funds received from a business seeking a waiver would be used to support small business and downtown or commercial corridor activation activities;

(4) extend the ability of a GROW program recipient, and allow a HUB program recipient, to suspend its obligations under an incentive agreement for the 2020-2023 tax periods; and

(5) extend the ability of a GROW program recipient to terminate an incentive agreement due to COVID-19 for an additional year, through December 31, 2023, and all HUB program recipients the same accommodation for the 2020-2023 tax periods.

# LEGISLATIVE FISCAL ESTIMATE

[First Reprint]

## SENATE, No. 3379

### STATE OF NEW JERSEY 220th LEGISLATURE

DATED: DECEMBER 21, 2022

#### SUMMARY

- Synopsis:** Concerns accommodations related to COVID-19 public health emergency for businesses participating in certain State economic development programs.
- Type of Impact:** Multi-year increase in State expenditures.  
Multi-year net impact on State revenues.
- Agencies Affected:** Economic Development Authority.

#### Office of Legislative Services Estimate

<b>Fiscal Impact</b>	<b><u>FY 2023 &amp; Annually Thereafter</u></b>
<b>State Expenditure Increase</b>	Indeterminate
<b>State Revenue Net Impact</b>	Indeterminate

- The Office of Legislative Services (OLS) concludes that the bill will result in an indeterminate increase in State expenditures and have an indeterminate net impact on State revenues over a multi-year period. The OLS lacks the informational basis to project the magnitude and direction of the bill's countervailing State revenue effects.
- The bill will result in a State revenue decrease to the extent that businesses participating in certain State economic development programs choose to waive the on-site requirements for full-time employees at qualified business facilities because the waiver will allow businesses to remain eligible for tax credits which they may not have received under current law.
- The bill will result in an increase in State revenues from payments made by those businesses equal to five percent of the tax credit they received for the 2022 tax period. This will be offset by an increase in State expenditures because the bill requires the Economic Development Authority to use the funds it receives via these payments to support certain economic development activities.
- The termination of incentive agreements by businesses participating in the Grow New Jersey Assistance (GROW) Program and the Urban Transit Hub Tax Credit (HUB) Program will result in an increase in State revenues because these businesses would not be eligible to receive tax credits for which they may have otherwise qualified.

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

## **BILL DESCRIPTION**

The bill provides certain accommodations to businesses participating in the Business Employment Incentive Program, the Business Retention and Relocation Assistance Grant Program, the GROW Program, and the HUB Program that were impacted by the COVID-19 public health emergency. Some provisions of the bill apply to businesses participating in all four programs while others impact only businesses enrolled in the GROW and HUB programs.

## **FISCAL ANALYSIS**

### ***EXECUTIVE BRANCH***

None received.

### ***OFFICE OF LEGISLATIVE SERVICES***

The OLS concludes that the bill will result in an indeterminate, multi-year increase in State expenditures and have an indeterminate, multi-year net impact on State revenues.

*Suspension of On-site Attendance Requirements.* Under current law, businesses participating in the Business Employment Incentive Program, the Business Retention and Relocation Assistance Grant Program, and the GROW and HUB programs are awarded economic development incentives in the form of tax credits for meeting certain program thresholds. One of these program thresholds is the creation or retention of a certain number of full-time jobs at a qualified business facility. The number of jobs created or retained varies depending on the program and the location of the qualified business facility. In order for a full-time job to be counted towards satisfying the program requirements under current law, full-time employees must spend at least 60 percent of their time at the qualified business facility.

The bill allows businesses to waive, for the period beginning on July 1, 2022 and ending on December 31, 2023, the requirement that a full-time employee who is employed by the business must spend at least 60 percent of the employee's time at the qualified business facility. A business that elects the waiver must satisfy two criteria. First, any full-time employee employed by the business must spend at least ten percent of the employee's time at the qualified business facility through the 2023 tax period. Second, the business must make a payment to the Economic Development Authority in an amount equal to five percent of the amount of the tax credit that the business receives for the 2022 tax period. The bill requires the Economic Development Authority to use funds received via these payments to support small business activities and downtown activation or commercial corridor activities.

The OLS concludes that the provisions of the bill allowing businesses to waive the on-site requirements for full-time employees at qualified business facilities will result in a decrease in State revenues. Without the changes to the on-site attendance requirement, these businesses would

not be eligible to receive tax credits because they would not satisfy all of the current statutory program thresholds through the applicable program, thereby increasing their State tax liabilities. Because the bill allows a business that elects to use the waiver provision to remain eligible to earn the full amount of the tax credit award, State revenues would be lower than they otherwise would be under current law. The OLS cannot predict how many businesses will use the waiver nor the total amount of tax credits that would be forgone if the waiver were not allowed.

The OLS notes that these provisions also will result in an increase in State revenues because the bill requires businesses that forgo the on-site attendance requirements for full-time employees to make a payment to the Economic Development Authority equal to five percent of the tax credit they receive for the 2022 tax period. This will be offset by an increase in State expenditures because the bill requires the authority to use the funds received via these payments to provide loans, guarantees, equity investments, and other forms of financing to support certain economic development activities noted above.

*Termination of Incentive Agreements.* During the COVID-19 public health emergency, the Economic Development Authority allowed businesses participating in the GROW program to terminate their program agreements any time before December 31, 2022, without the authority recapturing previously distributed tax credits. The bill extends this accommodation to December 31, 2023, commencing with the 2020 tax period or any subsequent tax period ending on or before December 31, 2023. The bill provides this same accommodation to a business that executed an approval letter under the HUB program.

The OLS concludes that these provisions of the bill will result in an indeterminate increase in State revenues. Exercising this option would prevent businesses that have been awarded tax credits through the GROW and HUB programs from claiming any credits not issued prior to termination. Any requested but uncertified or unissued tax credits would be forfeited in consideration of the termination. Assuming these businesses remain New Jersey taxpayers, they would have increased tax liabilities in the tax years or privilege periods following termination of the incentive agreement. Information regarding the number of businesses that have already terminated their GROW incentive agreements is not readily available.

According to information available through the Economic Development Authority, incentive agreement termination is available for all projects demonstrating changes to their business model, real estate decision-making, and job declines related to the COVID-19 pandemic. Businesses may terminate their incentive agreement with no ongoing compliance requirements. Tax credits already awarded to businesses are not subject to recapture. Applicants must explain that the impacts of the public health emergency resulted in changes to the business, the business model, or the continued desire to participate in the GROW program. Once executed, a termination agreement cannot be amended by the authority or the business. Incentive termination agreements include a provision allowing the authority to seek recapture of any tax credits if it is determined that a business's decision to leave the program was made without consideration of COVID-19.

*Temporary Suspension of Program Obligations.* The bill extends the time allowed under current law for a business to suspend its obligations under a GROW tax credit, and to extend the term of eligibility for the same period of time. Current law allows a suspension of a business's obligations for the 2020 and 2021 tax periods. The bill extends this provision to include the 2022 and 2023 tax periods as well. The bill also extends the ability of a business to suspend its obligations under the HUB program for the same period of time being afforded to GROW program participants.

The OLS concludes that these provisions of the bill would have an indeterminate impact on State revenues. Although the bill allows for the suspension of participants' eligibility for tax credits during certain tax periods, it also extends the period of time for which a business that makes this election is eligible for the tax credits. The length of the extension period being equal to the length of the suspension period. This extension would allow businesses to remain eligible to

receive tax credits for a longer period of time than allowed under current law. The overall impact of this provision on State revenues will be driven by taxpayer decisions to claim tax credits in future tax years. The OLS cannot predict how individual taxpayer decisions will impact State finances in this regard.

According to the authority, businesses were required to request a suspension of program requirements for tax year 2020 to the due date for their annual report. Businesses were required to request a suspension of program requirements for 2021 after the end of their tax year but before the due date for filing their annual report. Businesses participating in the GROW and HUB programs may receive tax credits for a period of up to ten years. Under current law, businesses participating in the GROW and HUB programs may carry forward unused tax credits for 20 successive tax periods. Given that current law allows these businesses to suspend GROW and HUB program requirements for two years and the bill allows the suspension period to be extended for two additional years, the tax credit carry forward period for businesses that elect to suspend the GROW and HUB program requirements may be extended for up to four additional years.

*Section: Revenue, Finance, and Appropriations*

*Analyst: Scott A. Brodsky  
Staff Fiscal and Budget Analyst*

*Approved: Thomas Koenig  
Legislative Budget and Finance Officer*

This legislative fiscal estimate has been produced by the Office of Legislative Services due to the failure of the Executive Branch to respond to our request for a fiscal note.

This fiscal estimate has been prepared pursuant to P.L.1980, c.67 (C.52:13B-6 et seq.).

# Governor Murphy Takes Action on Legislation

12/22/2022

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

**S-3241/A-4918 (Vitale, Gopal/Conaway, Jaffer, Lampitt)** - Extends temporary waiver of certain basic life support services and specialty care transport unit crewmember requirements

[Copy of Statement](#)

**A-4295/S-2876 (Jaffer, Mosquera, Swain/Singleton)** - Adapts new federal partnership audit regime under gross income tax, ends COVID-related State tax extensions, and eliminates requirement to affirmatively elect New Jersey S Corporation status

**A-4929/S-3379 (Pintor Marin, Greenwald, Atkins/Ruiz, Pou)** - Concerns accommodations related to COVID-19 public health emergency for businesses participating in certain State economic development programs

**A-4957/S-3361 (Jaffer, Kennedy, Caputo/Smith, Stanfield)** - Appropriates \$64.929 million from constitutionally dedicated CBT revenues for recreation and conservation purposes to DEP for State capital and park development projects

**A-4958/S-3342 (Chaparro, Lampitt, Freiman/Beach, Turner)** - Appropriates \$17,288,315 from constitutionally dedicated CBT revenues to NJ Historic Trust for grants for certain historic preservation projects and associated administrative expenses

**A-4959/S-3362 (Spearman, Reynolds-Jackson, Wimberly/Greenstein, Codey)** - Appropriates \$53,249,310 from constitutionally dedicated CBT revenues to DEP for State acquisition of lands for recreation and conservation purposes, including Blue Acres projects, and Green Acres Program administrative cost