

VETO MESSAGE: No

GOVERNOR'S PRESS RELEASE ON SIGNING: Yes

FOLLOWING WERE PRINTED:

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REPORTS: No

HEARINGS: No

NEWSPAPER ARTICLES: Yes

"Job growth, development will guide A.C. recovery from virus - Job growth and development will guide Atlantic City's economic recovery from COVID-19, Mazzeo and Small say," The Press of Atlantic City (NJ), January 10, 2021: 9A.

"Gov. signs \$14B corporate tax break measure Incentives aim to attract, retain businesses in state." South Jersey Times (NJ), January 8, 2021, Page 013.

"Murphy signs landmark \$14.5B economic incentive package." NJBIZ (New Brunswick, NJ), January 7, 2021.

Also: Copy of text linked from the online version of the Governor's press release.

RWH/CL

Title 34.
Chapter 1B.
Part XVI.
New Jersey
Economic
Recovery Act of
2020
§§1-78, 80-86, 88,
90, 92-105
C.34:1B-269 to
34:1B-369
§79 C.52:27D-520
§§87, 89
C.52:18A-262 and
52:18A-263
§91 C.52:34-27
§106
C.54:10A-5.47
§107 C.54A:4-21
§127 Approp.

P.L. 2020, CHAPTER 156, *approved January 7, 2021*
Assembly, No. 4 (First Reprint)

1 AN ACT concerning State economic development policy, and
2 amending and supplementing various parts of the statutory law,
3 and making an appropriation.
4

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

7
8 1. (New section) P.L. , c. (C.) (pending before the
9 Legislature as this bill) shall be known and may be cited as the
10 "New Jersey Economic Recovery Act of 2020."
11

12 2. (New section) Sections 2 through 8 of P.L. , c. (C.)
13 (pending before the Legislature as this bill) shall be known and may
14 be cited as the "Historic Property Reinvestment Act."
15

16 3. (New section) As used in sections 2 through 8 of P.L. ,
17 c. (C.) (pending before the Legislature as this bill):
18 "Authority" means the New Jersey Economic Development
19 Authority established pursuant to section 4 of P.L.1974, c.80
20 (C.34:1B-4).

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

Matter underlined thus is new matter.

Matter enclosed in superscript numerals has been adopted as follows:

¹Assembly AAP committee amendments adopted December 17, 2020.

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

4 "Cost of rehabilitation" means the consideration given, valued in
5 money, whether given in money or otherwise, for the materials and
6 services which constitute the rehabilitation.

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

9 "Income producing property" means a structure or site that is
10 used in a trade or business or to produce rental income.

11 "New Jersey S corporation" means the same as the term is
12 defined in section 12 of P.L.1993, c.173 (C.54A:5-10).

13 "Officer" means the State Historic Preservation Officer or the
14 official within the State designated by the Governor or by statute in
15 accordance with the provisions of chapter 3023 of Title 54, United
16 States Code (54 U.S.C. s.302301 et seq), to act as liaison for the
17 purpose of administering historic preservation programs in the
18 State.

19 "Partnership" means an entity classified as a partnership for
20 federal income tax purposes.

21 "Project financing gap" means the part of the total cost of
22 rehabilitation, including reasonable and appropriate return on
23 investment, that remains to be financed after all other sources of
24 capital have been accounted for, including, but not limited to,
25 developer contributed capital, which shall not be less than 20
26 percent of the total cost of rehabilitation, and investor or financial
27 entity capital or loans for which the developer, after making all
28 good faith efforts to raise additional capital, certifies that additional
29 capital cannot be raised from other sources.

30 "Property" means a structure, including its site improvements
31 and landscape features, assessed as real property, and used for: a
32 commercial purpose; a residential rental purpose, provided the
33 structure contains at least four dwelling units; or any combination
34 thereof.

35 "Qualified property" means a property located in the State of
36 New Jersey that is an income producing property, and that is:

37 (a) (i) individually listed, or located in a district listed on
38 the National Register of Historic Places in accordance with the with
39 the provisions of chapter 3021 of Title 54, United States Code (54
40 U.S.C. s.302101 et seq), or on the New Jersey Register of Historic
41 Places pursuant to P.L.1970, c.268 (C.13:1B-15.128 et seq.), or
42 individually designated, or located in a district designated, by the
43 Pinelands Commission as a historic resource of significance to the
44 Pinelands in accordance with the Pinelands comprehensive
45 management plan adopted pursuant to the "Pinelands Protection
46 Act," P.L.1979, c.111 (C.13:18A-1 et seq.), and

1 (ii) if located within a district, certified by either the officer or
2 the Pinelands Commission, as appropriate, as contributing to the
3 historic significance of the district; or

4 (b) (i) individually identified or registered, or located in a
5 district composed of properties identified or registered, for
6 protection as significant historic resources in accordance with
7 criteria established by a municipality in which the property or
8 district is located if the criteria for identification or registration has
9 been approved by the officer as suitable for substantially achieving
10 the purpose of preserving and rehabilitating buildings of historic
11 significance within the jurisdiction of the municipality, and

12 (ii) if located within a district, certified by the officer as
13 contributing to the historic significance of the district.

14 "Rehabilitation" means the repair or reconstruction of the
15 exterior or interior of a qualified property or transformative project
16 to make an efficient contemporary use possible while preserving the
17 portions or features of the property that have significant historical,
18 architectural, and cultural values.

19 "Rehabilitation of the interior of the qualified property or
20 transformative project" means the repair or reconstruction of the
21 structural or substrate components and electrical, plumbing, and
22 heating components within the interior of a qualified property or
23 transformative project.

24 "Selected rehabilitation period" means a period of 24 months if
25 the beginning of such period is chosen by the business entity during
26 which, or parts of which, a rehabilitation is occurring, or a period of
27 60 months if a rehabilitation is reasonably expected to be completed
28 in distinct phases set forth in written architectural plans and
29 specifications completed before or during the physical work on the
30 rehabilitation.

31 "Transformative project" means a property that is:

32 (a) an income producing property, not including a residential
33 property, whose rehabilitation the authority determines will
34 generate substantial increases in State revenues through the creation
35 of increased business activity within the surrounding area;

36 (b) individually listed on the New Jersey Register of Historic
37 Places pursuant to P.L.1970, c.268 (C.13:1B-15.128 et seq.) and
38 which, before the enactment of P.L. , c. (C.) (pending
39 before the Legislature as this bill), received a Determination of
40 Eligibility from the Keeper of the National Register of Historic
41 Places in accordance with the provisions of Part 60 of Title 36 of
42 the Code of Federal Regulations;

43 (c) located within a one-half mile radius of the center point of a
44 transit village, as designated by the New Jersey Department of
45 Transportation; and

46 (d) located within a city of the first class, as classified under
47 N.J.S.40A:6-4.

1 4. (New section) a. (1) A business entity, upon successful
2 application to the New Jersey Economic Development Authority,
3 and commitment to the authority to pay each worker employed to
4 perform construction work at the qualified property or
5 transformative project a wage not less than the prevailing wage rate
6 for the worker's craft or trade, as determined by the Commissioner
7 of Labor and Workforce Development pursuant to P.L.1963, c.150
8 (C.34:11-56.25 et seq.), shall be allowed a credit against the tax
9 otherwise due pursuant to section 5 of P.L.1945, c.162 (C.54:10A-
10 5), the tax imposed on insurers generally pursuant to P.L.1945,
11 c.132 (C.54:18A-1 et. seq.), or the tax imposed on marine insurance
12 companies pursuant to R.S.54:16-1 et. seq., for 40 percent of the
13 cost of rehabilitation paid by the business entity for the
14 rehabilitation of a qualified property or transformative project, if
15 the cost of rehabilitation during a business entity's selected
16 rehabilitation period is not less than the greater of (1) the adjusted
17 basis of the structure of the qualified property or transformative
18 project used for federal income tax purposes as of the beginning of
19 the business entity's selected rehabilitation period, or (2) \$5,000.
20 The amount of the credit claimed in any accounting or privilege
21 period shall not reduce the amount of the tax liability to less than
22 the statutory minimum provided in subsection (e) of section 5 of
23 P.L.1945, c.162 (C.54:10A-5).

24 (2) The prevailing wage requirements ¹~~shall~~ apply to projects
25 that are allowed a tax credit in excess of \$500,000, and ¹~~shall~~
26 apply at a qualified property or transformative project during the
27 selected rehabilitation period. In the event a qualified property or
28 transformative project, or the aggregate of all qualified properties
29 and transformative projects approved for awards under the program,
30 constitute a lease of more than ¹~~55~~ 35¹ percent of a facility, the
31 prevailing wage requirements shall apply to the entire facility.

32 (3) Prior to approval of an application by the authority, the
33 Department of Labor and Workforce Development, the Department
34 of Environmental Protection, and the Department of the Treasury
35 shall each report to the authority whether the business entity is in
36 substantial good standing with the respective department ¹~~, or~~ in
37 lieu of submitting certificates of good standing for the business
38 entity, the business entity may demonstrate that it¹ has entered into
39 an agreement with the respective department that includes a
40 practical corrective action plan for the business entity. The
41 authority may also contract with an independent third party to
42 perform a background check on the business entity. Following
43 approval of an application by the authority, but prior to the start of
44 any construction or rehabilitation at the qualified property or
45 transformative project, the authority shall enter into a rehabilitation
46 agreement with the business entity. The authority shall negotiate
47 the terms and conditions of the rehabilitation agreement on behalf

1 of the State ¹], but the terms shall require the business entity to
2 consent to the disclosure of tax expenditure information as
3 described in paragraph (8) of subsection b. of section 1 of
4 P.L.2009, c.189 (C.52:27B-20a)]¹.

5 (4) A rehabilitation project shall be eligible for a tax credit only
6 if the business entity demonstrates to the authority at the time of
7 application that:

8 (a) without the tax credit, the rehabilitation project is not
9 economically feasible; and

10 (b) a project financing gap exists.

11 b. A business entity may claim a credit under this section
12 during the accounting or privilege period: (1) in which it makes the
13 final payment for the cost of the rehabilitation if the business entity
14 has chosen a selected rehabilitation period of 24 months; or (2) in
15 which a distinct project phase of the rehabilitation is completed if
16 the business entity has chosen a selected rehabilitation period of 60
17 months. The credit may be claimed against any State tax, listed in
18 paragraph (1) of subsection a. of this section, liability otherwise due
19 after any other credits permitted pursuant to law have been applied.
20 The amount of credit claimed in an accounting or privilege period
21 that cannot be applied for that accounting or privilege period due to
22 limitations in this section may be transferred pursuant to section 5
23 of P.L. , c. (C.) (pending before the Legislature as this bill) or
24 carried over, if necessary, to the nine accounting or privilege
25 periods following the accounting or privilege period for which the
26 credit was allowed.

27 c. A business entity shall submit to the authority satisfactory
28 evidence of the actual cost of rehabilitation, as certified by a
29 certified public accountant, evidence of completion of the
30 rehabilitation or phase, and a certification that all information
31 provided by the business entity to the authority is true, including
32 information contained in the application, the rehabilitation
33 agreement, any amendment to the rehabilitation agreement, and any
34 other information submitted by the business entity to the authority
35 pursuant to sections 2 through 8 of P.L. , c. (C.) (pending
36 before the Legislature as this bill). The business entity, or an
37 authorized agent of the business entity, shall certify under the
38 penalty of perjury that the information provided pursuant to this
39 subsection is true.

40

41 5. (New section) a. The authority shall, in cooperation with
42 the director, establish and administer a corporation business tax
43 credit transfer certificate program and an insurance premiums tax
44 credit transfer certificate program to enable business entities with
45 unused, otherwise allowable amounts of tax credits issued pursuant
46 to sections 2 through 8 of P.L. , c. (C.) (pending before the
47 Legislature as this bill) to exchange these credits, in whole or in

1 part, for private financial assistance prior to the expiration of the tax
2 credit.

3 A certificate issued by the director and the authority¹ shall
4 include a statement waiving the rights of the business entity to
5 which the tax credit has been granted to claim any amount of
6 remaining credit against any tax liability.

7 b. A business entity holding an unused, otherwise allowable tax
8 credit issued pursuant to sections 2 through 8 of P.L. ,

9 c. (C.) (pending before the Legislature as this bill) may apply
10 to the director and the authority¹ for a tax credit transfer certificate
11 pursuant to subsection a. of this section. Upon receipt thereof, the
12 business entity may sell or assign, in full or in part, the tax credit
13 transfer certificate to another taxpayer in exchange for private
14 financial assistance to be provided by the purchaser or assignee of
15 the tax credit transfer certificate to the seller thereof. The developer
16 shall not sell a tax credit transfer certificate allowed under this
17 section for consideration received by the developer of less than 85
18 percent of the transferred credit amount before considering any
19 further discounting to present value which shall be permitted,
20 except a developer of a residential project consisting of newly-
21 constructed residential units that has received federal low income
22 housing tax credits under 26 U.S.C. s.42(b)(2)(B)(i) may assign a
23 tax credit transfer certificate for consideration of no less than 75
24 percent subject to the submission of a plan to the authority and the
25 New Jersey Housing and Mortgage Finance Agency to use the
26 proceeds derived from the assignment of tax credits to complete the
27 residential project. The purchaser or assignee of the tax credit
28 transfer certificate may apply the face value of the tax credit
29 transfer certificate acquired against the purchaser's or assignee's
30 applicable tax liability by claiming the tax credit on the purchaser's
31 or assignee's corporation business tax or insurance premiums tax
32 return with the corresponding tax credit transfer certificate
33 accompanying the tax return. A purchaser or assignee of a tax
34 credit transfer certificate pursuant to this section shall not make any
35 subsequent transfers, assignments, or sales of the tax credit transfer
36 certificate.

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

- 40 (1) the name of the transferor;
- 41 (2) the name of the transferee;
- 42 (3) the value of the tax credit transfer certificate;
- 43 (4) the State tax against which the transferee may apply the tax
44 credit; and
- 45 (5) the consideration received by the transferor.

46
47 6. (New section) a. The authority shall, in consultation with
48 the officer and the director, promulgate rules and regulations in

1 accordance with the "Administrative Procedure Act," P.L.1968,
2 c.410 (C.52:14B-1 et seq.), as the officer deems necessary to
3 administer the provisions of sections 2 through 8 of P.L. ,
4 c. (C.) (pending before the Legislature as this bill), including
5 but not limited to rules establishing administrative fees to
6 implement the provisions of sections 2 through 8 of P.L. ,
7 c. (C.) (pending before the Legislature as this bill), setting of
8 an annual application submission date, requiring annual reporting
9 by each business entity that receive a tax credit pursuant to sections
10 2 through 8 of P.L. , c. (C.) (pending before the Legislature
11 as this bill), and requiring those reports to include certifications by
12 the Department of Labor and Workforce Development, the
13 Department of Environmental Protection, and the Department of the
14 Treasury that the business entity, and any contractors or
15 subcontractors performing work at the qualified property or
16 transformative project, are in substantial good standing with the
17 respective department has entered into an agreement with the
18 respective department that includes a practical corrective action
19 plan for the business entity. The rules and regulations adopted
20 pursuant to this section shall also include a provision to require that
21 business entities forfeit all tax credits awarded in any year in which
22 any such report is not received, and to allow the authority to extend,
23 in individual cases, the deadline for any annual reporting or
24 certification requirement established pursuant to this section.

25 b. For every tax credit allowed pursuant to section 4 of P.L. ,
26 c. (C.) (pending before the Legislature as this bill), the
27 authority, in consultation with the officer, shall certify to the
28 director: the total cost of rehabilitation; that the property meets the
29 definition of qualified property or transformative project, as
30 applicable; and that the rehabilitation has been completed in
31 substantial compliance with the requirements of the Secretary of the
32 Interior's Standards for Rehabilitation pursuant to section 67.7 of
33 Title 36, Code of Federal Regulations. The business entity shall
34 attach the certification to the tax return on which the business entity
35 claims the credit.

36 c. (1) The total amount of credits approved by the authority
37 pursuant to sections 2 through 8 of P.L. , c. (C.) (pending
38 before the Legislature as this bill) shall not exceed the limitations
39 set forth in section 98 of P.L. , c. (C.) (pending before the
40 legislature as this bill). **[.]** If the authority approves less than the
41 total amount of tax credits authorized pursuant to this subsection in
42 a fiscal year, the remaining amount, plus any amounts remaining
43 from previous fiscal years, shall be added to the limit of subsequent
44 fiscal years until that amount of tax credits are claimed or allowed.
45 Any unapproved, uncertified, or recaptured portion of tax credits
46 during any fiscal year may be carried over and reallocated in
47 succeeding years.

1 (2) Notwithstanding the provisions of paragraph (1) of this
2 subsection and section 98 of P.L. , c. (C.) (pending before
3 the legislature as this bill) to the contrary, the authority may
4 approve tax credits, pursuant to sections 2 through 8 of P.L. ,
5 c. (C.) (pending before the Legislature as this bill), for the
6 rehabilitation of a transformative project in an amount that causes
7 the total amount of credits approved during the fiscal year to exceed
8 the limitations set forth in section 98 of P.L. , c. (C.)
9 (pending before the legislature as this bill), provided that the
10 amount of the excess shall be subtracted from the total amount of
11 credits that may be approved by the authority in the subsequent
12 fiscal year, and the amount of the excess shall not exceed 50 percent
13 of the total tax credits otherwise authorized for the fiscal year.

14 The authority, in consultation with the officer, shall devise
15 criteria for allocating tax credit amounts if the approved amounts
16 combined exceed the total amount in each fiscal year, including
17 rules that allocate over multiple fiscal years a single credit amount
18 granted in excess of \$2,000,000. The criteria shall include a
19 project's historic importance, positive impact on the surrounding
20 neighborhood, economic sustainability, geographic diversity, and
21 consistency with Statewide growth and development policies and
22 plans.

23
24 7. (New section) a. The authority, in collaboration with the
25 director, shall adopt rules for the recapture of an entire or partial tax
26 credit amount allowed under sections 2 through 8 of P.L. ,
27 c. (C.) (pending before the Legislature as this bill). The
28 rules shall require the authority to notify the director of the
29 recapture of an entire or partial tax credit amount. ¹【The recapture
30 of funds shall be subject to the State Uniform Tax Procedure Law,
31 R.S.54:48-1 et seq. and recaptured】 Recaptured¹ funds shall be
32 deposited in the General Fund of the State.

33 b. If, before the end of five full years after the completion of
34 the rehabilitation of the qualified property or transformative project,
35 a developer that has received a tax credit pursuant to section 4 of
36 P.L. , c. (C.) (pending before the Legislature as this bill)
37 modifies the qualified property or transformative project so that it
38 ceases to meet the requirements for the rehabilitation of a qualified
39 property or transformative project as defined under the program or
40 ceases to meet the requirement of the rehabilitation agreement then
41 the tax credit allowed under the program shall be recaptured in
42 accordance with the rules adopted pursuant to subsection a. of this
43 section.

44 c. In the case of a business entity that has chosen a selected
45 rehabilitation period of 60 months, if the architectural plans change
46 in the course of the phased rehabilitation project so that the
47 rehabilitation of the qualified property or transformative project
48 would, upon the rehabilitation's completion, no longer qualify for a

1 tax credit pursuant to the requirements of sections 2 through 8 of
2 P.L. , c. (C.) (pending before the Legislature as this bill),
3 then the business entity's tax liability for that accounting or
4 privilege period shall be increased by the full amount of the tax
5 credit that the authority had previously granted upon the completion
6 of a distinct prior project phase that the business entity has applied
7 against its tax liability in a prior accounting or privilege period.
8 Any portion of the tax credit that the business entity has not yet
9 used at the time of the disallowance by the officer shall be deemed
10 void.

11

12 8. (New section) On or before December 31 of the fourth year
13 following the effective date of sections 2 through 8 of P.L. ,
14 c. (C.) (pending before the Legislature as this bill), the
15 authority, in consultation with the officer and the director, shall
16 prepare and submit a written report regarding the number and total
17 monetary amount of tax credits granted for the rehabilitation of
18 qualified properties or transformative projects pursuant to section 4
19 of P.L. , c. (C.) (pending before the Legislature as this
20 bill), the geographical distribution of the credits granted, a summary
21 of the tax credit transfer program established pursuant to section 5
22 of P.L. , c. (C.) (pending before the Legislature as this
23 bill), an evaluation of the effectiveness of the tax credits provided
24 pursuant to sections 2 through 8 of P.L. , c. (C.) (pending
25 before the Legislature as this bill) in promoting the rehabilitation of
26 historic properties, recommendations for administrative or
27 legislative changes to increase the effectiveness of the program, and
28 any other information that the authority, the officer, or the director
29 may deem useful or appropriate. This report shall be submitted to
30 the Governor and, pursuant to section 2 of P.L.1991, c.164
31 (C.52:14-19.1), to the Legislature.

32

33 9. (New section) Sections 9 through 19 of P.L. , c. (C.)
34 (pending before the Legislature as this bill) shall be known and may
35 be cited as the "Brownfields Redevelopment Incentive Program
36 Act."

37

38 10. (New section) As used in sections 9 through 19 of P.L. ,
39 c. (C.) (pending before the Legislature as this bill):

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

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

45 "Brownfield site" means any former or current commercial or
46 industrial site that is currently vacant or underutilized and on which
47 there has been, or there is suspected to have been, a discharge of a

1 contaminant or on which there is ¹**[a]**¹ contaminated building
2 ¹material¹.

3 "Contaminated building ¹material¹" means ¹components of¹ a
4 structure ¹**[upon which]** ¹where¹ abatement or removal of asbestos,
5 ¹**[polychlorinated biphenyls, contaminated wood or paint, or other**
6 **infrastructure remedial activities is necessary]** ¹or remediation of
7 ¹materials containing hazardous substances defined pursuant to
8 ¹section 3 of P.L.1976, 12 c.141 (C.58:10-23.11b), is required by
9 ¹applicable federal, state, or local rules or regulations¹.

10 "Contamination" or "contaminant" means any discharged
11 hazardous substance as defined pursuant to section 3 of P.L.1976,
12 c.141 (C.58:10-23.11b), hazardous waste as defined pursuant to
13 section 1 of P.L.1976, c.99 (C.13:1E-38), pollutant as defined
14 pursuant to section 3 of P.L.1977, c.74 (C.58:10A-3), or
15 ¹**[hazardous building material, including, but not limited to,**
16 **asbestos, lead paint, and polychlorinated biphenyl]** ¹contaminated
17 ¹building material¹.

18 "Department" means the Department of Environmental
19 Protection.

20 "Developer" means any person that enters or proposes to enter
21 into a redevelopment agreement with the authority pursuant to the
22 provisions of section 13 of P.L. , c. (C.) (pending before
23 the Legislature as this bill).

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

26 "Licensed site remediation professional" means an individual
27 who is licensed by the Site Remediation Professional Licensing
28 Board pursuant to section 7 of P.L.2009, c.60 (C.58:10C-7) or the
29 department pursuant to section 12 of P.L.2009, c.60 (C.58:10C-12).

30 "Program" means the Brownfields Redevelopment Incentive
31 Program established by section 11 of P.L. , c. (C.)
32 (pending before the Legislature as this bill).

33 "Project financing gap" means the part of the total remediation
34 cost, including reasonable and appropriate return on investment,
35 that remains to be financed after all other sources of capital have
36 been accounted for, including, but not limited to, developer
37 contributed capital, which shall not be less than 20 percent of the
38 total remediation cost, and investor or financial entity capital or
39 loans for which the developer, after making all good faith efforts to
40 raise additional capital, certifies that additional capital cannot be
41 raised from other sources.

42 "Redevelopment agreement" means an agreement between the
43 authority and a developer under which the developer agrees to
44 perform any work or undertaking necessary for the remediation of a
45 contaminated site located at the site of the redevelopment project,
46 and for the clearance, development or redevelopment, construction,
47 ¹reconstruction,¹ or rehabilitation of any structure or improvement

1 of commercial, industrial, or public structures or improvements
2 within an area of land whereon a brownfield site is located.

3 "Redevelopment project" means a specific construction project
4 or improvement undertaken, pursuant to the terms of a
5 redevelopment agreement, by a developer within an area of land
6 whereon a brownfield site is located. A redevelopment project may
7 involve construction or improvement upon lands, buildings,
8 improvements, or real and personal property, or any interest therein,
9 including lands under water, riparian rights, space rights, and air
10 rights, acquired, owned, developed or redeveloped, constructed,
11 reconstructed, rehabilitated, or improved.

12 "Remediation" or "remediate" means all necessary actions to
13 investigate and clean up or respond to any known, suspected, or
14 threatened discharge of contaminants, including, as necessary, the
15 preliminary assessment, site investigation, remedial investigation,
16 and remedial action, ¹or any portion thereof,¹ as those terms are
17 defined in section 23 of P.L.1993, c.139 (C.58:10B-1); ¹and
18 hazardous materials abatement; hazardous materials or waste
19 disposal; building and structural remedial activities, including, but
20 not limited to, demolition, asbestos abatement, polychlorinated
21 biphenyl removal, contaminated wood or paint removal, or other
22 infrastructure remedial activities;¹ provided, however,
23 "remediation" or "remediate" shall not include the payment of
24 compensation for damage to, or loss of, natural resources.

25 "Remediation costs" means all reasonable costs associated with
26 the remediation of a contaminated site, except any costs incurred in
27 financing the remediation.

28

29 11. (New section) The Brownfields Redevelopment Incentive
30 Program is established as a program under the jurisdiction of the
31 New Jersey Economic Development Authority. The purpose of the
32 program is to compensate developers of redevelopment projects
33 located on brownfield sites for remediation costs. To implement
34 this purpose, the authority shall issue tax credits. The total value of
35 tax credits approved by the authority shall not exceed the
36 limitations set forth in section 98 of P.L. , c. (C.) (pending
37 before the legislature as this bill).;. For the purpose of determining
38 the aggregate value of tax credits approved in a fiscal year, a tax
39 credit shall be deemed to have been approved at the time the
40 authority approves an application for an award of a tax credit. If
41 the authority approves less than the total amount of tax credits
42 authorized pursuant to this section in a fiscal year, the remaining
43 amount, plus any amounts remaining from previous fiscal years,
44 shall be added to the limit of subsequent fiscal years until that
45 amount of tax credits are claimed or allowed. Any unapproved,
46 uncertified, or recaptured portion of tax credits during any fiscal
47 year may be carried over and reallocated in succeeding years.

1 12. (New section) a. A developer seeking a tax credit for a
2 redevelopment project shall submit an application to the authority
3 and the department in a form and manner prescribed in regulations
4 adopted by the authority, in consultation with the department,
5 pursuant to the provisions of the "Administrative Procedure Act,"
6 P.L.1968, c.410 (C.52:14B-1 et seq.).

7 b. A redevelopment project shall be eligible for a tax credit
8 only if the developer demonstrates to the authority and the
9 department at the time of application that:

10 (1) except as provided in subsection j. of this section, the
11 developer has not commenced any remediation or clean up at the
12 site of the redevelopment project, except for preliminary
13 assessments and investigations, prior to applying for a tax credit
14 pursuant to this section, but intends to remediate and redevelop the
15 site immediately upon approval of the tax credit;

16 (2) the redevelopment project is located on a brownfield site;

17 (3) without the tax credit, the redevelopment project is not
18 economically feasible;

19 (4) a project financing gap exists;

20 (5) the developer has obtained and submitted to the authority a
21 letter evidencing support for the redevelopment project from the
22 governing body of the municipality in which the redevelopment
23 project is located; and

24 (6) each worker employed to perform remediation, or
25 construction at the redevelopment project shall be paid not less than
26 the prevailing wage rate for the worker's craft or trade, as
27 determined by the Commissioner of Labor and Workforce
28 Development pursuant to P.L.1963, c.150 (C.34:11-56.25 et seq.).
29 The prevailing wage requirements shall apply ¹to redevelopment
30 projects that are allowed a tax credit in excess of \$500,000¹ for
31 construction work through the completion of the redevelopment
32 project. In the event a redevelopment project, or the aggregate of
33 all redevelopment project approved for an award under the program,
34 constitute a lease of more than ¹[55] 35¹ percent of a facility, the
35 prevailing wage requirements shall apply to the entire facility.

36 c. A redevelopment project that received a reimbursement
37 pursuant to sections 34 through 39 of P.L.1997, c.278 (C.58:10B-26
38 through 58:10B-31) shall not be eligible to apply for a tax credit
39 under the program. If the authority receives an application and
40 supporting documentation for approval of a reimbursement pursuant
41 to sections 34 through 39 of P.L.1997, c.278 (C.58:10B-26 through
42 58:10B-31) prior to the effective date of sections 9 through 19 of
43 P.L. , c. (C.) (pending before the Legislature as this bill),
44 then the authority may consider the application and award a tax
45 credit to a developer, provided that the authority shall take final
46 action on all applications for approval of a reimbursement pursuant
47 to sections 34 through 39 of P.L.1997, c.278 (C.58:10B-26 through
48 58:10B-31) no later than July 1, 2019. No applications shall be

1 submitted pursuant to sections 34 through 39 of P.L.1997, c.278
2 (C.58:10B-26 through 58:10B-31) after the effective date sections 9
3 through 19 of P.L. , c. (C.) (pending before the Legislature
4 as this bill).

5 d. (1) Prior to approval of an application, the Department of
6 Labor and Workforce Development, the Department of
7 Environmental Protection, and the Department of the Treasury shall
8 each report to the chief executive officer of the authority whether
9 the developer is in substantial good standing with the respective
10 department, or has entered into an agreement with the respective
11 department that includes a practical corrective action plan for the
12 developer. The authority may also contract with an independent
13 third party to perform a background check on the developer.
14 Provided that the developer is in substantial good standing, or has
15 entered into such an agreement, and following approval of an
16 application by the board, the authority shall enter into a
17 redevelopment agreement with the developer, as provided for in
18 section 13 of P.L. , c. (C.) (pending before the Legislature
19 as this bill).

20 (2) The authority, in consultation with the department, may
21 impose additional requirements upon an applicant through rule or
22 regulation adopted pursuant to the provisions of the "Administrative
23 Procedure Act," P.L.1968, c.410 (C.52:14B-1 et seq.), if the
24 authority or the department determines the additional requirements
25 to be necessary and appropriate to effectuate the purposes of
26 sections 9 through 19 of P.L. , c. (C.) (pending before the
27 Legislature as this bill).

28 e. The authority, in consultation with the department, shall
29 conduct a review of the applications through a competitive
30 application process whereby the authority and the department shall
31 evaluate all applications submitted by a date certain, as if all
32 received applications were submitted on that date. In addition to
33 the eligibility criteria set forth in subsection b. of this section, the
34 authority ¹, in consultation with the department,¹ may consider
35 additional factors that may include, but shall not be limited to: the
36 economic feasibility of the ¹**【remediation】 redevelopment**¹ project;
37 the benefit of the ¹**【remediation】 redevelopment**¹ project to the
38 community in which the remediation project is located; the degree
39 to which the ¹**【remediation】 redevelopment**¹ project enhances and
40 promotes job creation and economic development and ¹**【addresses**
41 **environmental concerns of communities that have been historically**
42 **and disproportionately impacted by environmental hazards】 reduces**
43 **environmental or public health stressors in an overburdened**
44 **community as those terms are defined by section 2 of P.L.**
45 **(C.13:1D-157) and attendant department regulations**¹; and, if the
46 developer has a board of directors, the extent to which that board of
47 directors is diverse and representative of the community in which

1 the **‘[remediation] redevelopment’** project is located. The
2 authority, in consultation with the department, shall submit
3 applications that comply with the eligibility criteria set forth in this
4 section, fulfill the additional factors considered by the authority
5 pursuant to this subsection, satisfy the submission requirements,
6 and provide adequate information for the subject application, to the
7 board for final approval.

8 f. The authority shall award tax credits to redevelopment
9 projects until either the available tax credits are exhausted or all
10 redevelopment projects that are eligible for a tax credit pursuant to
11 the provisions of sections 9 through 19 of P.L. , c. (C.)
12 (pending before the Legislature as this bill) receive a tax credit,
13 whichever occurs first. If insufficient funding exists to allow a tax
14 credit to a developer in accordance with the provisions of
15 subsection a. of section 16 of P.L. , c. (C.) (pending before
16 the Legislature as this bill), the authority may offer the developer a
17 value of the tax credit below the amount provided for in subsection
18 a. of section 16 of P.L. , c. (C.) (pending before the
19 Legislature as this bill).

20 g. A developer shall pay to the authority or to the department,
21 as appropriate, the full amount of the direct costs of an analysis
22 concerning the developer’s application for a tax credit, which a
23 third party retained by the authority or department performs, if the
24 authority or department deems such retention to be necessary.

25 h. If the authority determines that a developer made a material
26 misrepresentation on the developer’s application, the developer
27 shall forfeit all tax credits awarded under the program.

28 i. If circumstances require a developer to amend its application
29 to the authority, then the developer, or an authorized agent of the
30 developer, shall certify to the authority that the information
31 provided in its amended application is true, under the penalty of
32 perjury.

33 j. A developer that has commenced remediation or clean up at
34 the site **‘have known’** the extent of the site contamination when the
35 developer of a redevelopment project prior to application may still
36 apply for a tax credit under the program, if the developer certifies to
37 the authority, under the penalty of perjury, that the developer **‘[was**
38 **unaware of] could not reasonably’** commenced the redevelopment
39 project.

40
41 13. (New section) a. Following approval of an application by
42 the board, but prior to the start of any remediation or clean up at the
43 site of the redevelopment project, the authority shall enter into a
44 redevelopment agreement with the developer. The chief executive
45 officer of the authority shall negotiate the terms and conditions of
46 the redevelopment agreement on behalf of the State.

1 b. The redevelopment agreement shall specify the amount of
2 the tax credit to be awarded to the developer, the date on which the
3 developer shall complete the remediation, and the projected project
4 remediation cost. The redevelopment agreement shall require the
5 developer to submit progress reports to the authority and to the
6 department every six months pursuant to section 15 of P.L. ,
7 c. (C.) (pending before the Legislature as this bill). ¹【The
8 redevelopment agreement shall also require the developer to
9 consent to the disclosure of tax expenditure information as
10 described in paragraph (8) of subsection b. of section 1 of
11 P.L.2009, c.189 (C.52:27B-20a).】¹

12 c. The authority shall not enter into a redevelopment agreement
13 with a developer unless:

14 (1) the redevelopment project complies with standards
15 established by the authority in accordance with the green building
16 manual prepared by the Commissioner of Community Affairs
17 pursuant to section 1 of P.L.2007, c.132 (C.52:27D-130.6),
18 regarding the use of renewable energy, energy-efficient technology,
19 and non-renewable resources to reduce environmental degradation
20 and encourage long-term cost reduction;

21 (2) the redevelopment project complies with the authority's
22 affirmative action requirements, adopted pursuant to section 4 of
23 P.L.1979, c.303 (C.34:1B-5.4); and

24 (3) the developer pays each worker employed to perform
25 remediation work or construction work at the redevelopment project
26 not less than the prevailing wage rate in accordance with the
27 requirements of paragraph (6) of subsection b. of section 12 of
28 P.L. , c. (C.)(pending before the Legislature as this bill) for
29 the worker's craft or trade, as determined by the Commissioner of
30 Labor and Workforce Development pursuant to P.L.1963, c.150
31 (C.34:11-56.25 et seq.).

32 d. The authority shall not enter into a redevelopment agreement
33 ¹【with a developer who is liable, pursuant to paragraph (1) of
34 subsection c. of section 8 of P.L.1976, c.141 (C.58:10-23.11g), for
35 the contamination at the brownfield site proposed to be in the
36 redevelopment agreement】 unless the developer demonstrates, to
37 the satisfaction of the Department of Environmental Protection, that
38 the developer did not discharge a hazardous substance at the
39 brownfield site proposed to be in the redevelopment agreement, is
40 not in any way responsible for the hazardous substance, and is not a
41 corporate successor to the discharger or to any person in any way
42 responsible for the hazardous substance or to anyone liable for
43 cleanup and removal costs pursuant to section 8 of P.L.1976, c.141
44 (C.58:10-23.11g)¹.

45 e. (1) Except as provided in paragraph (2) of this
46 subsection, the authority shall not enter into a redevelopment
47 agreement for a redevelopment project that includes at least one

1 retail establishment that will have more than 10 employees, or at
2 least one distribution center that will have more than 20 employees,
3 unless the redevelopment agreement includes a precondition that
4 any business that serves as the owner or operator of the retail
5 establishment or distribution center enters into a labor harmony
6 agreement with a labor organization or cooperating labor
7 organizations which represent retail or distribution center
8 employees in the State.

9 (2) A labor harmony agreement shall be required only if the
10 State has a proprietary interest in the redevelopment project and
11 shall remain in effect for as long as the State acts as a market
12 participant in the redevelopment project. The authority may enter
13 into a redevelopment agreement with a developer without the labor
14 harmony agreement required under paragraph (1) of this subsection
15 only if the authority determines that the redevelopment project
16 would not be feasible if a labor harmony agreement is required.
17 The authority shall support the determination by a written finding,
18 which provides the specific basis for the determination.

19 (3) As used in this subsection, "labor harmony agreement"
20 means an agreement between a business that serves as the owner or
21 operator of a retail establishment or distribution center and one or
22 more labor organizations, which requires, for the duration of the
23 agreement: that any participating labor organization and its
24 members agree to refrain from picketing, work stoppages, boycotts,
25 or other economic interference against the business; and that the
26 business agrees to maintain a neutral posture with respect to efforts
27 of any participating labor organization to represent employees at an
28 establishment or other unit in the retail establishment or distribution
29 center, agrees to permit the labor organization to have access to the
30 employees, and agrees to guarantee to the labor organization the
31 right to obtain recognition as the exclusive collective bargaining
32 representatives of the employees in an establishment or unit at the
33 retail establishment or distribution center by demonstrating to the
34 New Jersey State Board of Mediation, Division of Private
35 Employment Dispute Settlement, or a mutually agreed-upon,
36 neutral, third-party, that a majority of workers in the unit have
37 shown their preference for the labor organization to be their
38 representative by signing authorization cards indicating that
39 preference. The labor organization or organizations shall be from a
40 list of labor organizations that have requested to be on the list and
41 that the Commissioner of Labor and Workforce Development has
42 determined represent substantial numbers of retail or distribution
43 center employees in the State.

44 f. The redevelopment agreement shall provide that issuance of
45 a tax credit under the program shall be conditioned upon the
46 subrogation to the department of all rights of the developer to
47 recover remediation costs from any other person who discharges a
48 hazardous substance or is in any way responsible, pursuant to

1 section 8 of P.L.1976, c.141 (C.58:10-23.11g), for a hazardous
2 substance that was discharged at the brownfield site.

3 g. A developer may seek a revision to the redevelopment
4 agreement if the developer cannot complete the remediation on or
5 before the date set forth in the redevelopment agreement. A
6 developer's ability to change the date on which the developer shall
7 complete the remediation shall be subject to the availability of tax
8 credits in the year of the revised date of completion.

9 h. A developer shall submit to the authority satisfactory
10 evidence of the actual remediation costs, as certified by a certified
11 public accountant, evidence of completion of the remediation, and a
12 certification that all information provided by the developer to the
13 authority is true, including information contained in the application,
14 the redevelopment agreement, any amendment to the redevelopment
15 agreement, and any other information submitted by the developer to
16 the authority pursuant to sections 9 through 19 of P.L. ,
17 c. (C.) (pending before the Legislature as this bill). The
18 developer, or an authorized agent of the developer, shall certify
19 under the penalty of perjury that the information provided pursuant
20 to this subsection is true.

21 i. The redevelopment agreement shall include a requirement
22 that the chief executive officer of the authority receive annual
23 reports from the Department of Environmental Protection, the
24 Department of Labor and Workforce Development, and the
25 Department of the Treasury that demonstrating the developer, and
26 each contractors and subcontractor performing work on the
27 redevelopment project, is in substantial good standing with the
28 respective department, or has entered into an agreement with the
29 respective department that includes a practical corrective action
30 plan for the developer. The redevelopment agreement shall also
31 include a provision allowing authority to recapture the tax credits
32 for any year in which any such report is not received. The
33 redevelopment agreement shall also require a developer to engage
34 in on-site consultations with the Division of Workplace Safety and
35 Health in the Department of Health.

36
37 14. (New section) To qualify for a tax credit under the program,
38 a developer shall:

39 a. enter into a memorandum of agreement or other oversight
40 document with the Commissioner of Environmental Protection in
41 accordance with the provisions of section 37 of P.L.1997, c.278
42 (C.58:10B-29); or

43 b. comply with the requirements set forth in subsection b. of
44 section 30 of P.L.2009, c.60 (C.58:10B-1.3) for the remediation of
45 the site of the redevelopment project.

46
47 15. (New section) Commencing with the date six months
48 following the date the authority and a developer execute a

1 redevelopment agreement and every six months thereafter until
2 completion of the project, the developer shall submit an update of
3 the status of the redevelopment project to the authority and to the
4 department, including the remediation costs incurred by the
5 developer for the remediation of the contaminated property located
6 at the site of the redevelopment project. Unless the authority
7 determines that extenuating circumstances exist, the authority's
8 approval of a tax credit shall expire if the authority, the department,
9 or both, do not timely receive the status update required under this
10 section. The authority may rescind an award of tax credits under
11 the program if a redevelopment project fails to advance in
12 accordance with the redevelopment agreement.

13

14 16. (New section) a. Upon completion of the redevelopment
15 project, the developer shall seek certification from the department
16 that:

17 (1) the redevelopment project is complete;

18 (2) the developer complied with the requirements of section 15
19 of P.L. , c. (C.) (pending before the Legislature as this
20 bill), including the requirements of any memorandum of agreement
21 or other oversight document that the developer may have executed
22 with the Commissioner of Environmental Protection pursuant to
23 that section; and

24 (3) the remediation costs were actually and reasonably incurred.

25 Upon receipt of certification, and confirmation by the authority
26 that the developer's obligations under the redevelopment agreement
27 have been met, a developer shall be awarded a credit against the tax
28 imposed pursuant to section 5 of P.L.1945, c.162 (C.54:10A-5) in
29 an amount not to exceed 40 percent of the actual remediation costs,
30 or 40 percent of the projected remediation costs as set forth in the
31 redevelopment agreement, or \$4,000,000, whichever is least. The
32 developer, or an authorized agent of the developer, shall certify that
33 the information provided to the department and the authority
34 pursuant to this subsection is true under the penalty of perjury.

35 b. When filing an application for certification pursuant to
36 subsection a. of this section, the developer shall submit to the
37 **'[director] department'** the total remediation costs incurred by the
38 developer for the remediation of the subject property located at the
39 site of the redevelopment project as provided in the redevelopment
40 agreement and certified by a certified public accountant,
41 information concerning the occupancy rate of the buildings or other
42 work areas located on the property subject to the redevelopment
43 agreement, and such other information as the **'[director]**
44 **department'** deems necessary in order to make the certifications and
45 findings pursuant to this section.

46 c. A developer shall apply the credit awarded against the
47 developer's liability for the tax imposed pursuant to section 5 of
48 P.L.1945, c.162 (C.54:10A-5) for the privilege period during which

1 the **'[director] department'** awards the developer a tax credit
2 pursuant to subsection a. of this section. A developer shall not
3 carry forward any unused credit. **'[Credits awarded to a**
4 partnership shall be passed through to the partners, members, or
5 owners, respectively, pro-rata, or pursuant to an executed agreement
6 among the partners, members, or owners documenting an alternate
7 distribution method provided to the director accompanied by any
8 additional information as the director may prescribe. **.]'**

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

18
19 17. (New section) a. A developer may apply to the director and
20 the chief executive officer of the authority for a tax credit transfer
21 certificate, during the privilege period in which the director awards
22 the developer a tax credit pursuant to section 16 of P.L. ,
23 c. (C.) (pending before the Legislature as this bill), in lieu of
24 the developer being allowed to apply any amount of the tax credit
25 against the developer's State tax liability. The tax credit transfer
26 certificate, upon receipt thereof by the developer from the director
27 and the chief executive officer of the authority, may be sold or
28 assigned, in the privilege period during which the developer
29 receives the tax credit transfer certificate from the director, to
30 another person, who may apply the credit against a tax liability
31 pursuant to section 5 of P.L.1945, c.162 (C.54:10A-5) , sections 2
32 and 3 of P.L.1945, c.132 (C.54:18A-2 and C.54:18A-3), section 1
33 of P.L.1950, c.231 (C.17:32-15), or N.J.S.17B:23-5. The tax credit
34 transfer certificate provided to the developer shall include a
35 statement waiving the developer's right to claim the credit that the
36 developer has elected to sell or assign.

37 b. The developer shall not sell or assign a tax credit transfer
38 certificate allowed under this section for consideration received by
39 the developer of less than 85 percent of the transferred credit
40 amount before considering any further discounting to present value
41 which shall be permitted, except a developer of a residential project
42 consisting of newly-constructed residential units that has received
43 federal low income housing tax credits under 26 U.S.C.
44 s.42(b)(2)(B)(i) may assign a tax credit transfer certificate for
45 consideration of no less than 75 percent subject to the submission of
46 a plan to the authority and the New Jersey Housing and Mortgage
47 Finance Agency to use the proceeds derived from the assignment of
48 tax credits to complete the residential project.. The tax credit

1 transfer certificate issued to a developer by the director shall be
2 subject to any limitations and conditions imposed on the application
3 of State tax credits pursuant to section 16 of P.L. , c. (C.)
4 (pending before the Legislature as this bill) and any other terms and
5 conditions that the director may prescribe.

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

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

- 12 (1) the name of the transferor;
- 13 (2) the name of the transferee;
- 14 (3) the value of the tax credit transfer certificate;
- 15 (4) the State tax against which the transferee may apply the tax
16 credit; and
- 17 (5) the consideration received by the transferor.

18
19 18. (New section) Beginning the year next following the year in
20 which sections 9 through 19 of P.L. , c. (C.) (pending
21 before the Legislature as this bill) take effect and every two years
22 thereafter, a State college or university established pursuant to
23 chapter 64 of Title 18A of the New Jersey Statutes shall, pursuant
24 to an agreement executed between the State college or university
25 and the authority, prepare a report on the implementation of the
26 program, and submit the report to the authority, the Governor, and,
27 pursuant to section 2 of P.L.1991, c.164 (C.52:14-19.1), to the
28 Legislature. Each biennial report required under this section shall
29 include a description of each redevelopment project receiving a tax
30 credit under the program, a detailed analysis of the consideration
31 given in each project to the factors set forth in sections 12 and 13 of
32 P.L. , c. (C.) (pending before the Legislature as this bill),
33 the return on investment for incentives awarded, the redevelopment
34 project's impact on the State's economy, and any other metrics the
35 State college or university determines are relevant based upon
36 national best practices. The authority shall prepare a written
37 response to the report, which the authority shall submit to the
38 Governor and, pursuant to section 2 of P.L.1991, c.164 (C.52:14-
39 19.1), to the Legislature.

40
41 19. (New section) Notwithstanding the provisions of the
42 "Administrative Procedure Act," P.L.1968, c.410 (C.52:14B-1 et
43 seq.), to the contrary, the chief executive officer of the authority, in
44 consultation with the Commissioner of Environmental Protection,
45 may adopt, immediately upon filing with the Office of
46 Administrative Law, regulations that the chief executive officer and
47 commissioner deem necessary to implement the provisions of
48 sections 9 through 19 of P.L. , c. (C.) (pending before the

1 Legislature as this bill), which regulations shall be effective for a
2 period not to exceed 180 days from the date of the filing. The chief
3 executive officer, in consultation with the Commissioner of
4 Environmental Protection, shall thereafter amend, adopt, or readopt
5 the regulations in accordance with the requirements of P.L.1968,
6 c.410 (C.52:14B-1 et seq.). The rules shall require annual reporting
7 by developers that receive tax credits pursuant to the program, in
8 addition to the regular progress updates **'[and]'** . Developers shall
9 obtain certifications by the Department of Labor and Workforce
10 Development, the Department of Environmental Protection, and the
11 Department of the Treasury stating that the developer is in
12 substantial good standing with the respective department, or has
13 entered into an agreement with the respective department that
14 includes a practical corrective action plan. The rules and
15 regulations adopted pursuant to this section shall also include a
16 provision to require that developers forfeit all tax credits awarded in
17 any year in which any such report is not received, and to allow the
18 authority to extend, in individual cases, the deadline for any annual
19 reporting or certification requirement established pursuant to this
20 section.

21

22 20. (New section) Sections 20 through 34 of P.L. ,
23 c. (C.) (pending before the Legislature as this bill) shall be
24 known and may be cited as the "New Jersey Innovation Evergreen
25 Act."

26

27 21. (New section) As used in sections 20 through 34 of P.L. ,
28 c. (C.) (pending before the Legislature as this bill):

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

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

33 "Follow-on investment" means a subsequent investment made by
34 an investor who has a previous investment in a New Jersey high-
35 growth business.

36 "Fund" means the "New Jersey Innovation Evergreen Fund"
37 established by section 23 of P.L. , c. (C.) (pending before
38 the Legislature as this bill).

39 "High-growth business" means a business that is growing
40 significantly faster than the average growth rate of the economy or
41 is a start-up company that is investing in developing a product or
42 new business model that will allow it to grow significantly faster
43 than the average growth rate of the economy within the next three
44 to five years.

45 "Incentive area" means an area in this State: (1) designated
46 pursuant to the "State Planning Act," P.L.1985, c.398 (C.52:18A-
47 196 et seq.), as Planning Area 1 (Metropolitan); or (2) that has been

1 designated as a qualified opportunity zone pursuant to 26 U.S.C.
2 s.1400Z-1.

3 "Innovation ecosystem" means funding, programs, and events
4 that support the establishment and expansion of high-growth
5 companies in targeted sectors. Examples of such funding,
6 programs, and events include: mentoring programs for start-ups,
7 meet-up or networking events, funding for locating a business in a
8 collaborative workspace, programs that provide businesses services,
9 and entrepreneurial education to companies.

10 "Opportunity zone" means a federal population census tract in
11 this State that was eligible to be designated as a qualified
12 opportunity zone pursuant to 26 U.S.C. s.1400Z-1 as may be
13 amended.

14 "Principal business operations" means at least 50 percent of the
15 business's employees, who are not primarily engaged in retail sales,
16 reside in the State, or at least 50 percent of the business's payroll
17 for employees not primarily engaged in retail sales is paid to
18 individuals living in this State.

19 "Program" means the New Jersey Innovation Evergreen Program
20 established by section 22 of P.L. , c. (C.) (pending before
21 the Legislature as this bill).

22 "Purchaser" means an entity registered to do business in this
23 State with the Director of the Division of Revenue and Enterprise
24 Services in the Department of the Treasury that purchases an
25 allocation of tax credits under the program.

26 "Qualified business" means a business that, at the time of the
27 first qualified investment in the business and throughout the period
28 of the qualified investment under the program, is registered to do
29 business in this State with the Director of the Division of Revenue
30 and Enterprise Services in the Department of the Treasury; has its
31 principal business operations located in the State and intends to
32 maintain its principal business operations in the State after
33 receiving a qualified investment under the program; is engaged in a
34 targeted industry; and employs fewer than 250 persons at the time
35 of the qualified investment

36 "Qualified investment" means the direct investment of money by
37 the fund in a qualified business for the purchase of shares of stock,
38 with an ¹option to make an¹ additional investment in an option or
39 warrant or a follow-on investment, in the discretion of the authority,
40 all of which is matched by an investment by a qualified venture
41 firm.

42 "Qualified venture firm" means a venture firm that is approved
43 by the authority as a qualified venture firm pursuant to section 29 of
44 P.L. , c. (C.) (pending before the Legislature as this bill).

45 "Special purpose vehicle" means an entity controlled by or under
46 common control with a venture firm that is formed solely for the
47 purpose of investing in a New Jersey high-growth business
48 alongside the venture firm.

1 "Targeted industry" means any industry identified from time to
2 time by the authority which shall initially include advanced
3 transportation and logistics, advanced manufacturing, aviation,
4 autonomous vehicle and zero-emission vehicle research or
5 development, clean energy, life sciences, hemp processing,
6 information and high technology, finance and insurance,
7 professional services, film and digital media, **'[and]'**
8 food and beverage businesses **'[,]'** including food innovation **'.'**
9 and other innovative industries that disrupt current technologies or
10 business models.

11 "Venture firm" means a partnership, corporation, trust, or limited
12 liability company that invests cash in a business during the early or
13 expansion stages of a business in exchange for an equity stake in
14 the business in which the investment is made. Venture firm may
15 include a venture capital fund, a family office fund, or a corporate
16 investor fund, provided that a professional manager administers the
17 venture firm.

18

19 22. (New section) The New Jersey Innovation Evergreen
20 Program is established as a program under the jurisdiction of the
21 New Jersey Economic Development Authority. The purpose of the
22 program is to invest in innovation as a catalyst for economic growth
23 and to advance the competitiveness of the State's businesses in the
24 global economy. Beginning on the effective date of sections 20
25 through 34 of P.L. , c. (C.) (pending before the Legislature
26 as this bill), the authority shall auction up to \$300,000,000 in tax
27 credits in annual amounts not to exceed the limitations set forth in
28 section 98 of P.L. , c. (C.) (pending before the legislature as
29 this bill). The authority shall not undertake an auction if, exclusive
30 of reserves, including the reserve set aside for follow-on
31 investments pursuant to subsection d. of section 23 of P.L. ,
32 c. (C.) (pending before the Legislature as this bill), more
33 than \$15,000,000 is available to the authority, from moneys
34 received from any prior auction of tax credits pursuant to the
35 program, to allocate to qualified venture firms.

36

37 23. (New section) a. The authority shall establish and maintain
38 a dedicated fund to be known as the "New Jersey Innovation
39 Evergreen Fund." The authority shall use the money in the fund to
40 carry out the purposes enumerated in subsections b. and c. of this
41 section. The authority shall credit the fund with money paid by
42 purchasers; distributions from payments or repayments made to the
43 authority in accordance with subsection c. of section 31 of P.L. ,
44 c. (C.) (pending before the Legislature as this bill); earnings
45 received, if any, from the investment or reinvestment of money
46 credited to the fund; and any money which, from time to time, may
47 otherwise become available for the purposes of the fund.

1 b. The authority shall allocate the money in the fund to
2 qualified venture firms to make qualified investments of capital in
3 qualified businesses through a special purpose vehicle in
4 accordance with section 30 of P.L. , c. (C.) (pending before
5 the Legislature as this bill) and to pay the administrative, legal, and
6 auditing expenses of the authority incurred in the administration of
7 the program. In addition, the authority shall use 75 basis points of
8 the total amounts deposited in the fund, calculated on an annual
9 basis, for programs administered by the authority that create an
10 innovation ecosystem that supports and promotes high-growth
11 businesses in the State.

12 c. The authority shall deposit into the fund dividends and
13 returns on investments paid to the authority by or on behalf of a
14 qualified business. Upon the fund holding total deposits of
15 \$500,000,000 and thereafter upon a qualified investment in a
16 qualified business achieving a return on investment of twice the
17 original and follow-on investment, 50 percent of any return on
18 investment in excess of twice the original and follow-on investment
19 shall be paid to the General Fund of the State.

20 d. The authority shall account for and calculate reserves for
21 follow-on investments, programs that support the State's innovation
22 ecosystem, and administrative, legal, and auditing expenses of the
23 authority in administering the program. The authority shall not
24 include these reserves when calculating the amount in the fund
25 available for new qualified investments.

26

27 24. (New section) a. The authority shall sell the tax credits
28 authorized pursuant to section 22 of P.L. , c. (C.) (pending
29 before the Legislature as this bill) to purchasers through a
30 competitive auction process.

31 b. The authority shall determine the form and manner in which
32 potential purchasers may bid for tax credits available under the
33 program. To be awarded a tax credit under the program, a potential
34 purchaser shall:

35 (1) specify the requested amount of tax credits, which shall not
36 be less than \$1,000,000;

37 (2) specify the amount the potential purchaser will pay in
38 exchange for the requested amount of tax credits, which shall not be
39 less than 85 percent of the requested dollar amount of tax credits;

40 (3) commit to serve on the New Jersey Innovation Evergreen
41 Advisory Board, established pursuant to section 32 of P.L. ,
42 c. (C.) (pending before the Legislature as this bill), and to
43 otherwise provide mentorship, networking, and collaboration
44 opportunities to qualified businesses that receive funding under the
45 program; and

46 (4) provide any other information that the chief executive
47 officer of the authority determines is necessary.

1 c. Prior to an auction, the authority shall establish and disclose
2 to bidders the weighted criteria the authority will utilize, which the
3 authority shall base on the price offered to purchase the tax credits
4 and the quality of the mentorship and networking opportunities and
5 other support of the State's innovation ecosystem offered by a
6 purchaser in its bid. The authority may pro rate the amount of tax
7 credits allocated to each purchaser. A potential purchaser that
8 submits a bid for tax credits under this section shall receive a
9 written notice from the authority indicating whether the authority
10 has approved it as a purchaser of tax credits and, if so, the amount
11 of tax credits approved.

12 d. Except as provided in section 22 of P.L. , c. (C.)
13 (pending before the Legislature as this bill), the authority shall hold
14 one competitive auction per calendar year.

15 e. The authority may contract with an independent third party
16 to conduct the competitive bidding process through which State tax
17 credits issued by the authority may be sold.

18

19 25. (New section) a. A purchaser that submits a successful bid
20 for the purchase of tax credits pursuant to section 24 of P.L. ,
21 c. (C.) (pending before the Legislature as this bill) shall enter
22 into a contract with the authority that includes payment information
23 and the commitments made by the purchaser in its auction bid. A
24 purchaser that submits a successful bid for the purchase of tax
25 credits pursuant to section 24 of P.L. , c. (C.) (pending
26 before the Legislature as this bill) shall pay by wire transfer the
27 amount specified in its auction bid to the authority for deposit into
28 the fund. Upon receipt thereof, the chief executive officer shall
29 notify the director to issue tax credits in the amount approved.
30 Failure by the purchaser to pay the amount agreed upon on time
31 may disqualify the purchaser from purchasing the tax credits and
32 the authority may reassign the right to purchase the credits to
33 another bidder. Failure by the purchaser to adhere to the
34 commitments made in its auction bid may disqualify the purchaser
35 from participating in future auctions and may result in the recapture
36 of a portion of the tax credits.

37 b. The authority shall credit to the fund any money paid to the
38 authority by a purchaser for an allocation of tax credits under the
39 program.

40 c. The authority shall ensure that no undue financial advantage
41 shall inure to a purchaser that also is: managing a qualified venture
42 firm; beneficially owning, through rights, options, convertible
43 interests, or otherwise, more than 15 percent of the voting securities
44 or other voting ownership interests of a qualified venture firm; or
45 controlling the direction of investments for a qualified venture firm.
46 The chief executive officer of the authority shall certify that the
47 authority is monitoring the activities of such purchasers and has

1 taken appropriate steps to ensure no undue financial advantage
2 inures to the purchasers.

3
4 26. (New section) a. A purchaser shall apply a credit awarded
5 pursuant to sections 20 through 34 of P.L. , c. (C.)
6 (pending before the Legislature as this bill) against the State tax
7 liability due pursuant to section 5 of P.L.1945, c.162 (C.54:10A-5)
8 of the purchaser for the current privilege period as of the date of the
9 credit's approval. A purchaser may carry forward an unused credit
10 resulting from the limitations of subsection b. of this section, if
11 necessary, for use in the seven privilege periods next following the
12 privilege period for which the credit is awarded.

13 b. The director shall prescribe the order of priority of the
14 application of the credits awarded under sections 20 through 34 of
15 P.L. , c. (C.) (pending before the Legislature as this bill)
16 and any other credits allowed by law. The amount of a credit
17 applied under sections 20 through 34 of P.L. , c. (C.)
18 (pending before the Legislature as this bill) against the tax imposed
19 pursuant to section 5 of P.L.1945, c.162 (C.54:10A-5) for a
20 privilege period, together with any other credits allowed by law,
21 shall not reduce the tax liability of the purchaser to an amount less
22 than the statutory minimum provided in subsection (e) of section 5
23 of P.L.1945, c.162 (C.54:10A-5).

24
25 27. (New section) a. A purchaser may apply to the authority
26 and the director for a tax credit transfer certificate, in the privilege
27 period during which the director allows the purchaser a tax credit
28 pursuant to sections 20 through 34 of P.L. , c. (C.)
29 (pending before the Legislature as this bill), in lieu of the purchaser
30 being allowed to apply any amount of the tax credit against the
31 purchaser's State tax liability. A tax credit may be sold or assigned,
32 in full or in part, to another person that may have a tax liability
33 pursuant to section 5 of P.L.1945, c.162 (C.54:10A-5). The tax
34 credit transfer certificate provided to the purchaser shall include a
35 statement waiving the purchaser's right to claim the credit that the
36 purchaser has elected to sell or assign.

37 b. The purchaser shall not sell or assign a tax credit transfer
38 certificate allowed under this section for consideration received by
39 the purchaser of less than 85 percent of the transferred credit
40 amount before considering any further discounting to present value
41 which shall be permitted. The tax credit transfer certificate issued
42 to a purchaser by the director shall be subject to any limitations and
43 conditions imposed on the application of State tax credits pursuant
44 to section 26 of P.L. , c. (C.) (pending before the
45 Legislature as this bill) and any other terms and conditions that the
46 director may prescribe.

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

4 d. Ten percent of the consideration received by a purchaser
5 from the sale or assignment of a tax credit transfer certificate
6 pursuant to this section shall be remitted to the director and
7 deposited in the General Fund of the State.

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

- 11 (1) the name of the transferor;
- 12 (2) the name of the transferee;
- 13 (3) the value of the tax credit transfer certificate;
- 14 (4) the State tax against which the transferee may apply the tax
15 credit; and
- 16 (5) the consideration received by the transferor.

17

18 28. (New section) a. The authority shall establish an
19 application process and determine the form and manner through
20 which a venture firm may make and file an application for
21 certification as a qualified venture firm. The authority may accept
22 applications on a rolling basis or on a date set by the authority.

23 b. In evaluating applicants for certification as a qualified
24 venture firm, the authority shall establish weighted criteria by
25 which the authority will evaluate all venture firms applying in the
26 same calendar year and shall establish a minimum acceptable score.
27 The criteria shall include, but not be limited to:

- 28 (1) the management structure of the applicant, including:
 - 29 (a) quality of the leadership, including willingness to work with
30 the authority to support targeted industries and the innovation
31 ecosystem in the State, and to locate in the State;
 - 32 (b) the investment experience of the principals with qualified
33 businesses;
 - 34 (c) the knowledge, experience, and capabilities of the applicant
35 in subject areas relevant to high-growth businesses in the State;
 - 36 (d) the tenure and turnover history of principals and senior
37 investment professionals of the applicant;
 - 38 (e) whether the State's investment with the applicant under this
39 program would exceed 15 percent of the total invested in the
40 applicant by all investors, including investments in any special
41 purpose vehicles;
 - 42 (f) the applicant's stage of fundraising; and
 - 43 (g) whether fees, expenses, and the remuneration of the general
44 partner or manager are similar to those of peer investors;
- 45 (2) the applicant's investment strategy, including:
 - 46 (a) the applicant's track record of investing in high-growth
47 businesses;

1 (b) whether the investment strategy of the applicant is focused
2 on high-growth businesses, including the percentage of the
3 investment identified to be invested in New Jersey or surrounding
4 geographic areas; and

5 (c) the performance history of the general partner or fund
6 manager based on a review of investment returns on individual
7 funds on an absolute basis and relative to peers; and

8 (3) The location of the applicant's venture firm and the
9 proposed structure of the applicant venture firm's investments in
10 qualified businesses, with preference given to applicant venture
11 firms that are located in incentive areas and to applicant venture
12 firms that agree to dedicate a greater portion of qualified
13 investments into qualified businesses located within incentive areas.
14

15 29. (New section) a. The authority shall certify or refuse to
16 certify a venture firm as a qualified venture firm based on the
17 criteria for certification set forth in section 28 of P.L. ,
18 c. (C.) (pending before the Legislature as this bill), and
19 subsections b. and c. of this section.

20 b. The authority shall not certify a venture firm as a qualified
21 venture firm if the venture firm has: (1) an equity capitalization, net
22 assets, or written commitments of less than \$10,000,000 in the form
23 of cash or cash equivalents on the date the determination for
24 certification is made; or (2) fewer than two principals or persons
25 employed to direct the qualified investment of capital with at least
26 five years of money management experience in the venture capital
27 or private equity sectors on the date the determination for
28 certification is made. The authority may adopt, pursuant to the
29 provisions of the "Administrative Procedure Act," P.L.1968, c.410
30 (C.52:14B-1 et seq.), rules setting forth additional disqualifying
31 criteria and adjusting the minimum equity capitalization, net assets,
32 or written commitments of a qualified venture firm.

33 c. Prior to certifying a venture firm as a qualified venture firm,
34 the Department of Labor and Workforce Development, the
35 Department of Environmental Protection, and the Department of the
36 Treasury shall each report to the chief executive officer of the
37 authority whether the venture firm is in substantial good standing
38 with the respective department, or has entered into an agreement
39 with the respective department that includes a practical corrective
40 action plan for the venture firm. The authority may also contract
41 with an independent third party to perform a background check on
42 the venture firm.

43 d. The authority shall provide written notification to each
44 venture firm that is certified as a qualified venture firm by the
45 authority and shall provide written notification to each venture firm
46 that the authority refuses to certify as a qualified venture firm,
47 communicating in detail the grounds for the authority's refusal.
48 The authority shall review each qualified venture firm annually for

1 the disqualifying criteria set forth in subsection b. of this section or
2 other reasonable industry-accepted standards as determined by the
3 authority. The authority may decertify a qualified venture firm at
4 any time pursuant to the disqualifying criteria set forth in
5 subsection b. of this section. Decertification shall not affect any
6 previously made qualified investment or the fund's commitment to
7 make a follow-on investment in a qualified business.

8
9 30. (New section) a. (1) The authority is authorized to allocate
10 money credited to the fund to one or more qualified venture firms
11 for qualified investments at the times, in the amounts, and subject to
12 the terms and conditions that the authority shall determine to be
13 necessary and appropriate to effectuate the purposes of sections 20
14 through 34 of P.L. , c. (C.) (pending before the Legislature
15 as this bill); provided that no more than two qualified investments
16 shall be made with each qualified venture firm in a calendar year.

17 (2) Each qualified investment shall not exceed \$5,000,000 in
18 initial investment, exclusive of follow-on investments; provided,
19 however, if a qualified investment is in a business: (a) which
20 utilizes intellectual property that is core to the its business model
21 and was developed at a New Jersey-based college or university; (b)
22 is considered a university spin-off business as determined by the
23 authority; or (c) is certified by the State as a "minority business" or
24 a "women's business" pursuant to P.L.1986, c.195 (C.52:27H-21.17
25 et seq.), then the qualified investment shall not exceed \$6,250,000
26 in initial investment, exclusive of follow-on investments.

27 (3) The fund shall not invest in a qualified venture firm if the
28 authority determines that an undue financial advantage would inure
29 to a purchaser if the investment occurs or if the investment would
30 be inconsistent with the investment policies and goals of the State.

31 (4) The authority shall have a goal for 25 percent of the fund
32 money that is allocated to qualified venture firms is reserved for
33 investment in businesses located in opportunity zones.

34 (5) Within one year of the effective date of P.L. ,
35 c. (C.) (pending before the Legislature as this bill), the
36 authority shall undertake a disparity study of investment by venture
37 firms in women- and minority-owned business enterprises in this
38 State. Based on the finding of the disparity study, the authority,
39 following board approval, may institute a set-aside plan to ensure
40 that fund money allocated to qualified venture firms is reserved for
41 investment in women- and minority-owned business enterprises in
42 this State.

43 b. The authority shall make and enter into an agreement with
44 each qualified venture firm to which the authority allocates money
45 under the program. The agreement shall include provisions that
46 require the qualified venture firm to:

1 (1) make investments in qualified businesses that equal or
2 exceed the amount of capital received by the qualified venture firm
3 from the fund under the program;

4 (2) cause an audit of the qualified venture firm's books and
5 accounts, which a certified public accountant, who is licensed in
6 accordance with the "Accountancy Act of 1997," P.L.1997, c.259
7 (C.45:2B-42 et seq.), or licensed in accordance with the laws of
8 another state, shall conduct at least once in each year in which the
9 qualified venture firm is in receipt of fund money or in which the
10 qualified venture firm is responsible for the management of fund
11 money allocated to the qualified venture firm by the authority;

12 (3) enter into an agreement with each qualified business that
13 receives a qualified investment, which agreement shall, at a
14 minimum, require the qualified business to use the qualified
15 investment of capital to support its business operations in this State
16 and to provide the information required under section 31 of P.L. ,
17 c. (C.) (pending before the Legislature as this bill);

18 (4) upon the identification of a qualified investment, create a
19 special purpose vehicle for the qualified investment of the fund;

20 (5) upon the identification of a qualified investment, indicate the
21 amount of follow-on investment the authority should reserve, and
22 periodically provide updates concerning this amount;

23 (6) agree that the qualified venture firm will publicize its
24 participation in the "New Jersey Innovation Evergreen Fund;"

25 (7) consent to the authority publicly disclosing the qualified
26 venture firm on the list of qualified investment firms participating
27 in the program; and

28 (8) consent to the disclosure of tax expenditure information as
29 described in paragraph (8) of subsection b. of section 1 of
30 P.L.2009, c.189 (C.52:27B-20a).

31 c. A qualified venture firm that has made and entered into an
32 agreement with the authority in accordance with subsection b. of
33 this section is authorized to make qualified investments of capital in
34 one or more qualified businesses from fund money allocated to the
35 qualified venture firm by the authority at the times, in the amounts,
36 and subject to the terms and conditions that the qualified venture
37 firm determines to be necessary and appropriate. The authority may
38 limit the amount of allocated fund money that a qualified venture
39 firm invests in a qualified business based upon the size of
40 investments the qualified business has received, the source of the
41 investments, and the industry in which the qualified business is
42 engaged.

43
44 31. (New section) a. A qualified venture firm shall annually
45 report to the authority:

46 (1) the amount of the qualified investment, if any, uninvested at
47 the end of the preceding calendar year;

1 (2) all qualified investments made during the preceding calendar
2 year, including the number and wages of employees of each
3 qualified business at the time the venture firm made the qualified
4 investment and as of December 31 of that year;

5 (3) for any qualified investment in which the qualified venture
6 firm no longer has a position as of the end of the calendar year, the
7 number of employees of the business as of the date the investment
8 was terminated;

9 (4) financials, audited by a certified public accountant, who is
10 licensed in accordance with the "Accountancy Act of 1997,"
11 P.L.1997, c.259 (C.45:2B-42 et seq.), or licensed in accordance
12 with the laws of another state, of the qualified venture firm and the
13 special purpose vehicle that include a consolidated summary of the
14 performance of the qualified venture firm. Any information about
15 the performance of an individual business, including the qualified
16 business, shall be considered confidential and not subject to the
17 requirements of P.L.1963, c.73 (C.47:1A-1 et seq.); and

18 (5) any other information the authority requires to ascertain the
19 impact of the program on the economy of the State.

20 b. With respect to the information required under paragraphs
21 (1) through (4) of subsection a. of this section, the report shall
22 include a statement prepared by a certified public accountant, who
23 is licensed in accordance with the "Accountancy Act of 1997,"
24 P.L.1997, c.259 (C.45:2B-42 et seq.), or licensed in accordance
25 with the laws of another state, certifying that the accountant has
26 reviewed the report and that the information and representations
27 contained in the report are accurate.

28 c. Not later than 60 days after the sale or other disposition of a
29 qualified investment, the qualified venture firm shall provide to the
30 authority a report on the amount of the stock sold or disposed of
31 and the consideration received for the sale or disposition. The
32 report shall detail the cumulative effect of sequentially introduced
33 positive or negative values and include the gross income and details
34 of any offsetting fees that reduce the net distribution. Any dividend
35 or proceeds received by the authority for the sale or other
36 disposition of a qualified investment shall be deposited into the
37 fund and used in accordance with section 23 of P.L. ,
38 c. (C.) (pending before the Legislature as this bill).

39 d. A qualified venture firm shall, as required at the discretion
40 of the authority, submit to the authority satisfactory evidence
41 supporting the information detailed in the annual report and
42 certifying that all information provided by the qualified venture
43 firm to the authority is true, including information contained in the
44 application for certification, the agreement between the qualified
45 venture firm and authority, any amendment to that agreement, and
46 any other information submitted by the qualified venture firm to the
47 authority pursuant to sections 20 through 34 of P.L. ,
48 c. (C.) (pending before the Legislature as this bill). The

1 qualified venture firm, or an authorized agent of the qualified
2 venture firm, shall certify under the penalty of perjury that the
3 information provided pursuant to this section is true.

4
5 32. (New section) The New Jersey Innovation Evergreen
6 Advisory Board is established in but not of the authority for the
7 purposes of providing guidance and networking opportunities to
8 qualified businesses. The members of the board shall serve in a
9 voluntary capacity, to be appointed through a process to be
10 determined by the chief executive officer of the authority from
11 among purchasers and other strategic partners identified by the
12 chief executive officer, to support the State's innovation ecosystem.
13 The terms of the voluntary members so appointed, after the initial
14 appointments, shall be one year, and each member may be
15 reappointed.

16
17 33. (New section) Beginning the year next following the year in
18 which sections 20 through 34 of P.L. , c. (C.) (pending
19 before the Legislature as this bill) take effect and every two years
20 thereafter, the authority shall prepare a report on the
21 implementation of the program, and submit the report to the
22 Governor, and, pursuant to section 2 of P.L.1991, c.164 (C.52:14-
23 19.1), to the Legislature. Each biennial report required under this
24 section shall include the names and locations of qualified
25 businesses receiving capital; the amount of each qualified
26 investment; a report by a certified public accountant, who is
27 licensed in accordance with the "Accountancy Act of 1997,"
28 P.L.1997, c.259 (C.45:2B-42 et seq.), or licensed in accordance
29 with the laws of another state, of the consolidated performance of
30 the fund; the cumulative amount of capital committed by
31 purchasers; the rate and amount of fees charged by each qualified
32 venture firm, including performance-based earnings and carried
33 interest; the classification of each qualified business, according to
34 the industrial sector and the size of the qualified business; the
35 State's return on investment; the total number of jobs created in the
36 State by the qualified business after the qualified investment; the
37 average wages paid for the jobs; and any other metrics the authority
38 determines are relevant based upon national best practices.

39
40 34. (New section) Notwithstanding the provisions of the
41 "Administrative Procedure Act," P.L.1968, c.410 (C.52:14B-1 et
42 seq.), to the contrary, the chief executive officer of the authority
43 may adopt, immediately, upon filing with the Office of
44 Administrative Law, regulations that the chief executive officer
45 deems necessary to implement the provisions of sections 20 through
46 34 of P.L. , c. (C.) (pending before the Legislature as this
47 bill), which regulations shall be effective for a period not to exceed
48 180 days from the date of the filing. The chief executive officer

1 shall thereafter amend, adopt, or readopt the regulations in
2 accordance with the requirements of P.L.1968, c.410 (C.52:14B-1
3 et seq.).

4

5 35. (New section) Sections 35 through 42 of P.L. ,
6 c. (C.) (pending before the Legislature as this bill) shall be
7 known and may be cited as the "Food Desert Relief Act."

8

9 36. (New section) a. The Legislature finds and declares that:
10 (1) there are certain areas of the State, known as "food desert"
11 communities, in which residents are unable to obtain reasonable and
12 adequate access to nutritious foods and, in particular, to fresh fruits
13 and vegetables; (2) the inaccessibility of nutritious food in food
14 desert communities has been attributed, in large part, to the absence
15 of supermarkets and grocery stores in those communities; (3) low-
16 income families are more likely than others to live in food desert
17 communities and to lack the transportation or financial resources
18 necessary to reach distant wholesome markets; and (4) the
19 establishment of financial incentives to supermarkets, grocery
20 stores, mid-sized food retailers, and small food retailers is a
21 reasonable means by which to ensure that residents of food desert
22 communities in the State are provided with reasonable access to
23 nutritious, fresh, and delicious produce, and are afforded the
24 opportunity thereby to make healthier eating choices for themselves
25 and for their families.

26 b. The Legislature therefore determines that it is both
27 reasonable and necessary to authorize the New Jersey Economic
28 Development Authority to establish a program that provides
29 financial assistance to supermarkets, grocery stores, mid-sized food
30 retailers, and small food retailers to establish and retain locations in
31 food desert communities in order to provide a consistent, and easily
32 accessible, source of fresh produce to residents in those
33 communities.

34

35 37. (New section) As used in sections 35 through 42 of P.L. ,
36 c. (C.) (pending before the Legislature as this bill):

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

40 "Department" means the Department of Agriculture.

41 "Eligible equipment costs" means expenditures for the
42 procurement of such equipment as is needed to allow a
43 supermarket, grocery store,¹ mid-sized food retailer ¹,¹ or small
44 food retailer to store, refrigerate, transport,¹ or otherwise maintain
45 nutritious foods, including fresh fruits and vegetables, for retail
46 purposes, but within a standard range based upon industry
47 standards, as determined by the authority.

1 "Eligible technology costs" means expenditures for the
2 procurement or upgrade of technology systems to support online
3 ordering and e-commerce, including but is not limited to computer
4 hardware, software, internet connectivity, and database systems.

5 "Food desert community" means a physically contiguous area in
6 the State in which residents have limited access to nutritious foods,
7 such as fresh fruits and vegetables, through supermarkets and
8 grocery stores, and which has been designated as a food desert
9 community pursuant to subsection b. of section 38 of P.L. ,
10 c. (C.) (pending before the Legislature as this bill).

11 "Initial operating costs" means expenditures for the operation of
12 a supermarket or grocery store within the first three years after
13 opening to the public, but within a standard range based upon
14 industry standards, as determined by the authority.

15 "Mid-sized food retailer" means a medium-sized retail outlet
16 with at least 2,500 but less than 16,000 square feet, of which at least
17 75 percent is occupied by food and related products.

18 "Program" means the Food Desert Relief Program established in
19 section 38 of P.L. , c. (C.) (pending before the Legislature
20 as this bill).

21 "Project cost" means the costs incurred in connection with the
22 establishment of a supermarket or grocery store within a food desert
23 community by the developer until the opening of the supermarket or
24 grocery store to the public, including the costs relating to lands,
25 buildings, improvements, real or personal property, or any interest
26 therein, including leases discounted to present value, including
27 lands under water, riparian rights, space rights and air rights
28 acquired, owned, developed or redeveloped, constructed,
29 reconstructed, rehabilitated or improved, any environmental
30 remediation costs, plus costs not directly related to construction, of
31 an amount not to exceed 20 percent of the total costs, capitalized
32 interest paid to third parties, and the cost of infrastructure
33 improvements, including ancillary infrastructure projects.

34 "Project financing gap" means the part of the total project cost,
35 including return on investment, that remains to be financed after all
36 other sources of capital have been accounted for, including, but not
37 limited to, developer-contributed capital, which shall not be less
38 than 20 percent of the total project cost, which may include the
39 value of any existing land and improvements in the project area
40 owned or controlled by the developer, and the cost of infrastructure
41 improvements in the public right-of-way, and investor or financial
42 entity capital or loans for which the developer, after making all
43 good faith efforts to raise additional capital, certifies that additional
44 capital cannot be raised from other sources on a non-recourse basis

45 "Small food retailer" means a small retail outlet, with less than
46 2,500 square feet, that sells a limited selection of foods and other
47 products, such as a bodega, convenience store, corner store,
48 neighborhood store, small grocery, or small-scale store.

1 "Supermarket or grocery store" means a retail outlet with at least
2 16,000 square feet, of which at least 90 percent is occupied by food
3 and related products.

4
5 38. (New section) a. (1) There is established the Food Desert
6 Relief Program to be administered by the New Jersey Economic
7 Development Authority. The program shall include tax credit
8 components, as provided in sections 39 and 40 of P.L. ,
9 c. (C. and C.) (pending before the Legislature as this
10 bill), in order to incentivize businesses to establish and retain new
11 supermarkets and grocery stores in food desert communities.

12 (2) The total value of tax credits approved by the authority
13 pursuant to sections 39 and 40 of P.L. , c. (C. and C.)
14 (pending before the Legislature as this bill) shall not exceed the
15 limitations set forth in section 98 of P.L. , c. (C.) (pending
16 before the legislature as this bill). **[.]¹**

17 b. The authority, in consultation with the Department of
18 Agriculture and the Department of Community Affairs, shall
19 initially designate not more than 50 separate geographic areas that
20 are most in need of a supermarket or grocery store as food desert
21 communities in this State. The Department of Agriculture and the
22 Department of Community Affairs shall develop criteria for the
23 designation of food desert communities, but each separate food
24 desert community shall consist of a distinct geographic area with a
25 single defined border. The criteria shall, at a minimum, incorporate
26 analysis of municipal or census tract poverty statistics, food desert
27 information from the Economic Research Service of the United
28 States Department of Agriculture, and healthier food retail tract
29 information from the federal Centers for Disease Control and
30 Prevention. The departments may also consider data related to
31 municipal or census tract population size and population density in
32 making food desert community designations pursuant to this
33 subsection. The authority, in consultation with the departments,
34 shall continuously evaluate areas previously designated as food
35 desert communities and assess whether they still meet the criteria
36 for designation as a food desert community and may designate
37 additional food desert communities once every three years
38 following the effective date of sections 35 through 42 of P.L. ,
39 c. (C.) (pending before the Legislature as this bill).

40 c. To receive a tax credit under section 39 or 40 of P.L. ,
41 c. (C. or C.) (pending before the Legislature as this bill),
42 a taxpayer shall submit an application to the authority in the form
43 and manner prescribed by the authority and in accordance with
44 criteria established by the authority ¹, which at minimum will
45 include a commitment to accept benefits from federal nutrition
46 assistance programs, such as the Supplemental Nutrition Assistance
47 Program (SNAP) and the Special Supplemental Nutrition Program
48 for Women, Infants, and Children (WIC)¹. Following the approval

1 of an application, the authority may, pursuant to an award
2 agreement, award tax credits to an eligible taxpayer that:

3 (1) develops and opens for business to the public the first or
4 second supermarket or grocery store in a designated food desert
5 community; or

6 (2) owns and operates the first or second supermarket or grocery
7 store in a designated food desert community.

8 d. (1) The authority may sell all or a portion of the tax credits
9 made available in a fiscal year pursuant to subsection a. of this
10 section and dedicate the proceeds from such sale to provide grants
11 and loans to qualifying supermarkets, grocery stores, mid-sized
12 food retailers, and small food retailers. The amount of any grant or
13 loan provided pursuant to this subsection shall be in accordance
14 with the need of the supermarket, grocery store, mid-sized food
15 retailer, or small food retailer, as determined by the authority. The
16 authority shall sell tax credits pursuant to this section in the manner
17 determined by the authority; provided, however, the authority shall
18 not sell tax credits for less than 85 percent of the tax credit amount.
19 Grants and loans made available pursuant to this subsection shall be
20 awarded to entities that:

21 (a) are eligible for tax credits under subsection c. of this section
22 in lieu of tax credits; or

23 (b) own and operate a mid-sized food retailer or small food
24 retailer that commits to selling nutritious foods, including fresh
25 fruits and vegetables, in a designated food desert community.

26 (2) A ¹supermarket, grocery store,¹ mid-sized food retailer^{1,1} or
27 small food retailer shall submit an application to the authority to
28 receive a grant or loan pursuant to this subsection. The application
29 shall be submitted in the form and manner prescribed by the
30 authority and in accordance with criteria established by the
31 authority. An entity eligible for a grant or loan under subparagraph
32 (a) of paragraph (1) of this subsection shall not be required to
33 submit a separate application to the authority for the grant or loan,
34 provided that the entity has submitted an application to the authority
35 pursuant to subsection c. of this section.

36 (3) Prior to awarding a grant or loan to ¹**[a]** an applicant
37 supermarket, grocery store,¹ mid-sized food retailer^{1,1} or small food
38 retailer pursuant to this subsection, the Department of Labor and
39 Workforce Development, the Department of Environmental
40 Protection, and the Department of the Treasury shall each report to
41 the chief executive officer of the authority whether ¹**[a** qualifying
42 mid-sized food retailer or small food retailer**]** the applicant¹ is in
43 substantial good standing with the respective department, or has
44 entered into an agreement with the respective department that
45 includes a practical corrective action plan for the ¹**[**mid-sized food
46 retailer or small food retailer**]** applicant¹. The authority may also

1 contract with an independent third party to perform a background
2 check on the entity.

3 (4) ¹**[A]** An applicant supermarket, grocery store,¹ mid-sized
4 food retailer^{1,1} or small food retailer shall, as required at the
5 discretion of the authority, submit to the authority satisfactory
6 information pertaining to the eligible equipment costs and eligible
7 technology costs, as certified by a certified public accountant,
8 certifications that all information provided by the ¹**[mid-sized food**
9 **retailer or small food retailer]** applicant¹ to the authority is true,
10 including information contained in the application, any agreement
11 pertaining to the award of grants or loans under the program, any
12 amendment to such an agreement, and any other information
13 submitted by the ¹**[mid-sized food retailer or small food retailer]**
14 applicant¹ to the authority pursuant to sections 35 through 42 of
15 P.L. , c. (C.) (pending before the Legislature as this bill),
16 and evidence of the eligible equipment costs and eligible
17 technology costs of the ¹**[mid-sized food retailer or small food**
18 **retailer]** applicant¹. The ¹**[mid-sized food retailer or small food**
19 **retailer]** applicant¹, or an authorized agent of the ¹**[mid-sized food**
20 **retailer or small food retailer]** applicant¹, shall certify under the
21 penalty of perjury that the information provided pursuant to this
22 subsection is true.

23 e. The authority may ¹**[provide]** establish a¹ technical
24 assistance fund¹ to assist¹ any entity that is eligible for a tax
25 credit, grant, or loan under this section. The technical assistance
26 ¹**[shall provide instructions]** may make grants to entities¹ to
27 assist¹ qualifying supermarkets, grocery stores, ¹**[and]**¹ mid-sized
28 food ¹**[retailer]** retailers,¹ or small food retailers ¹**[concerning]** in
29 implementation of¹ best practices for¹ increasing the accessibility
30 of nutritious foods in food desert communities. Technical assistance
31 shall be provided either directly by the authority or through a not-
32 for-profit or for-profit entity and¹ made available in English as well
33 as the two most commonly spoken languages in New Jersey other
34 than English. At the discretion of the authority, funds to support¹
35 technical assistance may be provided in addition to, or in lieu of,
36 any tax credit, grant, or loan awarded under sections 35 through 42
37 of P.L. , c. (C.) (pending before the Legislature as this
38 bill).

39 f. (1) The authority shall require that any tax credits,
40 grants, or loans awarded by the authority under the program be
41 utilized by the recipient for one or more of the following purposes,
42 which shall be set forth in the award agreement:

43 (a) to mitigate a project financing gap;

44 (b) to mitigate the initial operating costs of the supermarket or
45 grocery store; or

- 1 (c) to mitigate the eligible equipment costs or eligible
2 technology costs of the 'supermarket, grocery store,' mid-sized
3 food retailer^{1,1} or small food retailer in order to make nutritious
4 foods more accessible and affordable to residents within food
5 deserts; or
- 6 (d) to support initiatives to ensure food security of residents in
7 food desert communities.
- 8 (2) The value of tax credits or grants awarded to individual
9 entities under the program shall not exceed:
- 10 (a) in the case of an entity eligible under paragraph (1) of
11 subsection c. of this section, 40 percent of the total project cost for
12 the first supermarket or grocery store in a designated food desert
13 community, and 20 percent of the total project cost for the second
14 supermarket or grocery store in the food desert community; and
- 15 (b) in the case of an entity eligible under paragraph (2) of
16 subsection c. of this section, the initial operating costs of the first
17 supermarket or grocery store in a designated food desert
18 community, and one-half of the initial operating costs of the second
19 supermarket or grocery store in the food desert community; and
- 20 (c) in the case of an entity eligible for a grant or loan under
21 subparagraph (b) of paragraph (1) of subsection d. of this section,
22 the eligible equipment costs and eligible technology costs of the
23 'supermarket, grocery store,' mid-sized food retailer^{1,1} or small
24 food retailer.
- 25 g. An entity that develops and opens a new supermarket or
26 grocery store in a designated food desert community shall be
27 eligible for a tax credit only if the entity demonstrates to the
28 authority at the time of application that each worker employed to
29 perform construction at the project shall be paid not less than the
30 prevailing wage rate for the worker's craft or trade, as determined
31 by the Commissioner of Labor and Workforce Development
32 pursuant to P.L.1963, c.150 (C.34:11-56.25 et seq.) and P.L.2005,
33 c.379 (C.34:11-56.58 et seq.).
- 34 h. (1) Except as provided in paragraph (2) of this subsection, a
35 labor harmony agreement shall be required if the State has a
36 proprietary interest in a supermarket or grocery store and the
37 agreement shall remain in effect for as long as the State acts as a
38 market participant in the project. The provisions of this paragraph
39 shall apply to a supermarket or grocery store that will have more
40 than 10 employees.
- 41 (2) A labor harmony agreement under paragraph (1) of this
42 subsection shall not be required if the authority determines that the
43 supermarket or grocery store would not be feasible if a labor
44 harmony agreement is required. The authority shall support the
45 determination by a written finding, which provides the specific
46 basis for the determination.
- 47 (3) As used in this subsection, "labor harmony agreement"
48 means an agreement between a business that serves as the owner or

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

23 i. ¹【The award agreement shall require that the recipient
 24 consent to the disclosure of tax expenditure information as
 25 described in paragraph (8) of subsection b. of section 1 of P.L.2009,
 26 c.189 (C.52:27B-20a).】¹ A recipient shall certify that all factual
 27 representations made by the recipient in the application or award
 28 agreement are true under the penalty of perjury. A material
 29 misrepresentation of fact in either the application or award
 30 agreement may result in recession and recapture of any grants or tax
 31 credits awarded, or acceleration of any loans made, under sections
 32 35 through 42 of P.L. , c. (C.) (pending before the
 33 Legislature as this bill).

34

35 39. (New section) a. For privilege periods beginning on or after
 36 January 1 next following the effective date of sections ¹【25】 35¹
 37 through 42 of P.L. , c. (C.) (pending before the Legislature
 38 as this bill), a taxpayer eligible under subsection c. of section 38 of
 39 P.L. , c. (C.) (pending before the Legislature as this bill)
 40 shall be awarded a credit against the tax due pursuant to section 5 of
 41 P.L.1945, c.162 (C.54:10A-5). A taxpayer that qualifies for the
 42 award of a tax credit under this section may claim 25 percent of the
 43 total amount awarded in the privilege period in which the taxpayer
 44 establishes and opens the supermarket or grocery store for business,
 45 and an additional 25 percent of the total amount awarded in each of
 46 the three privilege periods next following the initial opening,
 47 provided that the supermarket or grocery store remains in business
 48 and open to the public. For a taxpayer to be allowed a tax credit

1 pursuant to this section, the taxpayer shall meet the requirements of
2 this section, and the rules and regulations adopted pursuant to
3 section 41 of P.L. , c. (C.) (pending before the Legislature
4 as this bill).

5 b. The order of priority of the application of the credit allowed
6 pursuant to this section and any other credits allowed against the tax
7 imposed pursuant to section 5 of P.L.1945, c.162 (C.54:10A-5) for
8 a privilege period shall be as prescribed by the Director of the
9 Division of Taxation in the Department of the Treasury ¹], in
10 consultation with the chief executive office of the authority¹. The
11 amount of the credit applied pursuant to this section against the tax
12 imposed pursuant to section 5 of P.L.1945, c.162 (C.54:10A-5),
13 shall not reduce a taxpayer's tax liability for a privilege period to an
14 amount less than the statutory minimum provided in subsection (e)
15 of section 5 of P.L.1945, c.162 (C.54:10A-5). Any credit shall be
16 valid in the privilege period in which the certification is approved
17 and any unused portion thereof may be carried forward into the next
18 10 privilege periods or until exhausted, whichever is earlier.

19 c. The authority shall award tax credits to taxpayers until either
20 the available tax credits are exhausted or all projects that are
21 eligible for a tax credit pursuant to the provisions of sections 35
22 through 42 of P.L. , c. (C.) (pending before the Legislature
23 as this bill) receive a tax credit, whichever occurs first. If
24 insufficient funding exists to allow a tax credit to a taxpayer in
25 accordance with the provisions of subsection a. of section 38 of
26 P.L. , c. (C.) (pending before the Legislature as this bill),
27 the authority may offer the taxpayer a tax credit in an amount less
28 than that provided in subsection a. of this section.

29 d. Prior to awarding a tax credit to a supermarket or grocery
30 store, the Department of Labor and Workforce Development, the
31 Department of Environmental Protection, and the Department of the
32 Treasury shall each report to the chief executive officer of the
33 authority whether a qualifying supermarket or grocery store is in
34 substantial good standing with the respective department, or has
35 entered into an agreement with the respective department that
36 includes a practical corrective action plan for the supermarket or
37 grocery store. The authority may also contract with an independent
38 third party to perform a background check on the developer.

39 e. A supermarket or grocery store shall, as required at the
40 discretion of the authority, submit to the authority satisfactory
41 information pertaining to the project cost, project financing gap,
42 and the initial operating costs, as certified by a certified public
43 accountant, certifications that all information provided by the
44 supermarket or grocery store to the authority is true, including
45 information contained in the application, any agreement pertaining
46 to the award of tax credits under the program, any amendment to
47 such an agreement, and any other information submitted by the
48 supermarket or grocery store to the authority pursuant to sections 35

1 through 42 of P.L. , c. (C.) (pending before the Legislature
2 as this bill), and evidence of the initial opening and continued
3 operation of the supermarket or grocery store. The supermarket or
4 grocery store, or an authorized agent of the supermarket or grocery
5 store, shall certify under the penalty of perjury that the information
6 provided pursuant to this subsection is true.

7
8 40. (New section) a. For taxable years beginning on or after
9 January 1 next following the effective date of sections 35 through
10 42 of P.L. , c. (C.) (pending before the Legislature as this
11 bill), a taxpayer eligible under subsection c. of section 38 of P.L. ,
12 c. (C.) (pending before the Legislature as this bill) shall be
13 awarded a credit against the tax due pursuant to N.J.S.54A:1-1 et
14 seq. A taxpayer that qualifies for the award of a tax credit under
15 this section may claim 25 percent of the total amount awarded in
16 the taxable year in which the taxpayer establishes and opens the
17 supermarket or grocery store for business, and may claim 25
18 percent of the total amount awarded in each of the three taxable
19 years next following the initial opening, provided that the
20 supermarket or grocery store remains in business and open to the
21 public. For a taxpayer to be awarded a tax credit pursuant to this
22 section, the taxpayer shall meet the requirements of this section, and
23 the rules and regulations adopted pursuant to section 41 of P.L. ,
24 c. (C.) (pending before the Legislature as this bill).

25 b. The order of priority of the application of the credit allowed
26 pursuant to this section and any other credits allowed against the tax
27 imposed pursuant to N.J.S.54A:1-1 et seq. for a taxable year shall
28 be as prescribed by the Director of the Division of Taxation in the
29 Department of the Treasury, in consultation with the chief executive
30 officer of the authority. The amount of the credit applied pursuant
31 to this section against the tax imposed pursuant to N.J.S.54A:1-1 et
32 seq. shall not reduce a taxpayer's tax liability for a taxable year to
33 an amount less than zero. Any credit shall be valid in the taxable
34 year in which the certification is approved and any unused portion
35 thereof may be carried forward into the next 10 taxable years or
36 until depleted, whichever is earlier.

37 c. A business entity that is classified as a partnership for
38 federal income tax purposes shall not be allowed the credit directly
39 under N.J.S.54A:1-1 et seq., but the amount of credit of the
40 taxpayer in respect of a distributive share of partnership income
41 shall be determined by allocating to the taxpayer that proportion of
42 the credit acquired by the partnership that is equal to the taxpayer's
43 share, whether or not distributed, of the total distributive income or
44 gain of the partnership for its taxable year ending within or with the
45 taxpayer's taxable year.

46 A taxpayer that is a New Jersey S corporation shall not be
47 allowed the credit directly under N.J.S.54A:1-1 et seq., but the
48 amount of credit of a taxpayer in respect of a pro rata share of S

1 corporation income shall be determined by allocating to the
2 taxpayer that proportion of the credit acquired by the New Jersey S
3 corporation that is equal to the taxpayer's share, whether or not
4 distributed, of the total pro rata share of S corporation income of the
5 New Jersey S corporation for its taxable year ending within or with
6 the taxpayer's taxable year.

7 d. The authority shall award tax credits to taxpayers until either
8 the available tax credits are exhausted or all projects that are
9 eligible for a tax credit pursuant to the provisions of sections 35
10 through 42 of P.L. , c. (C.) (pending before the Legislature
11 as this bill) receive a tax credit, whichever occurs first. If
12 insufficient funding exists to allow a tax credit to a taxpayer in
13 accordance with the provisions of subsection a. of section 38 of
14 P.L. , c. (C.) (pending before the Legislature as this bill),
15 the authority may offer the taxpayer a tax credit in an amount less
16 than that provided in subsection a. of this section 40.

17 e. Prior to awarding a tax credit to a supermarket or grocery
18 store, the Department of Labor and Workforce Development, the
19 Department of Environmental Protection, and the Department of the
20 Treasury shall each report to the chief executive officer of the
21 authority whether a qualifying supermarket or grocery store, and
22 each contractor and subcontractor performing construction work at
23 the qualifying supermarket or grocery store, is in substantial good
24 standing with the respective department, or has entered into an
25 agreement with the respective department that includes a practical
26 corrective action plan. The authority may also contract with an
27 independent third party to perform a background check on the
28 developer.

29 f. A supermarket or grocery store shall, as required at the
30 discretion of the authority, submit to the authority satisfactory
31 information pertaining to the project cost, project financing gap,
32 and the initial operating costs, as certified by a certified public
33 accountant, certifications that all information provided by the
34 supermarket or grocery store to the authority is true, including
35 information contained in the application, any agreement pertaining
36 to the award of tax credits under the program, any amendment to
37 such an agreement, and any other information submitted by the
38 supermarket or grocery store to the authority pursuant to sections
39 35 through 42 of P.L. , c. (C.) (pending before the
40 Legislature as this bill), and evidence of the initial opening and
41 continued operation of the supermarket or grocery store. The
42 supermarket or grocery store, or an authorized agent of the
43 supermarket or grocery store, shall certify under the penalty of
44 perjury that the information provided pursuant to this subsection is
45 true.

46
47 41. (New section) The authority, in consultation with the
48 department and the Director of the Division of Taxation in the

1 Department of the Treasury, shall adopt, pursuant to the
2 "Administrative Procedure Act," P.L.1968, c.410 (C.52:14B-1 et
3 seq.), rules and regulations necessary to carry out the provisions of
4 sections 35 through 42 of P.L. , c. (C.) (pending before the
5 Legislature as this bill).

6
7 42. (New section) Within one year of the effective date of
8 sections 35 through 42 of P.L. , c. (C.) (pending before the
9 Legislature as this bill), the authority shall annually submit a report
10 to the Governor, the State Treasurer, and, pursuant to section 2 of
11 P.L.1991, c.164 (C.52:14-19.1), the Legislature, on the
12 effectiveness of the program in establishing supermarkets and
13 grocery stores in food desert communities.

14
15 43. (New section) Sections 43 through 53 of P.L. ,
16 c. (C.) (pending before the Legislature as this bill) shall be
17 known and may be cited as the "New Jersey Community-Anchored
18 Development Act."

19
20 44. (New section) The purpose of the New Jersey Community-
21 Anchored Development Act is for the New Jersey Economic
22 Development Authority to facilitate, in partnership with the State's
23 key not-for-profit and governmental anchor institutions, large-scale
24 development projects with desirable employment and geographical
25 characteristics that are to impact a broader community. The
26 Legislature finds that where a broad commonality of goals exists
27 between anchor institutions and the State, the authority can
28 effectively utilize anchor institutions as investors in, and additional
29 overseers of, projects that the authority seeks to incentivize. Under
30 the legislation, anchor institutions in the areas of education, health
31 care, culture, community development, and economic development
32 are provided with the opportunity to act as investors in targeted
33 development, utilizing proceeds from the sale of State tax credits.
34 This approach harnesses the deep experience of the numerous
35 anchor institutions in the State, institutions that enjoy decades-long
36 relationships with communities around the State, making them ideal
37 partners for companies wanting to come to or expand in New
38 Jersey.

39 This legislation seeks to overcome cost-of-occupancy differences
40 between New Jersey and less expensive options in other
41 jurisdictions for specific properties by reducing the cost of
42 occupancy being offered to a targeted company. This legislation
43 represents a shift in State economic development policy from a
44 grant model to an investment model, differing significantly from
45 past award models in that the legislation does not provide a certain
46 dollar amount to private employers based on the number and types
47 of jobs being created or preserved in the State.

1 The legislation affords an opportunity for an anchor institution
2 and the authority to become partners in a project, with the authority
3 receiving a negotiated current or deferred economic return on the
4 tax credit investment made by the anchor institution and ultimately
5 the return of the amount initially invested. Through a competitive
6 application process to the authority, a real estate partnership
7 between an anchor institution and a partner business will make its
8 case for an amount of tax credits necessary for that project to be
9 able to establish occupancy costs at a competitive level.

10 By its inclusion of designated federal opportunity zones and
11 areas eligible to be designated as federal opportunity zones as a
12 separate basis for projects to receive tax credits, the legislation
13 seeks to incentivize anchor institutions to look beyond the borders
14 of their host communities, permitting them to invest in other locales
15 that lack strong anchor institutions, thus expanding their influence
16 and impact by doing so. Simultaneously, such investments will
17 further the objectives of the State in attracting high-value employers
18 and in providing economic stimulus to areas of the State that prior
19 investment cycles have overlooked. The legislation is also
20 expansive enough to permit the addition of other beneficial uses to
21 a qualifying project; including housing, public amenities, parking,
22 mixed uses, and facilities of an anchor institution itself.

23 The tax credits issued by the authority to an applicant anchor
24 institution are to be issued pursuant to a tax credit agreement that
25 sets forth negotiated terms on which the authority has agreed to
26 issue the credits. The tax credit agreement is to include standards
27 relating to the anticipated economic results of the community-
28 anchored project and address accountability in the event that the
29 community-anchored project fails to meet the requirements
30 specified in the tax credit agreement.

31 The Legislature declares that two principal objectives underscore
32 the policy approach of this legislation: first, an incentive program
33 cannot succeed as a one-size-fits-all structure, and therefore an
34 award of tax credits is to be thoroughly underwritten by the
35 authority and specifically designed for scenarios in which the
36 authority finds that the award will be effective; and second, the
37 State is better served where the State's financial support is
38 characterized and treated as an investment rather than an explicit
39 grant.

40

41 45. (New section) As used in sections 43 through 53 of P.L. ,
42 c. (C.) (pending before the Legislature as this bill):

43 "Affiliate" means an entity that directly or indirectly controls, is
44 under common control with, or is controlled by an anchor
45 institution ¹partner anchor institution.¹ or a partner business.
46 Control exists in all cases in which the entity is a member of a
47 controlled group of corporations as defined pursuant to section 1563
48 of the federal Internal Revenue Code (26 U.S.C. s.1563) or the

1 entity is an organization in a group of organizations under common
2 control that is subject to the regulations applicable to organizations
3 pursuant to subsection (b) or (c) of section 414 of the federal
4 Internal Revenue Code (26 U.S.C. s.414). A taxpayer may establish
5 by clear and convincing evidence, as determined by the Director of
6 the Division of Taxation in the Department of the Treasury, that
7 control exists in situations involving lesser percentages of
8 ownership than required by the above referenced federal statutes.

9 "Anchor institution" means a governmental entity or nonprofit
10 entity incorporated pursuant to Title 15 of the Revised Statutes or
11 Title 15A of the New Jersey Statutes having a primary mission and
12 specific policy goals that align with those of the authority under the
13 program and that is a comprehensive health care system, a public
14 research university, a private research university, a major cultural
15 scientific, research ¹[and] or¹ philanthropic ¹[institutions]
16 institution¹, or ¹a¹ public ¹[colleges] college¹ which ¹[are] is¹
17 separate from public research universities, ¹or an experienced
18 nonprofit or governmental economic or community development
19 entity¹ certified as an anchor institution by the board pursuant to
20 subsection a. of section 46 of P.L. , c. (C.) (pending before
21 the Legislature as this bill).

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

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

27 "Commitment period" means the period of time, which shall be
28 not less than 10 years and no greater than twice the eligibility
29 period that is granted to an anchor institution ¹or, if applicable, a
30 partner anchor institution¹, to distribute to the authority the agreed
31 upon returns on investment for the award of tax credits pursuant to
32 the program; provided, however, at the election of the authority or
33 upon the request of an anchor institution ¹or, if applicable, a partner
34 anchor institution¹in order to benefit the community-anchored
35 project, and as determined in the sole discretion of the authority, the
36 authority may grant up to two consecutive five-year extensions of
37 the commitment period.

38 "Community-anchored project" means a capital project that is
39 located in an area that is designated as a New Jersey State
40 opportunity zone, an area of the State designated pursuant to the
41 "State Planning Act," P.L.1985, c.398 (C.52:18A-196 et seq.), as
42 Planning Area 1 (Metropolitan), or a municipality with a Municipal
43 Revitalization Index distress score of at least 50 and for which an
44 anchor institution ¹and, if applicable, any partner anchor
45 institution¹is to be awarded tax credits by the authority pursuant to
46 a tax credit agreement which establishes the award of tax credits as
47 an investment by the authority in the project, provided that the

1 project will result in a capital investment of at least \$10,000,000 in
2 a New Jersey State opportunity zone or in any other area of the
3 State, but a project that is not located in a New Jersey State
4 opportunity zone is to be primarily designed to result in the
5 economic expansion of a targeted industry in this State.

6 "Comprehensive health care system" means an entity in this State
7 with the primary purpose of offering comprehensive health care
8 services. ¹["Comprehensive health care system" shall not include
9 any business that manages or offers one or more health benefits
10 plans.]¹

11 "Comprehensive health care services" means the basic health
12 care services provided under a health benefits plan, including
13 medical and surgical services provided by licensed health care
14 providers who may include, but are not limited to, family
15 physicians, internists, cardiologists, psychiatrists, rheumatologists,
16 dermatologists, orthopedists, obstetricians, gynecologists,
17 neurologists, endocrinologists, radiologists, nephrologists,
18 emergency services physicians, ophthalmologists, pediatricians,
19 pathologists, general surgeons, osteopathic physicians, physical
20 therapists and chiropractors. Basic benefits may also include
21 inpatient or outpatient services rendered at a licensed hospital,
22 covered services performed at an ambulatory surgical facility, and
23 ambulance services. "Comprehensive health care services" shall
24 include only services provided by licensed health care providers.

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

27 "Eligibility period" means the period in which an anchor
28 institution ¹or, if applicable, a partner anchor institution¹ may
29 claim, sell, transfer, or otherwise use a tax credit under the New
30 Jersey Community-Anchored Development Program, beginning
31 with the tax period in which the authority accepts certification of
32 the business that it has met the capital investment requirements of
33 the program and extending thereafter for a term of not more than 10
34 years.

35 "Eligible position" means a full-time position in a business in
36 this State which the business has filled with a full-time employee.
37 An eligible position shall not include an independent contractor or a
38 consultant.

39 "Experienced nonprofit or governmental economic or community
40 development entity" means a nonprofit entity incorporated pursuant
41 to Title 15 of the Revised Statutes or Title 15A of the New Jersey
42 Statutes ¹with a substantial number of years of experience¹ that has
43 a core mission and a community track record of advancing
44 economic or community development in at least one area of the
45 State ¹, that has undertaken multiple successful partnerships with
46 government entities, educational institutions and the private sector
47 in carrying out development projects, that has successfully

1 developed multiple types of mixed-use projects, that owns or
2 controls significant real estate assets,¹ and that has appropriate prior
3 experience in successfully developing mixed-use projects ¹of
4 comparable or greater size, value and complexity to that being
5 proposed, structuring, securing,¹ and utilizing complex financing
6 ¹[arrangements in developing similar types of projects] in the
7 development of projects of comparable or greater size, value, and
8 complexity to that being proposed,¹ as determined by the board.
9 ¹An experienced nonprofit or governmental economic or
10 community development entity shall not be eligible to participate in
11 the program in connection with a project that is primarily residential
12 or retail.¹

13 "Major cultural institution" means a public or nonsectarian
14 nonprofit institution within this State that engages in the cultural,
15 intellectual, scientific, environmental, educational, or artistic
16 enrichment of the people of this State, and which is designated by
17 the board as a major cultural institution.

18 "New full-time job" means an eligible position created by an
19 anchor institution ¹, partner anchor institution¹ or a partner business
20 at the community-anchored project that did not previously exist in
21 this State. For the purposes of determining a number of new full-
22 time jobs, the eligible positions of an affiliate shall be considered
23 eligible positions of the business.

24 "New Jersey State opportunity zone" means a federal population
25 census tract in this State that was eligible to be designated as a
26 qualified opportunity zone pursuant to 26 U.S.C. s.1400Z-1.

27 ¹"Partner anchor institution" means an anchor institution that
28 partners with one or more anchor institutions to make an equity
29 investment in or to provide a loan or other financial support for a
30 community-anchored project.¹

31 "Partner business" means a corporation, partnership, firm,
32 enterprise, franchise, association, trust, sole proprietorship, or other
33 legal entity, but shall not include a public entity that enters into an
34 agreement with an anchor institution ¹or, if applicable, a partner
35 anchor institution¹ to rent and occupy commercial space within a
36 community-anchored project. Under the program a partner
37 business, subject to agreement with the anchor institution ¹or, if
38 applicable, a partner anchor institution¹, may lease one or more
39 portions of the partner business's space in the community-anchored
40 project to one or more other persons or entities.

41 "Private research university" means Princeton University and any
42 other institution of higher education in this State designated by the
43 board as a private research university, based on criteria and metrics
44 established by the board.

1 "Program" means the New Jersey Community-Anchored
2 Development Program established pursuant to section 46 of P.L. ,
3 c. (C.) (pending before the Legislature as this bill).

4 "Public research university" means Rutgers, The State University
5 of New Jersey, Rowan University, the New Jersey Institute of
6 Technology, and Montclair State University.

7 "Qualified business accelerator or incubator facility" means a
8 commercial space that contains office, laboratory, or industrial
9 space and which is located near, and presents opportunities for
10 collaboration with, a public research university, a private research
11 university, teaching hospital, college, or university, and within
12 which at least 50 percent of the gross leasable area is restricted for
13 use by one or more targeted industry start-up companies during the
14 commitment period.

15 "Targeted industry" means any industry identified from time to
16 time by the authority which shall initially include advanced
17 transportation and logistics, advanced manufacturing, aviation,
18 autonomous vehicle and zero-emission vehicle research or
19 development, clean energy, life sciences, hemp processing,
20 information and high technology, finance and insurance,
21 professional services, film and digital media, ¹[and]¹ non-retail
22 food and beverage businesses ¹[,]¹ including food innovation ¹,¹
23 and other innovative industries that disrupt current technologies or
24 business models.

25 "Tax credit agreement" means a tax credit agreement entered into
26 pursuant to section 50 of P.L. , c. (C.) (pending before the
27 Legislature as this bill) between the authority and an anchor
28 institution ¹or, if applicable, a partner anchor institution¹.

29 "Work First New Jersey program" means the Work First New
30 Jersey program established pursuant to P.L.1997, c. 38 (C.44:10-55
31 et seq.).

32
33 46. (New section) a. The New Jersey Community-Anchored
34 Development Program is established as a program under the
35 jurisdiction of the New Jersey Economic Development Authority.
36 The authority shall administer the program to invest in and
37 incentivize the expansion of targeted industries in the State and the
38 continued development of certain areas of the State through the
39 provision of tax credits to anchor institution ¹and, if applicable,
40 partner anchor institutions¹. The board shall certify qualified
41 anchor institution ¹and, if applicable, qualified partner anchor
42 institutions¹ based on the requirements of sections 43 through 53 of
43 P.L. , c. (C.) (pending before the Legislature as this bill),
44 and may approve the award of a tax credit to an anchor institution
45 pursuant to ¹[sections 47 and 48] section 49¹ of P.L. ,
46 c. (C. ¹[and C.]¹) (pending before the Legislature as
47 this bill). The value of all tax credits approved by the authority to

1 anchor institution ¹and, if applicable, partner anchor institutions¹
2 under the program shall be subject to the limitations set forth in
3 section 98 of P.L. , c. (C.) (pending before the Legislature as
4 this bill).

5 b. (1) The authority shall administer the program to invest in,
6 and incentivize the establishment of, community-anchored projects
7 by anchor institution ¹and, if applicable, partner anchor
8 ¹institutions¹, independently or in collaboration with one or more
9 partner businesses or governmental entities. The authority's
10 investment in community-anchored projects shall be in the form of
11 the award of tax credits to anchor institution ¹and, if applicable,
12 ¹partner anchor institutions¹.

13 (2) (a) The authority may award a tax credit to an anchor
14 institution ¹and, if applicable, one or more partner anchor
15 ¹institutions¹ under the program, which the anchor institution ¹and, if
16 ¹applicable, each partner anchor institution¹ shall convert into an
17 investment by the authority in a community-anchored project,
18 subject to the condition that the anchor institution ¹and, if
19 ¹applicable, each partner anchor institution¹ either sell and transfer
20 the tax ¹~~credit~~ ¹credits¹, or adopt a plan to use the tax ¹~~credit~~
21 ¹credits¹ in order to finance the completion of the community-
22 anchored project, which condition shall be included in the tax credit
23 agreement entered into pursuant to section 50 of P.L. ,
24 c. (C.) (pending before the Legislature as this bill). An
25 anchor institution ¹and, if applicable, each partner anchor
26 ¹institution¹ receiving tax credits under the program shall use the
27 proceeds derived from the sale or financing of the tax credits to
28 make an equity investment in or to provide a loan or other financial
29 support for the community-anchored project that will permit the
30 anchor institution, and, if applicable, a partner business, ¹a partner
31 ¹anchor institution, or both¹ to develop the community-anchored
32 project and to attract tenants, owners, investors, lenders, partners,
33 collaborators, and other beneficial parties to the community-
34 anchored project. A tax credit agreement, entered into pursuant to
35 section 50 ¹~~of~~ P.L. , c. (C.) (pending before the
36 Legislature as this bill) shall detail the terms by which an anchor
37 institution ¹and, if applicable, each partner anchor institution¹ will
38 convert the award of tax credits into an investment by the authority
39 into the community-anchored project, subject to potential returns on
40 investment to the authority based on an agreed-upon formula for the
41 distribution of returns, including upon the sale of a community-
42 anchored project or at the end of the commitment period. For
43 community-anchored projects financed solely by governmental and
44 nonprofit entity investments, the authority shall negotiate an agreed
45 upon formula which shall include, but not be limited to, the
46 potential recapture of the value of the tax credits awarded. For

1 community-anchored projects that are not financed solely by
2 governmental and nonprofit entity investments, the authority shall
3 negotiate an agreed upon formula which shall include, but not be
4 limited to, the potential recapture of the value of the tax credits
5 awarded and additional returns on investment. The tax credit
6 agreement shall, however, specify that the authority's interest in the
7 community-anchored project shall be subordinate to the investments
8 made by an anchor institution ¹and, if applicable, each partner
9 anchor institution¹ and partner businesses. References to
10 investments and returns in sections 43 through 53 of P.L. ,
11 c. (C.) (pending before the Legislature as this bill) shall also
12 include loans and other financial support and their corresponding
13 returns.

14 (b) Consistent with an applicable tax credit agreement, a tax
15 credit awarded to an anchor institution ¹and, if applicable, each
16 partner anchor institution¹ for conversion into an authority
17 investment, as provided pursuant to subparagraph (a) of this
18 paragraph, may be applied against tax liability otherwise due
19 pursuant to section 5 of P.L.1945, c.162 (C.54:10A-5), pursuant to
20 sections 2 and 3 of P.L.1945, c.132 (C.54:18A-2 and C.54:18A-3),
21 pursuant to section 1 of P.L.1950, c.231 (C.17:32-15), or pursuant
22 to N.J.S.17B:23-5.

23 (3) The authority shall develop protocols for assumptions testing
24 relating to projected and actual returns on investment under the
25 program and regularly analyze the returns on investment received
26 by the authority under the program, and shall evaluate future
27 applications and projections considering the results of the
28 assumptions testing and analysis.

29 c. The authority shall engage in program evaluation and
30 assumptions testing to ensure that the authority at least recaptures
31 the value of the tax credits awarded to all anchor institutions ¹and,
32 if applicable, partner anchor institutions¹ and realizes additional
33 returns on investment under the program; provided, however, that
34 for community-anchored projects financed solely by governmental
35 and nonprofit entity investments, the authority may negotiate a
36 potential return on investment, the calculation of which would
37 include, but not be limited to, recapture of the value of the tax
38 credits awarded for those community-anchored projects financed
39 solely by governmental and nonprofit entities.

40 d. Any funds distributed to the authority as a return on
41 investment pursuant to the program shall be deposited into the
42 General Fund of the State.

43

44 47. (New section) a. An anchor institution ¹and, if applicable,
45 each partner anchor institution¹ shall be eligible to receive a tax
46 credit under the program only if the anchor institution ¹and, if
47 applicable, each partner anchor institution¹ submits a program

1 application to the authority that results in completion of a
2 community-anchored project through a capital investment in a New
3 Jersey State opportunity zone or, if the community-anchored project
4 is primarily designed to result in the economic expansion of a
5 targeted industry in this State, in an area of the State designated
6 pursuant to the "State Planning Act," P.L.1985, c.398 (C.52:18A-
7 196 et seq.), as Planning Area 1 (Metropolitan) or in a municipality
8 with a Municipal Revitalization Index distress score of at least 50.

9 b. At the time of application, an anchor institution ¹and, if
10 applicable, each partner anchor institution¹ seeking tax credits
11 pursuant to the program shall demonstrate to the authority:

12 (1) that the proposed community-anchored project will result in
13 a capital investment in a New Jersey State opportunity zone or, if
14 the project is primarily designed to result in the economic
15 expansion of a targeted industry in this State, in an area of the State
16 designated pursuant to the "State Planning Act," P.L.1985, c.398
17 (C.52:18A-196 et seq.), as Planning Area 1 (Metropolitan) or in a
18 municipality with a Municipal Revitalization Index distress score of
19 at least 50;

20 (2) the structure and terms of the financial, corporate, and real
21 estate instruments to be utilized to successfully complete and then
22 operate the community-anchored project, including, but not limited
23 to, the proposed economic and business relationship between the
24 anchor institution ¹and, if applicable, each partner anchor
25 institution¹ and any partner business;

26 (3) that the anchor institution ¹and, if applicable, each partner
27 anchor institution¹, along with any partner business ¹and each
28 partner institution¹ participating in a community-anchored project,
29 has not commenced any construction at the site of the community-
30 anchored project prior to submitting an application, unless the
31 authority determines that the community-anchored project would
32 not be completed otherwise or, in the event the community-
33 anchored project is to be undertaken in phases, the requested tax
34 credit covers only phases for which construction has not yet
35 commenced;

36 (4) the value of the tax credit that is necessary in each year of
37 the eligibility period, in order for the anchor institution ¹and, if
38 applicable, each partner anchor institution¹ to finance the
39 establishment of the community-anchored project;

40 (5) the total aggregate value of the tax credit for the entire
41 eligibility period that is necessary in order for the anchor institution
42 ¹and, if applicable, each partner anchor institution¹ to finance the
43 establishment of the community-anchored project;

44 (6) that the award of tax credits under the program will be
45 converted into an investment by the authority into the community-
46 anchored project, and demonstrate to the authority the anticipated
47 current and deferred returns, as applicable, on that investment;

1 (7) that the community-anchored project shall comply with the
2 standards established by the authority through regulation based on
3 the green building manual prepared by the Commissioner of
4 Community Affairs pursuant to section 1 of P.L.2007, c.132
5 (C.52:27D-130.6), regarding the use of renewable energy, energy-
6 efficient technology, and non-renewable resources in order to
7 reduce environmental degradation and encourage long-term cost
8 reduction;

9 (8) that the community-anchored project shall comply with the
10 authority's affirmative action requirements, adopted pursuant to
11 section 4 of P.L.1979, c.303 (C.34:1B-5.4);

12 (9) a description of the significant economic, social, planning,
13 employment, environmental, fiscal, and other benefits that would
14 accrue to the State, county, or municipality from the community-
15 anchored project;

16 (10) ¹that each worker and subcontractor working on
17 construction of the community-anchored project prior to the start of
18 the eligibility period shall be paid not less than \$15 per hour or 120
19 percent of the minimum wage fixed under subsection a. of section 5
20 of P.L.1966, c.113 (C.34:11-56a4), whichever is higher;

21 (11)¹ that during the eligibility period, each worker employed
22 to perform construction work and building services work at the
23 community-anchored project shall be paid not less than the
24 prevailing wage rate for the worker's craft or trade, as determined
25 by the Commissioner of Labor and Workforce Development
26 pursuant to P.L.1963, c.150 (C.34:11-56.25 et seq.) and P.L.2005,
27 c.379 (C.34:11-56.58 et seq.). In the event the community-
28 anchored project constitutes a lease of more than 55 percent of a
29 single facility, these requirements shall apply to ¹construction work
30 and building services work at¹ the entire facility ¹. In the event the
31 community-anchored project constitutes a lease of more than 35
32 percent of a single facility, these requirements shall apply to
33 construction work at the entire facility¹;

34 ¹[(12)] (11)¹ that during the eligibility period, the anchor
35 institution ¹and, if applicable, each partner anchor institution¹ shall
36 partner with one or more local community organizations that
37 provide support and services to Work First New Jersey program
38 recipients, in order to provide work activity opportunities and other
39 appropriate services to Work First New Jersey program recipients,
40 which activities and services may include, but shall not be limited
41 to: work-study programs, internships, sector-based contextualized
42 literacy training, skills-based training in growth industries in the
43 State, and job retention and advancement services;

44 ¹[(13)] (12)¹ the extent to which the community-anchored
45 development will result in the expansion of a targeted industry in
46 this State;

1 ~~[(14)] (13)~~¹ that the timing of the award and investment of tax
 2 credits under the program shall allow for the successful completion
 3 and operation of the community-anchored project; and

4 ~~[(15)] (14)~~¹ that the community-anchored project is viable and
 5 that the anchor institution ¹and, if applicable, each partner anchor
 6 institution¹ is a credible partner for completing the community-
 7 anchored project and providing the agreed-upon potential returns to
 8 the authority, as detailed in the tax credit agreement entered into
 9 pursuant to section 50 of P.L. , c. (C.) (pending before the
 10 Legislature as this bill).

11 c. Prior to the board considering an application submitted by an
 12 anchor institution ¹and, if applicable, each partner anchor
 13 institution¹, the Department of Labor and Workforce Development,
 14 the Department of Environmental Protection, and the Department of
 15 the Treasury shall each report to the chief executive officer of the
 16 authority whether the anchor institution ¹and, if applicable, each
 17 partner anchor institution¹ and any partner business is in substantial
 18 good standing with the respective department, or has entered into an
 19 agreement with the respective department that includes a practical
 20 corrective action plan ¹**【anchor institution or partner business】**¹.
 21 The authority may also contract with an independent third party to
 22 perform a background check on an anchor institution ¹and, if
 23 applicable, each partner anchor institution¹ and any partner
 24 business.

25 d. In order to facilitate the creation of new partnerships with
 26 anchor ¹**【institution】** institutions and, if applicable, partner anchor
 27 institutions¹, the authority shall publish on the authority's website a
 28 list of names and contact information for each anchor institution
 29 that has submitted an application pursuant to this section.
 30

31 48. (New section) a. Prior to March 1, 2027, an anchor
 32 institution ¹and, if applicable, each partner anchor institution¹
 33 seeking a tax credit pursuant to the program shall submit an
 34 application to the authority in a form and manner prescribed in
 35 regulations adopted by the authority pursuant to the provisions of
 36 the "Administrative Procedure Act," P.L.1968, c.410 (C.52:14B-1 et
 37 seq.). The authority shall accept and certify applications for tax
 38 credits during the award rounds established pursuant to section 49
 39 of P.L. , c. (C.) (pending before the Legislature as this
 40 bill).

41 b. The authority shall not consider an application for a
 42 community-anchored project unless the anchor institution ¹and, if
 43 applicable, each partner anchor institution¹ submits, with the
 44 application, a letter evidencing support for the community-anchored
 45 project from the governing body of the municipality in which the
 46 community-anchored project is located.

1 c. The authority shall review the project costs for a proposed
2 community-anchored project and evaluate and validate the
3 underlying financial structure proposed by the anchor institution
4 'and, if applicable, each partner anchor institution'. The authority
5 shall conduct a State fiscal impact analysis to ensure that the overall
6 value of tax credits provided to the community-anchored project is
7 projected to result in net benefits to the State, taking into account
8 the current and deferred returns to the authority. The authority shall
9 assess the cost of these reviews to the applicant. An anchor
10 institution 'and, if applicable, each partner anchor institution' shall
11 pay to the authority the full amount of the direct costs of an analysis
12 concerning the anchor institution's 'and, if applicable, each partner
13 anchor institution's' application for tax credits that a third party
14 retained by the authority performs, if the authority deems such
15 retention to be necessary.

16 d. If at any time during the eligibility period the authority
17 determines that an anchor institution 'or a partner anchor
18 institution' made a material misrepresentation on the program
19 application, the anchor institution 'or partner anchor institution'
20 shall forfeit or repay to the authority the value of tax credits
21 associated with that application.

22

23 49. (New section) a. The authority shall award tax credits
24 under the program through a competitive application process
25 consisting of up to two award rounds each year. The authority shall
26 provide notice to the public of the opening and closing dates for
27 submission of program applications on the authority's Internet
28 website.

29 b. (1) The authority shall review applications for tax credits
30 submitted to the authority by the deadline date of the award round
31 and shall evaluate each application as if it were received on the
32 deadline date, without providing any preference for early
33 submissions. To determine priority for an award of a tax credit, all
34 applications for community-anchored projects that satisfy the
35 criteria set forth in sections 47 and 48 of P.L. ,
36 c. (C. and) (pending before the Legislature as this bill)
37 in a given award round shall be ranked on the basis of a scoring
38 system developed by the authority through regulations adopted
39 pursuant to the provisions of the "Administrative Procedure Act,"
40 P.L.1968, c.410 (C.52:14B-1 et seq.). Prior to the commencement
41 of an award round, the authority shall determine the minimum score
42 for the award round that an anchor institution 'or, if applicable,
43 each partner anchor institution' is required to attain to be eligible
44 for a tax credit.

45 (2) The authority may establish different criteria for community-
46 anchored projects that are located in a New Jersey State opportunity
47 zone and community-anchored projects that are primarily designed

1 to result in the economic expansion of a targeted industry in this
2 State.

3 c. The scoring system developed by the authority pursuant to
4 subsection b. of this section shall assess applications for tax credits
5 based on the following competitive criteria, which shall include, but
6 shall not be limited to:

7 (1) the amount of tax credit requested by the anchor institution
8 'and, if applicable, each partner anchor institution'¹ compared to the
9 overall investments required for the completion of the community-
10 anchored project, along with the amount of the potential return on
11 the authority's investment of tax credits to the State by the end of
12 the commitment period, the amount of the tax credit, if any, that is
13 unlikely to be realized as a return on investment to the State, and
14 the proposed terms and structure for the authority's investment in
15 the project, including applicable current and deferred returns;

16 (2) the financial benefit of the community-anchored project to
17 the community in which the community-anchored project will be
18 located;

19 (3) apprenticeships or workforce programs to be offered because
20 of the community-anchored project;

21 (4) the ability of the community-anchored project to absorb and
22 adapt to changing environmental conditions and deliver its
23 objectives;

24 (5) how the community-anchored project will advance State,
25 regional, and local development and planning strategies;

26 (6) the relationship of the community-anchored project to a
27 comprehensive local development strategy, including its relation to
28 other development and redevelopment projects in the municipality;

29 (7) the degree to which the community-anchored project
30 enhances and promotes job creation and economic development;

31 (8) the extent of economic and related social distress in the
32 municipality and the immediate area surrounding the community-
33 anchored project;

34 (9) the extent to which the community-anchored project
35 provides for the development of workforce housing and housing for
36 individuals with special needs;

37 (10) the extent to which the community-anchored project
38 constitutes the expansion of the anchor institution 'and, if
39 applicable, each partner anchor institution'¹ to different areas of the
40 State;

41 (11) the extent to which the community-anchored project
42 provides for infrastructure, parking, retail, green space, or other
43 public amenities creating a mixed-use community-anchored project;

44 (12) the inclusion of a qualified business accelerator or incubator
45 facility as a part of the community-anchored project;

46 (13) the length of the commitment period for the community-
47 anchored project;

1 (14) the quality and number of new full-time jobs that will be
2 created by the anchor institution ¹partner anchor institution¹ or a
3 partner business at the community-anchored project;

4 (15) the quality and number of existing full-time jobs that will be
5 retained by the anchor institution ¹partner anchor institution¹ or a
6 partner business in the State as a result of completing the
7 community-anchored project, with the criteria specifying, in scoring
8 the application, that the retention of an existing full-time job shall
9 be given not more than one-third the weight of a new full-time job
10 of a similar quality; and

11 (16) if the anchor institution has a board of directors, the extent
12 to which that board of directors is diverse and representative of the
13 community in which the community-anchored project is located.

14 d. Notwithstanding the provisions of subsection c. of this
15 section, the authority may adopt, pursuant to the provisions of the
16 "Administrative Procedure Act," P.L.1968, c.410 (C.52:14B-1 et
17 seq.), rules and regulations adjusting competitive criteria required
18 under the program when necessary to respond to the prevailing
19 economic conditions in the State.

20 e. Prior to the award of a tax credit to an anchor institution ¹or,
21 if applicable, each partner anchor institution¹, to be converted into
22 an authority investment in a community-anchored project, the
23 Department of Labor and Workforce Development, the Department
24 of Environmental Protection, and the Department of the Treasury
25 shall each report to the chief executive officer of the authority as to
26 whether the anchor institution ¹and, if applicable, each partner
27 anchor institution¹, along with any partner business identified in a
28 program application, and each contractor and subcontractor
29 performing work at the community-anchored project, is in
30 substantial good standing with the respective department, or has
31 entered into an agreement with the respective department that
32 includes a practical corrective action plan. Provided that all parties
33 are in substantial good standing, or have entered into such an
34 agreement, the authority shall allocate tax credits to community-
35 anchored projects according to the community-anchored project's
36 score and until either the available tax credits are exhausted or all
37 community-anchored projects obtaining the minimum score receive
38 a tax credit, whichever occurs first. If insufficient funding exists to
39 fully fund all eligible community-anchored projects, a community-
40 anchored project may be offered partial funding.

41 f. Applications that do not receive the minimum score
42 established by the authority for that award round shall not receive
43 further consideration for a tax credit by the authority in that award
44 round; however, an anchor institution ¹or partner anchor institution¹
45 may revise or complete a new application to be submitted in a
46 subsequent award round.

1 g. If an anchor institution ¹or partner anchor institution¹
2 declines a tax credit offered by the authority, the authority shall
3 offer the tax credit to the applicant with the application having the
4 next highest score, and having obtained at least the minimum score
5 in that award round.

6
7 50. (New section) a. Following approval and selection of an
8 application pursuant to sections 48 and 49 of P.L. , c. (C.)
9 (pending before the Legislature as this bill), the authority shall enter
10 into a tax credit agreement with the anchor institution ¹and, if
11 applicable, each partner anchor institution¹. The chief executive
12 officer of the authority shall negotiate the terms and conditions of
13 the tax credit agreement on behalf of the State.

14 b. (1) A tax credit agreement shall specify the amount of the
15 tax credit that the authority shall award to the anchor institution
16 ¹and, if applicable, each partner anchor institution¹ for conversion
17 into an authority investment and specify the duration of the
18 eligibility period, which shall not exceed 10 years. The tax credit
19 agreement shall provide an estimated date of completion for the
20 community-anchored project and include a requirement for periodic
21 progress reports through completion, including the submittal of
22 executed financing commitments and documents or agreements that
23 evidence site control.

24 (2) If, as a result of a default under the tax credit agreement, the
25 authority rescinds a tax credit in the same calendar year in which
26 the authority approved the tax credit, then the authority may assign
27 the tax credit to another applicant that attained the minimum score
28 determined pursuant to section 49 of P.L. , c. (C.) (pending
29 before the Legislature as this bill).

30 c. The terms of the tax credit agreement shall:

31 (1) provide for a verification of project financing at the time the
32 anchor institution ¹, each partner anchor institution,¹ and any
33 partner business provides executed financing commitments to the
34 authority and a verification of the anchor institution's projected
35 cash flow ¹and each partner anchor institution's cash flow¹ at the
36 time of certification that the project is completed;

37 (2) specify the length of the commitment period for the
38 community-anchored project and the terms by which the anchor
39 institution ¹and, if applicable, each partner anchor institution¹ shall
40 provide to the authority current or deferred returns on investment
41 generated by the community-anchored project and commit to a
42 structure for returns on investment;

43 (3) allow the anchor institution ¹and, if applicable, each partner
44 anchor institution¹ to distribute returns on investment to the
45 authority for the tax credits in the amount specified in the tax credit
46 agreement at any time within the commitment period, but require

- 1 such distribution to occur if the community-anchored project is sold
2 before the end of the commitment period;
- 3 (4) specify amounts of returns to be retained by the anchor
4 institution ¹and, if applicable, each partner anchor institution¹ for
5 capital reserves, programming, or other purposes;
- 6 (5) identify the value of any monetary or financial benefit
7 offered or provided by the anchor institution ¹and, if applicable,
8 each partner anchor institution¹ to any partner business that works
9 with the anchor institution ¹and, if applicable, each partner anchor
10 institution¹ to complete and operate the community-anchored
11 project;
- 12 (6) identify any benefits created by the anchor institution ¹and,
13 if applicable, each partner anchor institution¹ for a partner business
14 through equity investment in or debt-financing of a community-
15 anchored project and specify the formula by which such benefits are
16 passed through to a partner business;
- 17 (7) specify that the authority or the State may purchase tax
18 credits offered for sale by an anchor institution ¹and, if applicable,
19 each partner anchor institution¹ for 90 percent of the stated value of
20 the tax credit before considering any further discounting to present
21 value which shall be permitted;
- 22 (8) at a minimum, require an anchor institution ¹and, if
23 applicable, each partner anchor institution¹ to provide oversight of
24 the community-anchored project through ongoing reporting by a
25 partner business to the anchor institution ¹and, if applicable, each
26 partner anchor institution¹, and subsequent ongoing reporting by the
27 anchor institution ¹and, if applicable, each partner anchor
28 institution¹ to the authority;
- 29 (9) specify other measures through which the authority shall
30 ensure oversight of outstanding tax credit investments, and, in the
31 event that an anchor institution ¹or partner anchor institution¹ fails
32 to meet its obligations under the tax credit agreement or any
33 program requirement, establish the right of the authority to assume
34 direct oversight of any or all projects for which the anchor
35 institution ¹or partner anchor institution¹ has entered into
36 investment agreements and require the anchor institution ¹or partner
37 anchor institution¹ to pursue any remedies it may have against a
38 partner business; ¹and¹
- 39 (10) at a minimum, require that the anchor institution, ¹each
40 partner anchor institution,¹ and any partner businesses, adopt
41 specific nondiscrimination policies for the operation of a
42 community-anchored project ¹]; and
- 43 (11) require that any partner business of an anchor institution
44 ¹and, if applicable, any partner business of a partner anchor
45 institution¹ consent to the disclosure of tax expenditure information

1 as described in paragraph (8) of subsection b. of section 1 of
2 P.L.2009, c.189 (C.52:27B-20a)]¹.

3 d. The tax credit agreement shall include a requirement that the
4 chief executive officer of the authority receive annual reports from
5 the anchor institution ¹and, if applicable, each partner institution¹
6 that are to include separate certifications by the Department of
7 Environmental Protection, the Department of Labor and Workforce
8 Development, and the Department of the Treasury demonstrating
9 that the anchor institution ¹and, if applicable, each partner
10 institution¹ any partner business, and each contractor and
11 subcontractor performing work at the community-anchored project
12 is in substantial good standing with that department, or have entered
13 into an agreement with that department that includes a corrective
14 action plan, and the tax credit agreement shall include a provision
15 that the anchor institution ¹and, if applicable, each partner
16 institution¹ shall forfeit the tax credit in any year in which an
17 uncured default exists under the tax credit agreement. The tax
18 credit agreement shall, however, allow the authority to extend, in
19 individual cases, the deadline for any annual reporting or
20 certification requirement.

21 e. An anchor institution ¹and, if applicable, each partner
22 institution¹ shall, as required at the discretion of the authority,
23 submit to the authority satisfactory evidence of actual project costs,
24 as certified by a certified public accountant, evidence of a
25 temporary certificate of occupancy, or other event evidencing
26 project completion. The anchor institution ¹and, if applicable, each
27 partner institution¹, or an authorized agent of the anchor institution
28 ¹or partner institution¹, shall certify under the penalty of perjury
29 that the information provided pursuant to this subsection is true.
30

31 51. (New section) a. Up to the limits established in subsection b.
32 of this section and in accordance with a tax credit agreement,
33 beginning upon the receipt of occupancy permits for any portion of
34 the community-anchored project, or upon any other event
35 evidencing project completion as set forth in the tax credit
36 agreement, an anchor institution ¹and, if applicable, each partner
37 institution¹ of an approved community-anchored project shall be
38 awarded a base tax credit of \$5,000,000 for conversion into an
39 authority investment in the community-anchored project.

40 b. An anchor institution ¹and, if applicable, each partner
41 institution¹ may be allowed a tax credit in excess of the base
42 amount, if approved by the authority, provided, however, the total
43 tax credit allowed per community-anchored project shall not exceed
44 \$75,000,000 and the total investment of all State resources ¹not
45 including rent payments¹ in a community-anchored project shall not
46 exceed 40 percent of the total cost of the project.

1 52. (New section) a. An anchor institution ¹and, if applicable,
2 each partner institution¹ that is awarded a tax credit under sections
3 43 through 53 of P.L. , c. (C.) (pending before the
4 Legislature as this bill) shall, commencing in the year in which the
5 tax credit is awarded, and each year thereafter for the remainder of
6 the eligibility period, submit a report indicating whether the anchor
7 institution ¹and, if applicable, each partner institution¹ is aware of
8 any condition, event, or act that would cause the anchor institution
9 ¹or partner institution¹ not to be in compliance with the tax credit
10 agreement or the provisions of sections 43 through 53 of P.L. ,
11 c. (C.) (pending before the Legislature as this bill) and any
12 additional reporting requirements contained in the tax credit
13 agreement or tax credit certificate. The anchor institution ¹and, if
14 applicable, each partner institution¹, or an authorized agent of the
15 anchor institution ¹or partner institution¹, shall certify under the
16 penalty of perjury that the information provided pursuant to this
17 subsection is true.

18 b. (1) Upon receipt and review of each report submitted
19 during the eligibility period, the authority shall provide to the
20 anchor institution ¹and, if applicable, each partner institution¹ and
21 the Director of the Division of Taxation in the Department of the
22 Treasury a certificate of compliance indicating the amount of tax
23 credits awarded to the anchor institution ¹and, if applicable, each
24 partner institution¹ for conversion into an authority investment in
25 the community-anchored project, that the anchor institution ¹and, if
26 applicable, each partner institution¹ may:

27 (a) offer for sale through the provision of a tax credit transfer
28 certificate pursuant to section 53 of P.L. , c. (C.) (pending
29 before the Legislature as this bill); or

30 (b) use as collateral or to secure any financial instrument
31 approved by the authority to provide financing for the community-
32 anchored project, if that use is in accordance with rules and
33 regulations adopted by the authority, pursuant to the provisions of
34 the "Administrative Procedure Act," P.L.1968, c.410 (C.52:14B-1 et
35 seq.), to govern the use of program tax credits.

36 (2) Upon receipt by the director of the certificate of compliance,
37 the director shall coordinate with the anchor institution ¹and, if
38 applicable, each partner institution¹ and the authority to provide the
39 anchor institution ¹and, if applicable, each partner institution¹ with
40 a tax credit transfer certificate, as described in section 53 of P.L. ,
41 c. (C.) (pending before the Legislature as this bill), or a tax
42 credit certificate for the value awarded by the authority for that year
43 that the anchor institution ¹and, if applicable, each partner
44 institution¹ may use as provided in paragraph (1) of this subsection
45 b. and in accordance with the rules adopted pursuant to
46 subparagraph (b) of paragraph (1) of this subsection.

1 53. (New section) a. An anchor institution and, if applicable,
 2 each partner institution¹ may apply to the director and the chief
 3 executive officer of the authority for a tax credit transfer certificate,
 4 covering one or more years. The tax credit transfer certificate, upon
 5 receipt thereof by the anchor institution or partner institution¹ from
 6 the director and the chief executive officer of the authority, may be
 7 sold or assigned, in full or in part, in the privilege period during
 8 which the anchor institution or partner institution¹ receives the tax
 9 credit transfer certificate from the director, to another person, who
 10 may apply the credit against a tax liability pursuant to 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.

14 b. The anchor institution or partner institution¹ shall not sell
 15 or assign, including a collateral assignment, a tax credit transfer
 16 certificate allowed under this section for consideration received by
 17 the anchor institution or partner institution¹ of less than 85 percent
 18 of the transferred credit amount before considering any further
 19 discounting to present value which shall be permitted. The tax
 20 credit transfer certificate issued to an anchor institution or partner
 21 institution¹ by the director shall be subject to any limitations and
 22 conditions imposed on the application of State tax credits pursuant
 23 to sections 43 through 53 of P.L. , c. (C.) (pending before
 24 the Legislature as this bill) and any other terms and conditions that
 25 the director may prescribe.

26 c. A purchaser or assignee of a tax credit transfer certificate
 27 pursuant to this section may make any subsequent transfers,
 28 assignments, or sales of a tax credit transfer certificate for an
 29 amount to be negotiated with a subsequent purchaser or assignee.

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

- 33 (1) the name of the transferor;
- 34 (2) the name of the transferee;
- 35 (3) the value of the tax credit transfer certificate;
- 36 (4) the State tax against which the transferee may apply the tax
 37 credit; and
- 38 (5) the consideration received by the transferor.

39
 40 54. (New section) Sections 54 through 67 of P.L. ,
 41 c. (C.) (pending before the Legislature as this bill) shall be
 42 known and may be cited as the "New Jersey Aspire Program Act."
 43

44 55. (New section) As used in sections 54 through 67 of P.L. ,
 45 c. (C.) (pending before the Legislature as this bill):

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

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

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

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

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

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

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

41 "Commercial project" means a building, which is predominantly
42 commercial and contains 100,000 or more square feet of office and
43 retail space, industrial space, or film studios, professional stages,
44 television studios, recording studios, screening rooms, or other
45 infrastructure for film production, for purchase or lease and may
46 include a parking component.

47 "Developer" means a person who enters or proposes to enter into
48 an incentive award agreement pursuant to the provisions of section

1 ¹**[62]** 60¹ of P.L. , c. (C.) (pending before the Legislature
2 as this bill), including, but not limited, to a lender that completes a
3 redevelopment project, operates a redevelopment project, or
4 completes and operates a redevelopment project.

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

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

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

22 "Eligibility period" means the period not to exceed 15 years for a
23 commercial or mixed-use project or the period not to exceed 10
24 years for a residential project specified in an incentive award
25 agreement during which a developer may claim a tax credit under
26 the program.

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

33 "Food desert community" means a physically contiguous area in
34 the State in which residents have limited access to nutritious foods,
35 such as fresh fruits and vegetables, through supermarkets and
36 grocery stores.

37 "Government-restricted municipality" means a municipality in
38 this State with a municipal revitalization index distress score of at
39 least 7, that met the criteria for designation as an urban aid
40 municipality in the 2019 State fiscal year, and that, on the effective
41 date of P.L. , c. (C.) (pending before the Legislature as this
42 bill), is subject to financial restrictions imposed pursuant to the
43 Municipal Stabilization and Recovery Act ¹**[of 2016]**¹, P.L.2016,
44 c.4 ¹**[(52:27BBBB-1)]** (C.52:27BBBB-1 et seq.)¹, or is restricted in
45 its ability to levy property taxes on property in that municipality as
46 a result of the State of New Jersey owning or controlling property
47 representing at least 25 percent of the total land area of the
48 municipality or as a result of the federal government of the United

1 States owning or controlling at least 50 acres of the total land area
2 of the municipality, which is dedicated as a national natural
3 landmark.

4 "Health care or health services center" means an establishment
5 where patients are admitted for examination and treatment by one or
6 more physicians, dentists, psychologists, or other medical
7 practitioners.

8 "Incentive area" means an area designated pursuant to the "State
9 Planning Act," P.L.1985, c.398 (C.52:18A-196 et seq.), as Planning
10 Area 1 (Metropolitan), Planning Area 2 (Suburban), or a
11 Designated Center, , provided an area designated as Planning Area
12 2 (Suburban) or a Designated Center shall be located within a one-
13 half mile radius of the mid-point, with bicycle and pedestrian
14 connectivity, of a New Jersey Transit Corporation, Port Authority
15 Transit Corporation, or Port Authority Trans-Hudson Corporation
16 rail, bus, or ferry station, including all light rail stations, or a high
17 frequency bus stop as certified by the New Jersey Transit
18 Corporation.

19 "Incentive award" means an award of tax credits to reimburse a
20 developer for all or a portion of the project financing gap of a
21 redevelopment project pursuant to the provisions of sections 54
22 through 67 of P.L. , c. (C.) (pending before the Legislature
23 as this bill).

24 "Incentive award agreement" means the contract executed
25 between a developer and the authority pursuant to section ¹~~62~~ 60¹
26 of P.L. , c. (C.) (pending before the Legislature as this
27 bill), which sets forth the terms and conditions under which the
28 developer may receive the incentive awards authorized pursuant to
29 the provisions of sections 54 through 67 of P.L. , c. (C.)
30 (pending before the Legislature as this bill).

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

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

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

1 household income equal to 50 percent or less of the median gross
2 household income for households of the same size within the
3 housing region in which the housing is located.

4 ¹"Major rail station" means a railroad station that is located
5 within a qualified incentive area and that provides to the public
6 access to a minimum of six rail passenger service lines operated by
7 the New Jersey Transit Corporation.¹

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

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

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

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

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

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

38 "Program" means the New Jersey Aspire Program established by
39 section 56 of P.L. , c. (C.) (pending before the Legislature
40 as this bill).

41 "Project cost" means the costs incurred in connection with a
42 redevelopment project by a developer until the issuance of a
43 permanent certificate of occupancy, or until such other time
44 specified by the authority, for a specific investment or
45 improvement, including the costs relating to lands, buildings,
46 improvements, real or personal property, or any interest therein,
47 including leases discounted to present value, including lands under
48 water, riparian rights, space rights, and air rights acquired, owned,

1 developed or redeveloped, constructed, reconstructed, rehabilitated,
2 or improved, any environmental remediation costs, plus costs not
3 directly related to construction, of an amount not to exceed 20
4 percent of the total costs, capitalized interest paid to third parties,
5 and the cost of infrastructure improvements, including ancillary
6 infrastructure projects. The cost of acquisition of land or fees
7 associated with the application or administration of a grant under
8 sections 54 through 67 of P.L. , c. (C.) (pending before the
9 Legislature as this bill) shall not constitute a project cost.

10 "Project financing gap" means the part of the total project cost,
11 including reasonable and appropriate return on investment, that
12 remains to be financed after all other sources of capital have been
13 accounted for, including, but not limited to developer contributed
14 capital, which shall not be less than 20 percent of the total project
15 cost, and investor or financial entity capital or loans for which the
16 developer, after making all good faith efforts to raise additional
17 capital, certifies that additional capital cannot be raised from other
18 sources on a non-recourse basis.

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

23 "Qualified incentive tract" means (i) a population census tract
24 having a poverty rate of 20 percent or more; or (ii) a census tract in
25 which the median family income for the census tract does not
26 exceed 80 percent of the greater of the Statewide median family
27 income or the median family income of the metropolitan statistical
28 area in which the census tract is situated.

29 "Quality childcare facility" is a child care center licensed by the
30 Department of Children and Families, operating continuously,
31 which has not been subject to an enforcement action, and which has
32 and maintains a total licensed capacity of at least 60 children age 6
33 years or younger.

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

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

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

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

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

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

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

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

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

31 "Workforce housing" means housing that is affordable according
32 to federal Department of Housing and Urban Development or other
33 recognized standards for home ownership and rental costs, and
34 occupied or reserved for occupancy by households with a gross
35 household income of more than 80 percent, but less than 120
36 percent, of the median gross household income for households of
37 the same size within the housing region in which the housing is
38 located.

39
40 56. (New section) a. The New Jersey Aspire Program is hereby
41 established as a program under the jurisdiction of the New Jersey
42 Economic Development Authority. The authority shall administer
43 the program to encourage redevelopment projects through the
44 provision of incentive awards to reimburse developers for certain
45 project financing gap costs. The board may approve the award of
46 an incentive award to a developer upon application to the authority
47 pursuant to sections 58 and 59 of P.L. , c. (C. , C. , and
48 C.) (pending before the Legislature as this bill). The value of

1 all tax credits approved by the authority pursuant to sections 54
2 through 67 of P.L. , c. (C.) (pending before the Legislature
3 as this bill), shall be subject to the limitations set forth in section 98
4 of P.L. , c. (C.) (pending before the Legislature as this bill).

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

9

10 57. (New section) a. Prior to March 1, 2027, a developer shall
11 be eligible to receive an incentive award for a redevelopment
12 project only if the developer demonstrates to the authority at the
13 time of application that:

14 (1) without the incentive award, the redevelopment project is
15 not economically feasible;

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

19 (3) the redevelopment project is located in the incentive area;

20 (4) except for demolition and site remediation activities, the
21 developer has not commenced any construction at the site of the
22 redevelopment project prior to submitting an application, unless the
23 authority determines that the redevelopment project would not be
24 completed otherwise or, in the event the redevelopment project is to
25 be undertaken in phases, the requested incentive award is limited to
26 only phases for which construction has not yet commenced;

27 (5) the redevelopment project shall comply with minimum
28 environmental and sustainability standards;

29 (6) the redevelopment project shall comply with the authority's
30 affirmative action requirements, adopted pursuant to section 4 of
31 P.L.1979, ¹**[c.203]** c.303¹ (C.34:1B-5.4);

32 (7) ¹**[each worker employed or subcontractor of a developer**
33 **working at a redevelopment project, 80 percent or more of which is**
34 **operated by the developer, shall be paid not less than \$15 per hour**
35 **or 120 percent of the minimum wage fixed under subsection a. of**
36 **section 5 of P.L.1966, c.113 (C.34:11-56a4), whichever is higher;**

37 **(8)]¹ during the eligibility period, each worker employed to**
38 **perform construction work or building services work at the**
39 **redevelopment project shall be paid not less than the prevailing**
40 **wage rate for the worker's craft or trade, as determined by the**
41 **Commissioner of Labor and Workforce Development pursuant to**
42 **P.L.1963, c.150 (C.34:11-56.25 et seq.) and P.L.2005, c.379**
43 **(C.34:11-56.58 et seq.). In the event a redevelopment project is**
44 **undertaken by a tenant and the tenant has a leasehold of more than**
45 **55 percent of space in the building owned or controlled by the**
46 **developer, the requirement that each worker employed to perform**
47 **building service work at the building be paid not less than the**
48 **prevailing wage shall apply to the entire building;**

- 1 ¹~~[(9)]~~ (8)¹ the redevelopment project shall be completed, and the
2 developer shall be issued a certificate of occupancy for the
3 redevelopment project facilities by the applicable enforcing agency
4 within four years of executing the incentive award agreement
5 corresponding to the redevelopment project;
- 6 ¹~~[(10)]~~ (9)¹ the developer has complied with all requirements
7 for filing tax and information returns and for paying or remitting
8 required State taxes and fees by submitting, as a part of the
9 application, a tax clearance certificate, as described in section 1 of
10 P.L.2007, c.101 (C.54:50-39); and
- 11 ¹~~[(11)]~~ (10)¹ the developer is not more than 24 months in arrears
12 at the time of application.
- 13 b. In addition to the requirements set forth in subsection a. of
14 this section, for a commercial project to qualify for an incentive
15 award the developer shall demonstrate that:
- 16 (1) the incremental increase of State revenues realized from the
17 commercial project upon its completion shall be in excess of the
18 amount necessary to reimburse the developer for its project
19 financing gap; and
- 20 (2) the developer shall have an equity participation of at least 20
21 percent of the total project cost.
- 22 c. In addition to the requirements set forth in subsection a. of
23 this section, for a residential project to qualify for an incentive
24 award, the residential project shall:
- 25 (1) have a total project cost of at least \$17,500,000, if the
26 project is located in a municipality with a population greater than
27 200,000 according to the latest federal decennial census;
- 28 (2) have a total project cost of at least \$10,000,000 if the project
29 is located in a municipality with a population less than 200,000
30 according to the latest federal decennial census; or
- 31 (3) have a total project cost of at least \$5,000,000 if the project
32 is in a qualified incentive tract or government-restricted
33 municipality.
- 34 d. In addition to the requirements set forth in subsections a. and
35 c. of this section, for a residential project consisting of newly-
36 constructed residential units to qualify for an incentive award , the
37 developer shall reserve at least 20 percent, but not more than 50
38 percent, of the residential units constructed for occupancy by low-
39 and moderate-income households with affordability controls as
40 required under the "Fair Housing Act," P.L.1985, c. 222 (C.52:27D-
41 301 et al.) ¹and at least 5 percent of the residential units constructed
42 as workforce housing¹, unless: the municipality in which the
43 property is located has received substantive certification from the
44 council and such a reservation is not required under the approved
45 affordable housing plan; the municipality has been given a
46 judgment of repose or a judgment of compliance by the court, and
47 such a reservation is not required under the approved affordable

1 housing plan. ¹【The extent to which the proposed project would
2 attract or retain a skilled employment base that is important to the
3 State’s competitive position generally or to capture economic
4 development opportunities within targeted industries, this 20
5 percent for low-income housing and moderate-income housing may
6 be used for workforce housing, or housing for individuals with
7 special needs to the extent consistent with the Fair Housing Act,
8 P.L.1985, c. 222 (C.52:27D-301 et al.). This 20 percent shall be
9 constructed within the same housing development.】 If the
10 municipality in which the property is located has received
11 substantive certification from the council and such a reservation is
12 not required under the approved affordable housing plan or the
13 municipality has been given a judgment of repose or a judgment of
14 compliance by the court, and such a reservation is not required
15 under the approved affordable housing plan, then the developer
16 shall reserve at least 10 percent, but not more than 50 percent, of
17 the residential units constructed for occupancy by low- and
18 moderate-income households with affordability controls as required
19 under the "Fair Housing Act," P.L.1985, c. 222 (C.52:27D-301 et
20 al.) and at least 15 percent of the residential units constructed as
21 workforce housing.¹

22 e. Prior to the board considering an application submitted by a
23 developer, the Department of Labor and Workforce Development,
24 the Department of Environmental Protection, and the Department of
25 the Treasury shall each report to the chief executive officer of the
26 authority whether the developer is in substantial good standing with
27 the respective department, or has entered into an agreement with the
28 respective department that includes a practical corrective action
29 plan for the developer. The authority may also contract with an
30 independent third party to perform a background check on the
31 developer.

32
33 58. (New section) a. Prior to March 1, 2027, a developer that
34 meets the eligibility criteria in section 57 of P.L. , c. (C.)
35 (pending before the Legislature as this bill) and is seeking an
36 incentive award for a redevelopment project shall submit an
37 application to the authority and, in the case of a residential project,
38 shall submit an application to the authority and the agency, in a
39 form and manner prescribed in regulations adopted by the authority,
40 in consultation with the agency, pursuant to the provisions of the
41 “Administrative Procedure Act,” P.L.1968, c.410 (C.52:14B-1 et
42 seq.). The authority shall accept applications for incentive awards
43 during the grant periods established pursuant to section 59 of
44 P.L. , c. (C.) (pending before the Legislature as this bill).

45 b. The authority shall not consider an application for a
46 commercial project unless the developer submits a letter evidencing
47 support for the commercial project from the governing body of the

1 municipality in which the commercial project is located with the
2 application.

3 c. The authority shall review the project cost, evaluate and
4 validate the project financing gap estimated by the developer, and
5 conduct a State fiscal impact analysis to ensure that the overall
6 public assistance provided to the project will result in a net positive
7 benefit to the State, provided that the net benefit analysis shall not
8 apply to capital investment for a food delivery source ¹【, or】 ¹; ¹a
9 health care or health services center with a minimum of 10,000
10 square feet of space devoted to ¹【residential projects,】¹ health care
11 or health services that is located in a municipality with a Municipal
12 Revitalization Index distress score of at least 50 lacking adequate
13 access, as determined by the Commissioner of Health ¹【, to health
14 care or health services】 ; or a residential project¹. In determining
15 whether a project will result in a net positive benefit to the State,
16 the authority shall not consider the value of any taxes exempted,
17 abated, rebated, or retained under the "Five-Year Exemption and
18 Abatement Law," P.L.1991, c.441 (C.40A:21-1 et seq.), the "Long
19 Term Tax Exemption Law," P.L.1991, c.431 (C.40A:20-1 et al.),
20 the "New Jersey Urban Enterprise Zones Act," P.L.1983, c.303
21 (C.52:27H-60 et seq.), or any other law that has the effect of
22 lowering or eliminating the developer's State or local tax liability.
23 The determination made pursuant to this subsection shall be based
24 on the potential tax liability of the developer without regard for
25 potential tax losses if the developer were to locate in another state.
26 The authority shall assess the cost of these reviews to the applicant.
27 A developer shall pay to the authority the full amount of the direct
28 costs of an analysis concerning the developer's application for a tax
29 credit that a third party retained by the authority performs, if the
30 authority deems such retention to be necessary. The authority shall
31 evaluate the net economic benefits on a present value basis under
32 which the requested tax credit allocation amount is discounted to
33 present value at the same discount rate as the projected benefits
34 from the implementation of the proposed redevelopment project for
35 which an award of tax credits is being sought.

36 d. For a redevelopment project subject to the requirement of
37 subsection c. of this section to be eligible for any tax credits under
38 the program, a developer shall demonstrate to the authority that the
39 award of tax credits will yield a net positive benefit to the State
40 equaling an amount determined by the authority through regulation
41 that exceeds the requested tax credit amount. The developer shall
42 certify, under the penalty of perjury, that all documents submitted,
43 and factual assertions made, to the authority to demonstrate that the
44 award of tax credits will yield a net positive benefit to the State in
45 accordance with this subsection are true and accurate at the time of
46 submission. A redevelopment project located in a government-
47 restricted municipality shall yield a net positive benefit to the State

1 that exceeds the requested tax credit amount, but the net benefit
2 requirement set by the authority for such redevelopment projects
3 may be up to 35 percentage points lower than the net benefit
4 requirement set by the authority for all other eligible redevelopment
5 projects.

6 e. If at any time during the eligibility period the authority
7 determines that the developer made a material misrepresentation on
8 the developer's application, the developer shall forfeit the incentive
9 award.

10 f. If circumstances require a developer to amend its application
11 to the authority, then the developer, or an authorized agent of the
12 developer, shall certify to the authority that the information
13 provided in its amended application is true under the penalty of
14 perjury.

15

16 59. (New section) a. Prior to March 1, 2027, for redevelopment
17 projects eligible pursuant to section 57 of P.L. , c. (C.)
18 (pending before the Legislature as this bill), the authority ¹shall
19 award incentive awards through an application process consisting of
20 up to two biannual award rounds. The authority shall provide
21 notice to the public of the opening and closing dates for submission
22 of grant applications on its Internet website. The authority¹ shall
23 award incentive awards based on the order in which complete,
24 qualifying applications were received by the authority. ¹If a
25 developer intends to apply to both the authority and the agency for
26 subsidies, the developer shall notify the agency simultaneously with
27 any application made to the authority. The authority shall transmit
28 its grant determination for such residential projects to the agency
29 along with any information developed by the authority and
30 confirmation of the authority's intent to provide an incentive award
31 or award to the project. Approval of an application by the agency
32 shall be the final determination required for an incentive award for
33 a residential project under this section.¹

34 b. Prior to allocating an incentive award to a redevelopment
35 project, the Department of Labor and Workforce Development, the
36 Department of Environmental Protection, and the Department of the
37 Treasury shall each report to the chief executive officer of the
38 authority whether the developer and each contractor and
39 subcontractor performing work at the redevelopment project is in
40 substantial good standing with the respective department, or has
41 entered into an agreement with the respective department that
42 includes a practical corrective action plan. The authority may also
43 contract with an independent third party to perform a background
44 check on the developer. Provided that the developer and all
45 contractors and subcontractors are in substantial good standing, or
46 have entered into such agreements, the authority shall allocate
47 incentive awards to redevelopment projects according to the

1 redevelopment project's score and until either the available
2 incentive awards are exhausted or all redevelopment projects
3 obtaining the minimum score receive an incentive award, whichever
4 occurs first. If insufficient funding exists to fully fund all eligible
5 projects, a project may be offered partial funding.

6
7 60. (New section) a. Following approval and selection of an
8 application pursuant to sections 58 and 59 of P.L. ,
9 c. (C. and C.) (pending before the Legislature as this
10 bill), the authority shall enter into an incentive award agreement
11 with the developer. The chief executive officer of the authority
12 shall negotiate the terms and conditions of the incentive award
13 agreement on behalf of the State. ¹【The incentive award agreement
14 shall require that the developer consent to the disclosure of tax
15 expenditure information as described in paragraph (8) of subsection
16 b. of section 1 of P.L.2009, c.189 (C.52:27B-20a).】¹

17 b. An incentive award agreement shall specify the amount of
18 the incentive award the authority shall award to the developer and
19 the duration of the eligibility period, which shall not exceed 15
20 years for a commercial or mixed-use project and shall not exceed 10
21 years for a residential project. The incentive award agreement shall
22 provide an estimated date of completion and include a requirement
23 for periodic progress reports, including the submittal of executed
24 financing commitments and documents that evidence site control.
25 If the authority does not receive periodic progress reports, or if the
26 progress reports demonstrate unsatisfactory progress, then the
27 authority may rescind the incentive award. If the authority rescinds
28 an incentive award in the same calendar year in which the authority
29 approved the incentive award, then the authority may assign the
30 incentive award to another applicant. The incentive award
31 agreement may also provide for a verification of the financing gap
32 at the time the developer provides executed financing commitments
33 to the authority and a verification of the developer's projected cash
34 flow at the time of certification that the project is completed.

35 c. To ensure the protection of taxpayer money, if the authority
36 determines that the project financing gap is smaller than determined
37 at board approval, the authority shall reduce the amount of the tax
38 credit on a pro rata basis. If there is no project financing gap, then
39 the developer shall forfeit the incentive award. This test shall be
40 conducted at the end of the third year of the eligibility period
41 whereupon the authority shall evaluate the developer's cash flow
42 and compare that cash flow to the projected cash flow at the time of
43 board approval. For a commercial project, if the actual cash flow
44 exceeds the projected cash flow at the time of board approval by
45 more than 15 percent, the authority shall require the developer to
46 pay up to 15 percent of the amount of the excess ¹, which payment
47 shall be deposited in the State General Fund¹. To the extent

1 applicable, in the case of a residential project, the developer's
2 return on investment shall be subject to the provisions of section 7
3 of P.L.1983, c.530 (C.55:14K-7).

4 d. The incentive award agreement shall include a requirement
5 that the chief executive officer of the authority receive annual
6 reports from the Department of Environmental Protection, the
7 Department of Labor and Workforce Development, and the
8 Department of the Treasury demonstrating that the developer and
9 each contractor and subcontractor performing work at the
10 redevelopment project is in substantial good standing with the
11 respective department, or has entered into an agreement with the
12 respective department that includes a practical corrective action.
13 The incentive award agreement shall also include a provision that
14 the developer shall forfeit the incentive award in any year in which
15 any such report is not received. The incentive award agreement
16 shall also require a developer to engage in on-site consultations
17 with the Division of Workplace Safety and Health in the
18 Department of Health.

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

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

42 (3) As used in this subsection:

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

46 "Labor harmony agreement" means an agreement between a
47 business that serves as the owner or operator of a retail
48 establishment or distribution center and one or more labor

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

23 f. (1) ¹**[In]** For a redevelopment project whose total project
24 cost equals or exceeds \$10 million, in¹ addition to the incentive
25 award agreement, a developer shall enter into a community benefits
26 agreement with the authority and the county or municipality in
27 which the redevelopment project is located. The agreement may
28 include, but shall not be limited to, requirements for training,
29 employment, and youth development and free services to
30 underserved communities in and around the community in which
31 the redevelopment project is located. Prior to entering a community
32 benefits agreement, the governing body of the county or
33 municipality in which the redevelopment project is located shall
34 hold at least one public hearing at which the governing body shall
35 hear testimony from residents, community groups, and other
36 stakeholders on the needs of the community that the agreement
37 should address.

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

46 (3) At the time the developer submits the annual report required
47 pursuant to section 62 of P.L. , c. (C.) (pending before the
48 Legislature as this bill) to the authority, the developer shall certify,

1 under the penalty of perjury, that it is in compliance with the terms
2 of the community benefits agreement. If the developer fails to
3 provide the certification required pursuant to this paragraph or the
4 authority determines that the developer is not in compliance with
5 the terms of the community benefits agreement based on the reports
6 submitted by the community advisory committee pursuant to
7 paragraph (2) of this subsection, then the authority may rescind an
8 award or recapture all or part of any tax credits awarded.

9 ¹(4) A developer shall not be required to enter into a community
10 benefits agreement pursuant to this subsection if the developer
11 submits to the authority a copy of the developer's redevelopment
12 agreement that is certified by the municipality in which the
13 redevelopment project is located.¹

14 g. A developer shall submit, prior to the first disbursement of
15 tax credits under the incentive award agreement, but no later than
16 six months following project completion, satisfactory evidence of
17 actual project costs, as certified by a certified public accountant,
18 evidence of a temporary certificate of occupancy, or other event
19 evidencing project completion that begins the eligibility period
20 indicated in the incentive award agreement. The developer, or an
21 authorized agent of the developer, shall certify that the information
22 provided pursuant to this subsection is true under the penalty of
23 perjury. Claims, records, or statements submitted by a developer to
24 the authority in order to receive tax credits shall not be considered
25 claims, records, or statements made in connection with State tax
26 laws.

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

30
31 61. (New section) a. Up to the limits established in subsection
32 b. of this section and in accordance with an incentive award
33 agreement, beginning upon the receipt of occupancy permits for any
34 portion of the redevelopment project, or upon any other event
35 evidencing project completion as set forth in the incentive award
36 agreement, a developer shall be allowed a total tax credit that shall
37 not exceed 45 percent of the total project cost of the redevelopment
38 project, except for a commercial project that is located in a
39 government-restricted municipality, in which case the total tax
40 credit allowed shall not exceed 50 percent of the total project cost
41 of the commercial project.

42 b. The value of all tax credits approved by the authority under
43 the program for a redevelopment project shall not exceed
44 \$50,000,000 per redevelopment project if located in a qualified
45 incentive tract, government-restricted municipality, or municipality
46 with a Municipal Revitalization Index distress score of at least 50,
47 or \$32,000,000 for any other redevelopment project.

1 62. (New section) a. A developer approved for an incentive
2 award pursuant to sections 58 and 59 of P.L. , c. (C. and
3 C.) (pending before the Legislature as this bill) and that enters
4 an incentive award agreement pursuant to section 60 of P.L. ,
5 c. (C.) (pending before the Legislature as this bill) shall
6 submit annually, commencing in the year in which the incentive
7 award is issued and for the remainder of the eligibility period, a
8 report indicating whether the developer is aware of any condition,
9 event, or act that would cause the developer not to be in compliance
10 with the incentive award agreement or the provisions of sections 54
11 through 67 of P.L. , c. (C.) (pending before the Legislature
12 as this bill) and any additional reporting requirements contained in
13 the incentive award agreement or tax credit certificate. The
14 developer, or an authorized agent of the developer, shall certify that
15 the information provided pursuant to this subsection is true under
16 the penalty of perjury.

17 b. (1) Upon receipt and review of each report submitted
18 during the eligibility period, the authority shall provide to the
19 developer and the director a certificate of compliance indicating the
20 amount of tax credits that the developer may apply against the
21 developer's tax liability.

22 (2) Upon receipt by the director of the certificate of compliance,
23 the director shall allow the developer a credit against the tax
24 imposed pursuant to section 5 of P.L.1945, c.162 (C.54:10A-5). A
25 developer shall apply the credit awarded against the developer's
26 liability under section 5 of P.L.1945, c.162 (C.54:10A-5), sections 2
27 and 3 of P.L.1945, c.132 (C.54:18A-2 and C.54:18A-3), section 1
28 of P.L.1950, c.231 (C.17:32-15), or N.J.S.17B:23-5 for the privilege
29 period during which the director allows the developer a tax credit
30 pursuant to this subsection. A developer shall not carry forward an
31 unused credit unless the developer was unable to use the credit
32 because the developer's redevelopment project was directly
33 impacted due to a natural disaster, state emergency, national
34 emergency, or a situation that was out of the developer's control
35 that impacted the developer's use of the credit that year, in which
36 case the developer is permitted to carry forward an unused credit for
37 up two years upon submitting evidence of the developer's
38 redevelopment project being directly impacted by such a
39 circumstance and receiving approval from the authority. Credits
40 granted to a partnership shall be passed through to the partners,
41 members, or owners, respectively, pro-rata, or pursuant to an
42 executed agreement among the partners, members, or owners
43 documenting an alternate distribution method provided to the
44 director accompanied by any additional information as the director
45 may prescribe.

46 (3) The director shall prescribe the order of priority of the
47 application of the credit allowed under this section and any other
48 credits allowed by law against the tax imposed under section 5 of

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

7 ¹【c. The authority may, pursuant to an amendment to the
8 incentive award agreement, provide short-term stabilization loans to
9 a developer eligible for an incentive award pursuant to
10 subparagraph (b) of paragraph (3) of subsection a. of section 57 or
11 of P.L. , c. (C.) (pending before the Legislature as this
12 bill). The authority may finance the loans authorized pursuant to
13 this subsection through a sale of tax credits to which the developer
14 would be entitled at a future date pursuant to the incentive award
15 agreement and as authorized under this act or through
16 appropriations made available by the Legislature. A developer shall
17 utilize a loan made available pursuant to this subsection exclusively
18 for project costs or to mitigate a project financing gap. The loans
19 shall bear interest at rates and terms deemed appropriate by the
20 authority but shall bear an interest rate of zero percent per year for
21 the first five years of the loan term.】¹

22

23 63. (New section) a. A developer may apply to the director and
24 the chief executive officer of the authority for a tax credit transfer
25 certificate, covering one or more years, in lieu of the developer
26 being allowed any amount of the credit against the tax liability of
27 the developer. The tax credit transfer certificate, upon receipt
28 thereof by the developer from the director and the chief executive
29 officer of the authority, may be sold or assigned, in full or in part in
30 an amount not less than \$25,000, in the privilege period during
31 which the developer receives the tax credit transfer certificate from
32 the director, to another person, who may apply the credit against a
33 tax liability pursuant to section 5 of P.L.1945, c.162 (C.54:10A-5) ,
34 sections 2 and 3 of P.L.1945, c.132 (C.54:18A-2 and C.54:18A-3),
35 section 1 of P.L.1950, c.231 (C.17:32-15), or N.J.S.17B:23-5. The
36 certificate provided to the developer shall include a statement
37 waiving the developer's right to claim the amount of the credit that
38 the developer has elected to sell or assign against the developer's
39 tax liability.

40 b. The developer shall not sell or assign, including a collateral
41 assignment, a tax credit transfer certificate allowed under this
42 section for consideration received by the developer of less than 85
43 percent of the transferred credit amount before considering any
44 further discounting to present value which shall be permitted,
45 except a developer of a residential project consisting of newly-
46 constructed residential units may assign a tax credit transfer
47 certificate for consideration of less than 85 percent subject to the
48 submission of a plan to the authority and the agency to use the

1 proceeds derived from the assignment of tax credits to complete the
2 residential project, except a developer of a residential project
3 consisting of newly-constructed residential units that has received
4 federal low income housing tax credits under 26 U.S.C.
5 s.42(b)(2)(B)(i) may assign a tax credit transfer certificate for
6 consideration of no less than 75 percent subject to the submission of
7 a plan to the authority and the New Jersey Housing and Mortgage
8 Finance Agency to use the proceeds derived from the assignment of
9 tax credits to complete the residential project. The tax credit
10 transfer certificate issued to a developer by the director shall be
11 subject to any limitations and conditions imposed on the application
12 of State tax credits pursuant to sections 54 through 67 of P.L. ,
13 c. (C.) (pending before the Legislature as this bill) and any
14 other terms and conditions that the director may prescribe.

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

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

- 21 (1) the name of the transferrer;
- 22 (2) the name of the transferee;
- 23 (3) the value of the tax credit transfer certificate; and
- 24 (4) the consideration received by the transferrer.

25
26 64. (New section) a. A developer who has entered into an
27 incentive award agreement pursuant to section ¹**[62]** 60¹ of P.L. ,
28 c. (C.) (pending before the Legislature as this bill) may,
29 upon notice to and written consent of the authority and State
30 Treasurer, pledge, assign, transfer, or sell any or all of its right,
31 title, and interest in and to the incentive award agreement and in the
32 incentive awards payable under the incentive award agreement, and
33 the right to receive the incentive awards, along with the rights and
34 remedies provided to the developer under the incentive award
35 agreement. Any assignment shall be an absolute assignment for all
36 purposes, including the federal bankruptcy code.

37 b. Any pledge of an incentive award made by the developer
38 shall be valid and binding from the time the pledge is made and
39 filed in the records of the authority. The incentive award pledged
40 and thereafter received by the developer shall immediately be
41 subject to the lien of the pledge without any physical delivery
42 thereof or further act, and the lien of any pledge shall be valid and
43 binding against all parties having claims of any kind in tort,
44 contract, or otherwise against the developer irrespective of whether
45 the parties have notice thereof. As a condition of any incentive
46 grant, the grantee, assignee, pledgee or subsequent holder of the
47 incentive grant shall immediately file notice of the same with the
48 clerk of the county in which the project is located.

1 c. The authority shall publish on its Internet website the
2 following information concerning each pledge, assignment, transfer,
3 or sale approved by the authority pursuant to this section:

4 (1) the name of the person or entity offering the pledge,
5 assignment, transfer, or sale of a right, title, or interest in an
6 incentive grant agreement or tax credit agreement;

7 (2) the name of the person or entity receiving the pledge,
8 assignment, transfer, or sale of a right, title, or interest in the
9 incentive grant agreement or tax credit agreement;

10 (3) the value of the right, title, or interest in the incentive grant
11 agreement or tax credit agreement; and

12 (4) the consideration received by the person or entity offering
13 the pledge, assignment, transfer, or sale of the right, title, or interest
14 in the incentive grant agreement or tax credit agreement.

15
16 65. (New section) a. As used in this section, "transformative
17 project" means a redevelopment project that has a project financing
18 gap, that has a total project cost of at least \$100,000,000, and that
19 includes 500,000 or more square feet of new or substantially
20 renovated industrial, commercial, or residential space or that
21 includes 250,000 or more square feet of film studios, professional
22 stages, television studios, recording studios, screening rooms, or
23 other infrastructure for film production and which is of special
24 economic importance as measured by the level of new jobs, new
25 capital investment, opportunities to leverage leadership in a high-
26 priority targeted industry, or other state priorities as determined by
27 the authority pursuant to rules and regulations promulgated to
28 implement this section. The criteria developed by the authority
29 shall include, but shall not be limited to:

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

33 (2) for a residential or mixed-use project, the construction of
34 1,000 or more new residential units, 20 percent of which shall be
35 constructed for occupancy by low- and moderate-income
36 households with affordability controls as required under the under
37 the "Fair Housing Act," P.L.1985, c. 222 (C.52:27D-301 et al.) ¹【,
38 which 20 percent shall include, to the extent to which the proposed
39 transformative project would attract or retain a skilled employment
40 base that is important to the State's competitive position generally
41 or to capture economic development opportunities within targeted
42 industries, low-income housing, moderate-income housing,
43 workforce housing, or housing for individuals with special needs,
44 and which 20 percent shall be constructed within the same housing
45 development;】 and at least 5 percent of the residential units
46 constructed as workforce housing, unless: the municipality in which
47 the property is located has received substantive certification from
48 the council and such a reservation is not required under the

1 approved affordable housing plan; the municipality has been given
 2 a judgment of repose or a judgment of compliance by the court, and
 3 such a reservation is not required under the approved affordable
 4 housing plan. If the municipality in which the property is located
 5 has received substantive certification from the council and such a
 6 reservation is not required under the approved affordable housing
 7 plan or the municipality has been given a judgment of repose or a
 8 judgment of compliance by the court, and such a reservation is not
 9 required under the approved affordable housing plan, then the
 10 developer shall reserve at least 10 percent, but not more than 50
 11 percent, of the residential units constructed for occupancy by low-
 12 and moderate-income households with affordability controls as
 13 required under the "Fair Housing Act," P.L.1985, c. 222 (C.52:27D-
 14 301 et al.) and at least 15 percent of the residential units constructed
 15 as workforce housing; and¹

16 (3) the extent to which the proposed project would leverage the
 17 competitive economic development advantages of the State's mass
 18 transit assets, higher education assets, and other economic
 19 development assets in attracting or retaining both employers and
 20 skilled workers generally or in targeted industries ¹【:】 ¹

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

24 b. The authority may award an incentive award to no more than
 25 ¹【seven】 ten¹ transformative projects in accordance with the
 26 provisions of sections 59 through 67 of P.L. , c. (C.);
 27 provided, however, a transformative project shall not be subject to
 28 the competitive application procedure set forth in section 59 of
 29 P.L. , c. (C.) (pending before the Legislature as this bill).
 30 A transformative project receiving an incentive award pursuant to
 31 this section, other than a project that includes 250,000 or more
 32 square feet of film studios, professional stages, television studios,
 33 recording studios, screening rooms or other infrastructure for film
 34 production, shall be located in a distressed municipality, a
 35 government-restricted municipality, or an urban transit hub
 36 municipality. No more than two transformative ¹【project】 projects¹
 37 receiving an incentive award pursuant to this section shall be
 38 located in the same municipality. The authority shall not consider
 39 an application for a transformative project unless the applicant
 40 submits with its application a letter evidencing support for the
 41 transformative project from the governing body of the municipality
 42 in which the transformative project is located.

43 c. The authority shall review the transformative project cost,
 44 evaluate and validate the project financing gap estimated by the
 45 developer, and conduct a State fiscal impact analysis to ensure that
 46 the overall public assistance provided to the transformative project
 47 will result in a net positive benefit to the State. In determining

1 whether a transformative project will result in a net positive benefit
2 to the State, the authority shall not consider the value of any taxes
3 exempted, abated, rebated, or retained under the "Five-Year
4 Exemption and Abatement Law," P.L.1991, c.441 (C.40A:21-1 et
5 seq.), the "Long Term Tax Exemption Law," P.L.1991, c.431
6 (C.40A:20-1 et al.), the "New Jersey Urban Enterprise Zones Act,"
7 P.L.1983, c.303 (C.52:27H-60 et seq.), or any other law that has the
8 effect of lowering or eliminating the developer's State or local tax
9 liability. The determination made pursuant to this subsection shall
10 be based on the potential tax liability of the developer without
11 regard for potential tax losses if the developer were to locate in
12 another state. The authority shall assess the cost of these reviews to
13 the applicant. A developer shall pay to the authority the full
14 amount of the direct costs of an analysis concerning the developer's
15 application for an incentive award that a third party retained by the
16 authority performs, if the authority deems such retention to be
17 necessary. The authority shall evaluate the net economic benefits
18 on a present value basis under which the requested tax credit
19 allocation amount is discounted to present value at the same
20 discount rate as the projected benefits from the implementation of
21 the proposed transformative project for which an award of tax
22 credits is being sought. Projects that are predominantly residential
23 shall be excluded from the calculation of the net benefit test
24 required pursuant to this subsection.

25 d. In determining net benefits for any business or person
26 considering locating in a transformative project and applying to
27 receive from the authority any other economic development
28 incentive subsequent to the award of transformative project tax
29 credits pursuant to section 65 of P.L. , c. (C.) (pending
30 before the Legislature as this bill), the authority shall not credit the
31 business or person with any benefit that was previously credited to
32 the transformative project pursuant to section 65 of P.L. ,
33 c. (C.) (pending before the Legislature as this bill).

34 e. The authority shall administer the credits awarded pursuant
35 to this section in accordance with the provisions of sections 62 and
36 63 of P.L. , c. (C. and C.) (pending before the
37 Legislature as this bill).

38 f. Prior to allocating an incentive award to a developer, the
39 Department of Labor and Workforce Development, the Department
40 of Environmental Protection, and the Department of the Treasury
41 shall each report to the chief executive officer of the authority
42 whether the developer and each contractor and subcontractor
43 performing work at the transformative project is in substantial good
44 standing with the respective department, or has entered into an
45 agreement with the respective department that includes a practical
46 corrective action plan. The authority may also contract with an
47 independent third party to perform a background check on the
48 applicant.

1 g. Notwithstanding the limitation on incentive awards set forth
2 in subsection b. of section 61 and section 98 of P.L. ,
3 c. (C.) (pending before the Legislature as this bill) to the
4 contrary, the authority may allow a developer of a transformative
5 project a tax credit, as reimbursement for certain project financing
6 gap costs, in an amount not to exceed 30 percent of the total project
7 cost, the total value of the project financing gap, or \$250,000,000
8 whichever is less.

9
10 66. (New section) Beginning the year next following the year in
11 which P.L. , c. (C.) (pending before the Legislature as this
12 bill) takes effect and every two years thereafter, a State college or
13 university established pursuant to chapter 64 of Title 18A of the
14 New Jersey Statutes shall, pursuant to an agreement executed
15 between the State college or university and the authority, prepare a
16 report on the implementation of the program, and submit the report
17 to the authority, the Governor, and, pursuant to section 2 of
18 P.L.1991, c.164 (C.52:14-19.1), to the Legislature. Each biennial
19 report required under this section shall include a description of each
20 redevelopment project receiving a tax credit under the program, a
21 detailed analysis of the consideration given in each project to the
22 factors set forth in sections 58 and 59 of P.L. , c. (C. ,
23 C. , and C.) (pending before the Legislature as this bill),
24 in the case of a commercial project, the return on investment for
25 incentive awards provided and the commercial project's impact on
26 the State's economy, and any other metrics the State college or
27 university determines are relevant based upon national best
28 practices. The authority shall prepare a written response to the
29 report, which the authority shall submit to the Governor and,
30 pursuant to section 2 of P.L.1991, c.164 (C.52:14-19.1), to the
31 Legislature.

32
33 67. (New section) Notwithstanding the provisions of the
34 "Administrative Procedure Act," P.L.1968, c.410 (C.52:14B-1 et
35 seq.), to the contrary, the chief executive officer of the authority
36 may adopt, immediately, upon filing with the Office of
37 Administrative Law, regulations that the chief executive officer
38 deems necessary to implement the provisions of sections 54 through
39 67 of P.L. , c. (C.) (pending before the Legislature as this
40 bill), which regulations shall be effective for a period not to exceed
41 180 days from the date of the filing. The chief executive officer
42 shall thereafter amend, adopt, or readopt the regulations in
43 accordance with the requirements of P.L.1968, c.410 (C.52:14B-1
44 et seq.).

45
46 68. (New section) Sections 68 through 81 of P.L. ,
47 c. (C.) (pending before the Legislature as this bill) shall be
48 known and may be cited as the "Emerge Program Act."

1 69. (New section) As used in sections 68 through 81 of P.L. ,
2 c. (C.) (pending before the Legislature as this bill):

3 "Affiliate" means an entity that directly or indirectly controls, is
4 under common control with, or is controlled by the business.
5 Control exists in all cases in which the entity is a member of a
6 controlled group of corporations, as defined pursuant to section
7 1563 of the Internal Revenue Code of 1986 (26 U.S.C. s.1563), or
8 the entity is an organization in a group of organizations under
9 common control, as defined pursuant to subsection (c) of section
10 414 of the Internal Revenue Code of 1986 (26 U.S.C. s.414). A
11 taxpayer may establish by clear and convincing evidence, as
12 determined by the Director of the Division of Taxation in the
13 Department of the Treasury, that control exists in situations
14 involving lesser percentages of ownership than required by sections
15 1563 and 414 of the Internal Revenue Code of 1986 (26 U.S.C.
16 ss.1563 and 414).

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

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

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

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

39 "Business" means an applicant proposing to own or lease
40 premises in a qualified business facility that is: a corporation that is
41 subject to the tax imposed pursuant to section 5 of P.L.1945, c.162
42 (C.54:10A-5), sections 2 and 3 of P.L.1945, c.132 (C.54:18A-2 and
43 C.54:18A-3), section 1 of P.L.1950, c.231 (C.17:32-15), or
44 N.J.S.17B:23-5, or is a partnership, S corporation, limited liability
45 company, or non-profit corporation. A business shall include an
46 affiliate of the business if that business applies for a credit based
47 upon any capital investment made by or full-time employees of an
48 affiliate. If the business or tenant is a cooperative or part of a

1 cooperative, then the cooperative may qualify for credits by
2 counting the full-time employees and capital investments of its
3 member organizations, and the cooperative may distribute credits to
4 its member organizations. If the business or tenant is a cooperative
5 that leases to its member organizations, the lease shall be treated as
6 a lease to an affiliate or affiliates. A business shall include an
7 affiliate of the business if that business applies for a credit based
8 upon any capital investment made by full-time employees of an
9 affiliate.

10 "Capital investment" means expenses that a business or an
11 affiliate of the business incurs following its submission of an
12 application to the authority pursuant to section 72 of P.L. ,
13 c. (C.) (pending before the Legislature as this bill), but prior
14 to the project completion date, as shall be defined in the project
15 agreement, for: a. site preparation and construction, repair,
16 renovation, improvement, equipping, or furnishing on real property
17 or of a building, structure, facility, or improvement to real property;
18 b. obtaining and installing furnishings and machinery, apparatus, or
19 equipment, including but not limited to material goods subject to
20 bonus depreciation under sections 168 and 179 of the federal
21 Internal Revenue Code (26 U.S.C. ss.168 and 179), for the
22 operation of a business on real property or in a building, structure,
23 facility, or improvement to real property; or any combination of the
24 foregoing.

25 "College or university" means a county college, an independent
26 institution of higher education, a public research university, or a
27 State college.

28 "Commitment period" means a period that is 1.5 times the
29 eligibility period specified in the project agreement entered into
30 pursuant to section 73 of P.L. , c. (C.) (pending before the
31 Legislature as this bill), rounded up, for each applicable phase
32 agreement.

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

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

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

47 "Doctoral university" means a university located within New
48 Jersey that is classified as a doctoral university under the Carnegie

1 Classification of Institutions of Higher Education's Basic
2 Classification methodology on the effective date of P.L.2017, c.221.

3 "Eligibility period" means the period in which an eligible
4 business may claim a tax credit under the program for a given
5 project phase, beginning with the tax period in which the authority
6 accepts certification of the eligible business that it has met the
7 capital investment and employment requirements of the program for
8 the respective project phase, and extending thereafter for a term of
9 not more than seven years, with the term to be determined at the
10 discretion of the applicant, provided that the term of the eligibility
11 period may consist of nonconsecutive tax years if the applicant
12 elects at any time after the end of the first tax period of the
13 eligibility period to defer the continuation of the eligibility period to
14 a subsequent tax period. The authority may extend the eligibility
15 period one additional tax period to accommodate a prorated
16 payment pursuant to paragraph (2) of subsection a. of section 77 of
17 P.L. , c. (C.) (pending before the Legislature as this bill).

18 "Eligible business" means any business that satisfies the criteria
19 set forth in section 71 of P.L. , c. (C.) (pending before the
20 Legislature as this bill) at the time of application for tax credits
21 under the program.

22 "Eligible position" or "full-time job" means a full-time position
23 in a business in this State which the business has filled with a full-
24 time employee. An eligible position shall not include an
25 independent contractor or a consultant.

26 "Employment and Investment Corridor" means the portions of
27 the qualified incentive area that are not located within a distressed
28 municipality and which:

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

37 b. intersect with portions of: a port district, a qualified
38 incentive tract, or federally-owned land approved for closure under
39 a federal Commission on Base Realignment and Closure action;

40 c. are the proposed site of a qualified incubator facility, a
41 tourism destination project, or transit oriented development; or

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

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

7 "Full-time employee" means a person:

8 a. who is employed by a business for consideration for at least
9 35 hours a week, or who renders any other standard of service
10 generally accepted by custom or practice as full-time employment,
11 and whose wages are subject to withholding as provided in the
12 "New Jersey Gross Income Tax Act," N.J.S.54A:1-1 et seq.;

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

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

31 A "full time employee" further means a person who, except for
32 purposes of the Statewide workforce, is provided, by the business,
33 with employee health benefits under a health benefits plan
34 authorized pursuant to State or federal law and who is paid no less
35 than \$15 per hour or 120 percent of the minimum wage fixed under
36 subsection a. of section 5 of P.L.1966, c.113 (C.34:11-56a4),
37 whichever is higher.

38 With respect to a logistics, manufacturing, energy, defense,
39 aviation, or maritime business, excluding primarily warehouse or
40 distribution operations, located in a port district having a container
41 terminal, the requirement that employee health benefits are to be
42 provided shall be deemed to be satisfied if the benefits are provided
43 in accordance with industry practice by a third party obligated to
44 provide such benefits pursuant to a collective bargaining agreement
45 **[;]** ¹

46 A "full-time employee" shall include, but shall not be limited to,
47 an employee that has been hired by way of a labor union hiring hall
48 or its equivalent. 35 hours of employment per week qualified

1 business facility shall constitute one "full-time employee,"
2 regardless of whether or not the hours of work were performed by
3 one or more persons.

4 "Full-time employee" shall not include any person who works as
5 an independent contractor or on a consulting basis for the business
6 or a contract worker whose income is subject to withholding as
7 provided in the "New Jersey Gross Income Tax Act," N.J.S.54A:1-1
8 et seq., except that any person working as an independent contractor
9 or contract worker whose income is subject to withholding as
10 provided in the "New Jersey Gross Income Tax Act," N.J.S.54A:1-1
11 et seq., for the business shall be deemed a full-time employee if the
12 business demonstrates to the authority that: (a) the person working
13 as an independent contractor for the business works at least 35
14 hours per week or renders any other standard service generally
15 accepted by custom or practice as full- time employment, and the
16 person is provided with employee health benefits under a health
17 benefits plan authorized pursuant to State or federal law; and (b) the
18 business provides documentation to the authority to permit the
19 authority to verify the compensation paid to, and the time worked
20 by, the person working as an independent contractor. The business
21 shall provide to the authority an annual report that identifies the
22 number of persons working as independent contractors for the
23 business and their contractual or partnering relationship with the
24 business ¹as provided pursuant to subsection i. of section 3 of
25 P.L.2011, c.149 (C.34:1B-244)]¹.

26 "Full-time employee" shall not include any person who, at the
27 time of project application, works in New Jersey for consideration
28 for at least 35 hours per week for the business, or who renders any
29 other standard of service generally accepted by custom or practice
30 as full-time employment, but who, prior to project application, was
31 not provided, by the business, with employee health benefits under
32 a health benefits plan authorized pursuant to State or federal law.

33 "Government-restricted municipality" means a municipality in
34 this State with a municipal revitalization index distress score of at
35 least 75, that met the criteria for designation as an urban aid
36 municipality in the 2019 State fiscal year, and that, on the effective
37 date of P.L. , c. (C.) (pending before the Legislature as this
38 bill), is subject to financial restrictions imposed pursuant to the
39 Municipal Stabilization and Recovery Act ¹[of 2016]¹, P.L.2016,
40 c.4 ¹[(52:27BBBB-1)] (C.52:27BBBB-1 et seq.)¹, or is restricted in
41 its ability to levy property taxes on property in that municipality as
42 a result of the State of New Jersey owning or controlling property
43 representing at least 25 percent of the total land area of the
44 municipality or as a result of the federal government of the United
45 States owning or controlling at least 50 acres of the total land area
46 of the municipality, which is dedicated as a national natural
47 landmark.

1 "Incentive agreement" means the contract between the business
2 and the authority, which sets forth the terms and conditions under
3 which the business shall be eligible to receive the incentives
4 authorized pursuant to the program.

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

8 "Incentive area" means:

9 a. an aviation district;

10 b. a port district;

11 c. a distressed municipality or transit hub municipality;

12 d. an area designated pursuant to the "State Planning Act,"
13 P.L.1985, c.398 (C.52:18A-196 et seq.), as Planning Area 1
14 (Metropolitan), Planning Area 2 (Suburban), Planning Area 3
15 (Fringe Planning Area); or a Designated Center under the State
16 Development and Redevelopment Plan, provided an area designated
17 as Planning Area 2 (Suburban) or Planning Area 3 (Fringe Planning
18 Area) or a Designated Center shall be located within a one-half mile
19 radius of the mid-point, with bicycle and pedestrian connectivity, of
20 a New Jersey Transit Corporation, Port Authority Transit
21 Corporation, or Port Authority Trans-Hudson Corporation rail, bus,
22 or ferry station, including all light rail stations, or a high frequency
23 bus stop as certified by the New Jersey Transit Corporation.

24 e. an area located within a smart growth area and planning area
25 designated in a master plan adopted by the New Jersey
26 Meadowlands Commission pursuant to subsection (i) of section 6 of
27 P.L.1968, c.404 (C.13:17-6) or subject to a redevelopment plan
28 adopted by the New Jersey Meadowlands Commission pursuant to
29 section 20 of P.L.1968, c.404 (C.13:17-21);

30 f. an area located within any land owned by the New Jersey
31 Sports and Exposition Authority, established pursuant to P.L.1971,
32 c.137 (C.5:10-1 et seq.), within the boundaries of the Hackensack
33 Meadowlands District as delineated in section 4 of P.L.1968, c.404
34 (C.13:17-4);

35 g. an area located within a regional growth area, rural
36 development area zoned for industrial use as of the effective date of
37 P.L.2016, c.75, or town, village, or a military and federal
38 installation area designated in the comprehensive management plan
39 prepared and adopted by the Pinelands Commission pursuant to the
40 "Pinelands Protection Act," P.L.1979, c.111 (C.13:18A-1 et seq.);

41 h. an area located within a government-restricted municipality;

42 i. an area located within land approved for closure under any
43 federal Commission on Base Realignment and Closure action;

44 j. an area located within an area designated pursuant to the
45 "State Planning Act," P.L.1985, c.398 (C.52:18A-196 et seq.), as
46 Planning Area 4A (Rural Planning Area), Planning Area 4B
47 (Rural/Environmentally Sensitive), or Planning Area 5
48 (Environmentally Sensitive), so long as that area designated as

1 Planning Area 4A (Rural Planning Area), Planning Area 4B
2 (Rural/Environmentally Sensitive), or Planning Area 5
3 (Environmentally Sensitive) is located within: (1) a designated
4 center under the State Development and Redevelopment Plan; (2) a
5 designated growth center in an endorsed plan until the State
6 Planning Commission revises and readopts New Jersey's State
7 Strategic Plan and adopts regulations to revise this definition as it
8 pertains to Statewide planning areas; (3) any area determined to be
9 in need of redevelopment pursuant to sections 5 and 6 of P.L.1992,
10 c.79 (C.40A:12A-5 and C.40A:12A-6) or in need of rehabilitation
11 pursuant to section 14 of P.L.1992, c.79 (C.40A:12A-14); (4) any
12 area on which a structure exists or previously existed including any
13 desired expansion of the footprint of the existing or previously
14 existing structure provided the expansion otherwise complies with
15 all applicable federal, State, county, and local permits and
16 approvals; or (5) any area on which an existing tourism destination
17 project is located; or

18 k. an area located in a qualified opportunity zone.

19 "Incentive phase agreement" means a sub-agreement of the
20 incentive agreement that governs the timing, capital investment,
21 employment levels, and other applicable details of the respective
22 phase.

23 "Independent institution of higher education" means a college or
24 university incorporated and located in New Jersey, which by virtue
25 of law, character, or license is a nonprofit educational institution
26 authorized to grant academic degrees and which provides a level of
27 education that is equivalent to the education provided by the State's
28 public institutions of higher education, as attested by the receipt of
29 and continuation of regional accreditation by the Middle States
30 Association of Colleges and Schools, and which is eligible to
31 receive State aid under the provisions of the Constitution of the
32 United States and the Constitution of the State of New Jersey, but
33 does not include any educational institution dedicated primarily to
34 the education or training of ministers, priests, rabbis, or other
35 professional persons in the field of religion.

36 "Industrial premises" or "industrial space" means premises or
37 space in which at least 51 percent of the square footage will be or
38 has been used for the assembling, processing, manufacturing, or any
39 combination thereof, of finished or partially finished products from
40 materials or fabricated parts, including, but not limited to, factories
41 or as a warehouse if the business uses the warehouse as part of the
42 chain of distribution for products assembled, processed,
43 manufactured, or any combination thereof, by the business at the
44 qualified business facility; for the breaking or demolishing of
45 finished or partially finished products; or for the production of oil
46 or gas or the generation or transformation of electricity.

47 "Industrial use" means assembling, processing, manufacturing, or
48 any combination thereof, of finished or partially finished products

1 from materials or fabricated parts; the breaking or demolishing of
2 finished or partially finished products; or the production of oil or
3 gas or the generation or transformation of electricity. "Industrial
4 use" includes farming purposes as that term is defined under ¹["IRC
5 section"] 26 U.S.C. s. 16420(c)(3)(A), undertaken in an industrial
6 space.

7 "Infrastructure Fund" means the Recovery Infrastructure Fund
8 established pursuant to section 79 of P.L. , c. (C.) (pending
9 before the Legislature as this bill) to fund local infrastructure
10 improvements.

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

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

40 "Mega project" means a project of special economic importance,
41 as determined pursuant to regulations adopted by the ¹["chief
42 executive officer of the authority"] board¹, as measured by the level
43 of new jobs, new capital investment, and opportunities to leverage
44 leadership in a high-priority targeted industry, as determined by the
45 authority pursuant to rules and regulations promulgated to
46 implement ¹sections 68 through 81 of¹ P.L. , c. (C.)
47 (pending before the Legislature as this bill).

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

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

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

18 "Other eligible area" means the portions of the incentive area
19 that are not located within a distressed municipality, or the
20 employment and investment corridor.

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

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

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

35 "Program" means the Emerge Program established by section 70
36 of P.L. , c. (C.) (pending before the Legislature as this
37 bill).

38 "Project" means the capital investment and the employment
39 commitment at a qualified business facility pursuant to the project
40 agreement.

41 "Project agreement" means the contract executed between an
42 eligible business and the authority pursuant to section ¹[75] 73¹ of
43 P.L. , c. (C.) (pending before the Legislature as this bill),
44 which sets forth the terms and conditions under which the eligible
45 business may receive the incentives authorized pursuant to the
46 program.

47 "Project labor agreement" means a form of pre-hire collective
48 bargaining agreement covering terms and conditions of a specific

1 project that satisfies the requirements set forth in section 5 of
2 P.L.2002, c.44 (C.52:38-5).

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

5 "Qualified business facility" means any building, complex of
6 buildings, or structural components of buildings, and all machinery
7 and equipment located therein, used in connection with the
8 operation of a business that is not engaged in final point of sale
9 retail business at that location, unless the building, complex of
10 buildings or structural components of buildings, and all machinery
11 and equipment therein, are used in connection with the operation of
12 a tourism destination project located in the Atlantic City Tourism
13 District as established pursuant to section 5 of P.L.2011, c.18
14 (C.5:12-219).

15 "Qualified incentive tract" means: ¹[(i)] a.¹ a population census
16 tract having a poverty rate of 20 percent or more; or ¹[(ii)] b.¹ a
17 census tract in which the median family income for the census tract
18 does not exceed 80 percent of the greater of the Statewide median
19 family income or the median family income of the metropolitan
20 statistical area in which the census tract is situated.

21 "Qualified incubator facility" means a commercial building
22 located within an incentive area: that contains 5,000 or more square
23 feet of office, laboratory, or industrial space; that is located near,
24 and presents opportunities for collaboration with, a research
25 institution, teaching hospital, college, or university; and within
26 which at least 50 percent of the gross leasable area is restricted for
27 use by one or more technology startup companies during the
28 commitment period.

29 "Qualified opportunity zone" means a federal population census
30 tract in this State that was eligible to be designated as a qualified
31 opportunity zone pursuant to 26 U.S.C. s.1400Z-1.

32 "Quality child care facility" is a child care center licensed by the
33 Department of Children and Families, operating continuously,
34 which has not been subject to an enforcement action, and which has
35 and maintains a total licensed capacity of at least 60 children age 6
36 years or younger.

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

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

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

1 "Small business" means a business engaged primarily in a
2 targeted industry with fewer than 100 employees, as determined at
3 the time of application.

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

6 "Targeted industry" means any industry identified from time to
7 time by the authority which shall initially include advanced
8 transportation and logistics, advanced manufacturing, aviation,
9 autonomous vehicle and zero-emission vehicle research or
10 development, clean energy, life sciences, hemp processing,
11 information and high technology, finance and insurance,
12 professional services, film and digital media, ¹**[and]**¹ non-retail
13 food and beverage businesses ¹**[,]**¹ including food innovation ¹**[,]**¹
14 and other innovative industries that disrupt current technologies or
15 business models.

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

24 "Transit oriented development" means a qualified business
25 facility located within a 1/2-mile radius, or one-mile radius for
26 projects located in a Government-restricted municipality,
27 surrounding the mid-point of a New Jersey Transit Corporation,
28 Port Authority Transit Corporation, or Port Authority Trans-Hudson
29 Corporation rail, bus, or ferry station platform area, including all
30 light rail stations.

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

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

44 "Transit Village" means a municipality that has been designated
45 as a transit village by the Commissioner of Transportation and the
46 Transit Village Task Force ¹**[established pursuant to P.L.1985,**
47 **c.398 (C.27:1A-5)]¹.**

1 70. (New section) a. The Emerge Program is hereby
2 established as a program under the jurisdiction of the New Jersey
3 Economic Development Authority. The authority shall administer
4 the program to encourage economic development, job creation, and
5 the retention of significant numbers of jobs in imminent danger of
6 leaving the State. The board may approve the award of tax credits
7 to an eligible business upon application of the chief executive
8 officer of the eligible business and following the execution of a
9 letter of intent and the payment of fees, subject to the limitations set
10 forth in subsection b. of this section:

11 b. value of all tax credits approved by the authority for
12 businesses eligible pursuant to section 71 of P.L. , c. (C.)
13 shall be subject to the limitations set forth in section 98 of P.L. ,
14 c. (C.) (pending before the Legislature as this bill).
15

16 71. (New section) a. Beginning on the effective date of P.L. ,
17 c. (C.) (pending before the Legislature as this bill), but prior
18 to March 1, 2027, to be eligible for tax credits under the program, a
19 business's chief executive officer, or equivalent officer, shall
20 demonstrate to the authority at the time of application that:

21 (1) the business will make, acquire, or lease a capital investment
22 at the qualified business facility equal to or greater than the
23 applicable amount set forth in subsection b. of this section;

24 (2) the business will create or retain new and retained full-time
25 jobs at the qualified business facility in an amount equal to or
26 greater than the applicable number set forth in subsection c. of this
27 section;

28 (3) the qualified business facility is located in a qualified
29 incentive area;

30 (4) the award of tax credits will be a material factor in the
31 business's decision to create or retain the number of new and
32 retained full-time jobs set forth in its application;

33 (5) the award of tax credits, the capital investment resultant
34 from the award of tax credits, and the resultant creation and
35 retention of new and retained full-time jobs will yield a net positive
36 benefit to the State equaling at least 400 percent of the requested
37 tax credit allocation amount, or for a phased project the requested
38 tax credit allocation amount for the initial phase, and on a
39 cumulative basis each phase thereafter, which determination shall
40 be calculated prior to considering the value of the requested tax
41 credit under the program and shall be based on the benefits
42 generated during the period of time from approval through the end
43 of the commitment period, or through the end of the longer period
44 of extended commitment that the business may elect for purposes of
45 receiving credit for benefits projected to occur after the expiration
46 of the commitment period, except that:

47 (a) an award of tax credits to a business for a qualified business
48 facility located in a distressed municipality or transit hub

1 municipality shall yield a net positive benefit to the State, based on
2 the benefits generated during the period of time from approval
3 through the end of the commitment period, that equals at least 300
4 percent of the requested tax credit amount;

5 (b) an award of tax credits to a business for a qualified business
6 facility located in a government-restricted municipality, or for a
7 mega project, shall yield a net positive benefit to the State, based on
8 the benefits generated during the period of time from approval
9 through the end of the commitment period, that equals at least 200
10 percent of the requested tax credit amount;

11 (c) the net economic benefits shall be evaluated on a present
12 value basis with the requested tax credit allocation amount
13 discounted to present value at the same discount rate as the benefits
14 from capital investment resultant from the award of tax credits and
15 the resultant retention and creation of full-time jobs as provided in
16 subparagraph (d) of this paragraph; and

17 (d) the net economic benefits shall be discounted to reflect the
18 uncertainty of the business's location after the commitment period
19 expires, provided that a business may elect a period of extended
20 commitment for which time the economic benefits shall be
21 creditable to the determination of the net economic benefit of the
22 project, and a business electing a period of extended commitment
23 and failing to maintain the project through the expiration of that
24 extended commitment period shall be obligated to repay a
25 proportion of the incremental benefits received on account of
26 having extended the commitment period, taking into consideration
27 the number of years of extended commitment during which the
28 business maintained the project;

29 (e) in making the determination required pursuant to this
30 paragraph, the authority shall not consider the value of any taxes
31 exempted, abated, rebated, or retained under the "Five-Year
32 Exemption and Abatement Law," P.L.1991, c.441 (C.40A:21-1 et
33 seq.), the "Long Term Tax Exemption Law," P.L.1991, c.431
34 (C.40A:20-1 et al.), the "New Jersey Urban Enterprise Zones Act,"
35 P.L.1983, c.303 (C.52:27H-60 et seq.), or any other law that has the
36 effect of lowering or eliminating the business's State or local tax
37 liability, and the business's chief executive officer or equivalent
38 officer shall certify, under the penalty of perjury, that all documents
39 submitted, and factual assertions made, to the authority to
40 demonstrate that the award of tax credits will yield a net positive
41 benefit to the State in accordance with this paragraph are true and
42 accurate at the time of submission;

43 ¹(f) If, during the term of the program, the methodology used by
44 the authority in projecting benefits of a project in making the
45 determination required pursuant to this paragraph is modified, the
46 respective percentages by which the benefits must exceed the
47 requested tax credit allocation amount set forth pursuant to this
48 paragraph (5) may be adjusted to ensure consistent application of

1 the respective thresholds in this paragraph (5) applied to each
2 application;¹

3 (6) the qualified business facility shall be in compliance with
4 minimum environmental and sustainability standards;

5 (7) the project shall comply with the authority's affirmative
6 action requirements, adopted pursuant to section 4 of P.L.1979, ¹**["c.**
7 **203] c.303**¹ (C.34:1B-5.4); and

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

14 (i) the work performed under the contract is performed at a
15 qualified business facility owned by a landlord that is not a business
16 receiving authority assistance;

17 (ii) the landlord is a party to the construction contract; and

18 (iii) the qualified business facility constitutes a lease of less than
19 35 percent of the qualified business facility at the time of contract
20 and under any agreement to subsequently lease the qualified
21 business facility.

22 (b) In accordance with section 1 of P.L.1979, c.303 (C.34:1B-
23 5.1), nothing in this paragraph shall be construed as requiring the
24 payment of prevailing wage for construction commencing more
25 than two years after a business has executed with the authority a
26 commitment letter regarding authority financial assistance and the
27 first payment or other provision of the assistance is received.

28 b. (1) The minimum capital investment required to be eligible
29 under the program shall be as follows:

30 (a) for the rehabilitation, improvement, fit-out, or retrofit of an
31 existing industrial, warehousing, logistics, or research and
32 development portion of the premises for continued similar use by
33 the business, a minimum investment of \$20 per square foot of gross
34 leasable area;

35 (b) for the new construction of an industrial, warehousing,
36 logistics, or research and development portion of the premises for
37 use by the business, a minimum investment of \$60 per square foot
38 of gross leasable area;

39 (c) for the rehabilitation, improvement, fit-out, or retrofit of
40 existing portion of the premises that does not qualify pursuant to
41 subparagraph (a) or (b) of this paragraph, a minimum investment of
42 \$40 per square foot of gross leasable area;

43 (d) for the new construction of a portion of the premises that
44 does not qualify pursuant to subparagraph (a) or (b) of this
45 paragraph, a minimum investment of \$120 per square foot of gross
46 leasable area; and

47 (e) for a small business, no new minimum capital investment
48 shall be required, provided the applicant has demonstrated evidence

1 satisfactory to the authority of its intent to remain in the State for
2 the commitment period.

3 (2) In the event the business invests less than that amount set
4 forth in paragraph (1) of this subsection in the qualified business
5 facility, the business shall donate the uninvested balance to the
6 infrastructure fund established pursuant to section 79 of P.L. ,
7 c. (C.) (pending before the Legislature as this bill).

8 (3) Notwithstanding the provisions of paragraphs (1) and (2) of
9 this subsection, the authority may adopt, pursuant to the provisions
10 of the "Administrative Procedure Act," P.L.1968, c.410 (C.52:14B-
11 1 et seq.), rules and regulations adjusting the minimum capital
12 investment amounts required under the program when necessary to
13 respond to the prevailing economic conditions in the State.

14 c. (1) The minimum number of new or retained full-time jobs
15 required to be eligible under the program shall be as follows:

16 (a) for a small business, 25 percent growth of its workforce with
17 new full-time jobs within the eligibility period in accordance with
18 subsection e. of section 76 of P.L. , c. (C.) (pending before
19 the Legislature as this bill);

20 (b) for a business engaged primarily in a targeted industry which
21 does not qualify as a small business, 25 new full-time jobs;

22 (c) for any other business, a minimum of 35 new full-time jobs;

23 (d) for a business located in qualified incentive tract or
24 government-restricted municipality that will retain 500 or more
25 retained full-time jobs, a minimum of the business's retained full-
26 time jobs at the time of application and new construction or
27 rehabilitation, improvement, fit-out, or retrofit of an existing
28 portion of the premises equal in size to the space occupied by the
29 business's retained full-time jobs at the time of application;

30 (e) for a business located in the State that will retain 1,000 or
31 more retained full-time jobs, a minimum of the business's retained
32 full-time jobs at the time of application and new construction or
33 rehabilitation, improvement, fit-out, or retrofit of an existing
34 portion of the premises equal in size to the space occupied by the
35 business's retained full-time jobs at the time of application.

36 (2) Notwithstanding the provisions of paragraph (1) of this
37 subsection, the authority may adopt, pursuant to the provisions of
38 the "Administrative Procedure Act," P.L.1968, c.410 (C.52:14B-1 et
39 seq.), rules and regulations adjusting the minimum number of new
40 or retained full-time jobs required under the program when
41 necessary to respond to the prevailing economic conditions in the
42 State.

43 d. A business shall provide and adhere to a plan that
44 demonstrates that the qualified business facility is capable of
45 accommodating more than half of the business's new or retained
46 full-time employees as approved and shall certify, under the penalty
47 of perjury, that not less than 80 percent ¹**【or more】**¹ of the
48 ¹withholdings of¹ new or retained full-time jobs are ¹**【held by**

1 employees whose earnings are¹ subject to ¹["withholding under"]¹
2 the "New Jersey Gross Income Tax Act," N.J.S.54A:1-1 et seq.
3 ¹["On the effective date of P.L. , c. (C.) (pending before the
4 Legislature as this bill) this requirement shall apply to projects
5 approved under P.L.2011, c.149 (C.34:1B-242 et seq.), P.L.2007,
6 c.346 (C.34:1B-207 et seq.), and P.L.1996, c.26 (C.34:1B-124 et
7 al.)."]¹ The requirements set forth in this subsection may be
8 modified by the authority to respond to an emergency, disaster, or
9 other factors that result in employees of an eligible business having
10 to work from a location other than the qualified business facility.

11 e. The owner of the business, or an authorized agent of the
12 owner, shall certify that all factual representations made by the
13 business to the authority pursuant to subsection a. of this section are
14 true under the penalty of perjury.

15 f. A business eligible pursuant to this section may submit an
16 application to the authority in accordance with the provisions of
17 section 72 of P.L. , c. (C.) (pending before the Legislature
18 as this bill) on or after the effective date of P.L. ,
19 c. (C. or) (pending before the Legislature as this bill)
20 but prior to March 1, 2027.

21

22 72. (New section) a. A business that meets the eligibility
23 criteria in section 71 of P.L. , c. (C. or) (pending
24 before the Legislature as this bill) and is seeking a grant of tax
25 credits for a project under the program shall submit an application
26 for approval of the project to the authority in a form and manner
27 prescribed in regulations adopted by the authority pursuant to the
28 provisions of the "Administrative Procedure Act," P.L.1968, c.410
29 (C.52:14B-1 et seq.).

30 b. (1) Before the board may consider an eligible business's
31 application for tax credits, the Department of Labor and Workforce
32 Development, the Department of Environmental Protection, and the
33 Department of the Treasury shall each report to the chief executive
34 officer of the authority whether the eligible business is in
35 compliance with the respective department, or, if necessary, has
36 entered into an agreement with the respective department that
37 includes a practical corrective action plan for the eligible business.
38 The authority may also contract with an independent third party to
39 perform a background check on the eligible business. Provided that
40 the eligible business is in substantial good standing, or has entered
41 into such an agreement, before the board may approve an eligible
42 business's application for tax credits, the eligible business shall
43 execute a non-binding letter of intent with the chief executive
44 officer of the authority, specifying the amount and terms and
45 conditions of tax credits that the authority is prepared to propose for
46 board approval and that are intended to be a material factor in the
47 decision by the eligible business to create or retain the proposed
48 number of new and retained full-time jobs, and in which the eligible

1 business certifies such tax credits are a material factor in its
2 decision.

3 (2) To assist the authority in determining whether the award of
4 tax credits is a material factor in the eligible business's decision to
5 create or retain the minimum number of new and retained full-time
6 jobs for eligibility under the program, the chief executive officer of
7 the authority shall require the eligible business to submit, as part of
8 its application, a full economic analysis of all locations under
9 consideration by the eligible business; all lease agreements,
10 ownership documents, or substantially similar documentation for
11 the eligible business's current in-State locations; and all lease
12 agreements, ownership documents, or substantially similar
13 documentation for potential out-of-State location alternatives, to the
14 extent they exist. The chief executive officer of the authority may
15 further consider the costs associated with opening and maintaining a
16 business in New Jersey, competitive proposals that the eligible
17 business has received from other states, the prevailing economic
18 conditions, and any other factors that the chief executive officer of
19 the authority deems relevant to assist the authority in determining
20 whether an award of tax credits is a material factor in the eligible
21 business's decision. Based on this information, the authority shall
22 independently verify and confirm the eligible business's assertion
23 that the award of tax credits under the program is a material factor
24 in the eligible business's decision to create or retain the minimum
25 number of new and retained full-time jobs for eligibility under the
26 program and, in the case of retained full-time jobs, the jobs are
27 actually at risk of leaving the State, before the authority may award
28 the eligible business any tax credits under the " Emerge Program
29 Act," sections 70 through 81 of P.L. , c. (C.) (pending
30 before the Legislature as this bill). The owner of the eligible
31 business, or an authorized agent of the owner, shall certify that all
32 factual representations made by the business to the authority
33 pursuant to this paragraph are true under the penalty of perjury.

34 c. An eligible business shall pay to the authority the full
35 amount of the direct costs of an analysis concerning the eligible
36 business's application for a tax credit, which a third party retained
37 by the authority performs, if the authority deems such retention to
38 be necessary. The authority shall have the discretion to waive all or
39 a portion of the costs of application for a small business.

40 d. If at any time during the eligibility period the authority
41 determines that the eligible business made a material
42 misrepresentation on the eligible business's application, the eligible
43 business shall forfeit all tax credits awarded under the program,
44 which shall be in addition to any other criminal or civil penalties to
45 which the business and the officer may be subject.

46 e. If circumstances require an eligible business to amend its
47 application to the authority, then the owner of the eligible business,
48 or an authorized agent of the owner, shall certify to the authority

1 that the information provided in its amended application is true
2 under the penalty of perjury.

3 f. Nothing shall preclude a business from applying for tax
4 credits under the program for more than one project pursuant to one
5 or more applications.

6
7 73. (New section) a. Following approval by the board, but
8 before the issuance of tax credits, the authority shall require an
9 eligible business to enter into a project agreement. The terms of the
10 project agreement shall be consistent with the eligibility
11 requirements of section 71 of P.L. , c. (C.) (pending before
12 the Legislature as this bill), as applicable, and shall include, but
13 shall not be limited to, the following:

14 (1) **[(i)] (a)**¹ a detailed description of the proposed project
15 which will result in job creation or retention, and the number of
16 new and retained full-time jobs that are approved for tax credits;

17 **[(ii)] (b)**¹ for a phased project, an incentive phase agreement
18 for which each phase identifies a description of the phase, the
19 expected capital investment and number of new full-time jobs, and
20 the time following acceptance of the incentive agreement when
21 each phase is to begin and be completed, with the awarding of tax
22 credits under the incentive agreement to be predicated on the
23 number of full-time jobs created through the fulfillment of each
24 incentive phase agreement;

25 (2) the eligibility period of the tax credits or, for a phased
26 project, the eligibility period of the tax credits for each phase;

27 (3) personnel information that will enable the authority to
28 administer the program;

29 (4) a requirement that the eligible business maintain the project
30 at a location in New Jersey for the commitment period, with at least
31 the minimum number of full-time jobs as required by this program,
32 and a provision to permit the authority to recapture all or part of any
33 tax credits awarded, at its discretion, if the eligible business does
34 not remain in compliance with this provision for the required term
35 or significantly reduces the number of full-time employees, or the
36 salaries thereof, to which the eligible business certified at the
37 commencement of the eligibility period;

38 (5) a method for the eligible business to certify that it has met
39 the capital investment and employment requirements of the program
40 set forth in subsections b. and c. of section 71 of P.L. ,
41 c. (C.) (pending before the Legislature as this bill) and to
42 report annually to the authority the number of new and retained
43 full-time employees, and the salaries thereof, for which the tax
44 credits are to be allowed;

45 (6) representations that the eligible business is in substantial
46 good standing or meets the agreement requirements described in
47 paragraph (1) of subsection b. of section 71 of P.L. , c. (C.)
48 (pending before the Legislature as this bill), the project complies

- 1 with all applicable laws, and specifically, that the project does not
2 violate any environmental law;
- 3 (7) a provision permitting an audit of the payroll records of the
4 business from time to time, as the authority deems necessary;
- 5 (8) a provision that the chief executive officer of the authority
6 receives annual reports from the Department of Environmental
7 Protection, the Department of Labor and Workforce Development,
8 and the Department of the Treasury demonstrating that the eligible
9 business and each contractor and subcontractor performing work at
10 the qualified business facility is in compliance with the respective
11 department, or has entered into an agreement with the respective
12 department that includes a practical corrective action plan, and a
13 provision providing that if the eligible business is not in compliance
14 with its legal obligations of rules administered by these departments
15 and has been given formal notice thereof, then the authority may
16 suspend the issuance of tax credits pending resolution of the
17 dispute;
- 18 (9) a requirement for the eligible business to engage in on-site
19 consultations with the Division of Workplace Safety and Health in
20 the Department of Health;
- 21 (10) a provision permitting the authority to amend the
22 agreement;
- 23 and
- 24 (11) a provision establishing the conditions under which the
25 authority, the eligible business, or both, may terminate the
26 agreement.
- 27 b. (1) ¹**[In]** For a project whose total project cost equals or
28 exceeds \$10 million, in¹ addition to the project agreement, an
29 eligible business shall enter into a community benefits agreement
30 with the authority and the county or municipality in which the
31 qualified business facility is located. The agreement may include,
32 but shall not be limited to, requirements for training, employment,
33 and youth development and free services to underserved
34 communities in and around the community in which the qualified
35 business facility is located. Prior to entering a community benefits
36 agreement, the governing body of the county or municipality in
37 which the qualified business facility is located shall hold at least
38 one public hearing at which the governing body shall hear
39 testimony from residents, community groups, and other
40 stakeholders on the needs of the community that the agreement
41 should address.
- 42 (2) The community benefits agreement shall provide for the
43 creation of a community advisory committee to oversee the
44 implementation of the agreement, monitor successes, ensure
45 compliance with the terms of the agreement, and produce an annual
46 public report. The community advisory committee created pursuant
47 to this paragraph shall be comprised of representatives from

1 community groups and residents of the county or municipality in
2 which the qualified business facility is located.

3 (3) At the time the eligible business submits the annual report
4 required pursuant to section 77 of P.L. , c. (C.) (pending
5 before the Legislature as this bill) to the authority, the eligible
6 business shall certify, under the penalty of perjury, that it is in
7 compliance with the terms of the community benefits agreement. If
8 the eligible business fails to provide the certification required
9 pursuant to this paragraph or the authority determines that the
10 eligible business is not in compliance with the terms of the
11 community benefits agreement based on the reports submitted by
12 the community advisory committee pursuant to paragraph (2) of this
13 subsection, then the authority may rescind the award or recapture
14 all or part of any tax credits awarded.

15 ¹(4) An eligible business shall not be required to enter into a
16 community benefits agreement pursuant to this subsection if the
17 eligible business submits to the authority a copy of the eligible
18 business's project agreement that is certified by the municipality in
19 which the project is located.¹

20

21 74. (New section) a. Commencing with the date six months
22 following the date the authority and an eligible business execute a
23 project agreement, the eligible business shall demonstrate that it has
24 obtained site plan approval and has committed financing for, and
25 site control of, the qualified business facility. If the eligible
26 business obtained site control of the qualified business facility prior
27 to the execution of the letter of intent pursuant to section 72 of
28 P.L. , c. (C.) (pending before the Legislature as this bill),
29 then the authority may rescind approval of the award of tax credits,
30 unless the eligible business disclosed the fact that the eligible
31 business had obtained the site prior to executing the letter of intent
32 and the authority determines that the award of tax credits was still a
33 material factor in the eligible business's decision to create or retain
34 the minimum number of new and retained full-time jobs for
35 eligibility under the program. The eligible business shall provide
36 an estimated date of completion and shall submit periodic progress
37 reports. The authority may rescind an award of tax credits if an
38 eligible business fails to provide the information required under this
39 section within the period indicated in the approval of the tax credits
40 by the board. The authority may rescind an award of tax credits
41 under the program if a project fails to advance in accordance with
42 the project agreement.

43 b. Upon completion of the capital investment and employment
44 requirements of the program, an eligible business shall submit to
45 the authority certifications evidencing that the eligible business has
46 satisfied the conditions relating to the capital investment and
47 employment requirements of the project agreement with supporting
48 evidence satisfactory to the authority. Absent extenuating

1 circumstances and the written approval of the authority, the eligible
2 business shall submit the certification within three years following
3 the date of approval of the application. The authority may grant
4 two six-month extensions of the deadline; provided that the date of
5 completion shall not occur later than four years following the date
6 of approval of the application by the authority; provided further that
7 the authority may grant one additional extension not to exceed one
8 year upon a finding by the authority that: (1) the project is delayed
9 due to unforeseeable acts related to the project beyond the eligible
10 business's control and without its fault or negligence; (2) the
11 eligible business is using best efforts, with all due diligence, to
12 proceed with the completion of the project and the submission of
13 the certification; and (3) the eligible business has made, and
14 continues to make, all reasonable efforts to prevent, avoid, mitigate,
15 and overcome the delay. To qualify for the one-year extension, the
16 eligible business shall provide timely notice to the authority of the
17 delay within 30 days after the eligible business has actual or
18 constructive knowledge of the delay, and shall provide periodic
19 reports, not less than every 30 days, of the status of the delay and
20 the steps the eligible business is taking to mitigate or overcome the
21 delay.

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

35 d. The owner of the eligible business, or an authorized agent of
36 the owner, shall certify that the information provided pursuant to
37 this section is true under the penalty of perjury.

38

39 75. (New section) a. The total amount of the tax credit for an
40 eligible business for each new or retained full-time job shall be as
41 set forth in subsections b. through g. of this section. The total tax
42 credit amount shall be calculated and credited to the business
43 annually for each year of the eligibility period, notwithstanding any
44 other provisions of P.L. , c. (C.) (pending before the
45 Legislature as this bill) to the contrary.

46 b. The base amount of the tax credit for each new or retained
47 full-time job for an eligible business shall be as follows:

- 1 (1) for an eligible business facility located within a government-
2 restricted municipality, or which is a mega project, \$4,000 per year;
- 3 (2) for a qualified business facility located within ¹【a distressed
4 municipality】 an enhanced area¹, \$3,500 per year;
- 5 (3) for a qualified business facility located within a ¹【transit hub
6 municipality but not qualifying under paragraph (1) of this
7 subsection, 3,000】 distressed municipality, \$3,000¹ per year;
- 8 (4) for a project in a qualified opportunity zone or an
9 employment and investment corridor, \$2,500 per year; and
- 10 (5) for a project in other eligible areas, \$500 per year.
- 11 c. (1) In addition to the base amount of the tax credit, the
12 amount of the tax credit to be awarded for each new or retained full-
13 time job shall be increased with the following bonuses:
- 14 (a) for an eligible business with a qualified business facility
15 located in a municipality with a Municipal Revitalization Index
16 score greater than 50, an increase of \$1,000 per year;
- 17 (b) for an eligible business with a qualified business facility at
18 which the capital investment in industrial or research and
19 development premises for industrial or research and development
20 use by the business is in excess of the minimum capital investment
21 required for eligibility pursuant to subsection b. of section 71 of
22 P.L. , c. (C.) (pending before the Legislature as this bill),
23 an increase of \$1,000 per year for each additional amount of
24 investment that exceeds the minimum amount required for
25 eligibility by 40 percent, with a maximum increase of \$3,000 per
26 year, unless the project qualifies as a mega project or the qualified
27 business facility is located in a government-restricted municipality,
28 in which case the maximum increase is \$5,000 per year;
- 29 (c) for an eligible business with large numbers of new full-time
30 jobs during the commitment period, the increases shall be in
31 accordance with the following schedule:
- 32 (i) if the number of new full-time jobs is between 251 and 400,
33 \$500 per year;
- 34 (ii) if the number of new full-time jobs is between 401 and 600,
35 \$750 per year;
- 36 (iii) if the number of new full-time jobs is between 601 and 800,
37 \$1000 per year;
- 38 (iv) if the number of new full-time jobs is between 801 and
39 1,000, \$1,250 per year;
- 40 (v) if the number of new full-time jobs is in excess of 1,000,
41 \$1,500 per year;
- 42 (d) for an eligible business that annually funds an industry-
43 specific training program, which has the capacity to enroll 10
44 percent or more of the eligible business's full-time workforce, or
45 pays a State educational institution to provide to the public an
46 industry-specific training program, an increase of \$500 per year;
47 provided, however, that if the training program is provided by a

- 1 State educational institution that is within 10 miles of the qualified
2 business facility, then the increase shall be \$1,000 per year;
- 3 (e) for an eligible business that qualifies as a small business, an
4 increase of \$500 per year;
- 5 (f) ¹[(i)]¹ for an eligible business with new full-time jobs and
6 retained full-time jobs at the qualified business facility with a
7 median salary in excess of the existing median salary for the county
8 in which the project is located, or, in the case of a project in a
9 government-restricted municipality, a business that employees full-
10 time positions at the project with a median salary in excess of the
11 median salary for the government-restricted municipality, an
12 increase of \$250 per year during the eligibility period for each 35
13 percent by which the project's median salary levels exceeds the
14 county or government-restricted municipality median salary, with a
15 maximum increase of \$1,500 per year;
- 16 (g) for an eligible business with a qualified business facility
17 located in a qualified incentive tract, an increase of \$500 per year;
- 18 (h) for an eligible business engaged primarily in a targeted
19 industry, an increase of \$500 per year;
- 20 (i) for an eligible business with a qualified business facility
21 located in a qualified incubator facility, an increase of \$500 per
22 year;
- 23 (j) for an eligible business that enters into a labor harmony
24 agreement in accordance with ¹[(subsection c. of section 73)] section
25 69¹ of P.L. , c. (C.) (pending before the Legislature as this
26 bill), an increase of \$2,000 per year for the portion of the project
27 subject to that labor harmony agreement; ¹provided further that an
28 eligible business receiving a bonus under this subparagraph may
29 exceed the limitation applicable to the eligible business pursuant to
30 subsection d. of this section by an amount not to exceed \$1,000;¹
- 31 (k) for an eligible business that provides its employees access to
32 child care either through an on-site quality child care facility free of
33 charge to its employees or through reimbursements paid by the
34 eligible business to its employees for the cost of child care in
35 accordance with standards adopted by the authority, an increase of
36 \$1,000 per year;
- 37 (l) for an eligible business that enters into a partnership with a
38 prisoner re-entry program for the purpose of identifying and
39 promoting employment opportunities at the eligible business for
40 former inmates and current inmates leaving the corrections system,
41 and that hires at least one active participant in the re-entry program,
42 an increase of \$500 per year.
- 43 (m) for an eligible business with a qualified business facility that
44 exceeds the Leadership in Energy and Environmental Design's
45 "Silver" rating standards but does not exceed "Gold" rating
46 standards or completes substantial environmental remediation, an
47 additional increase of \$250 per year, or for an eligible business with

1 a qualified business facility that exceeds the Leadership in Energy
2 and Environmental Design's "Gold" rating standards, an additional
3 increase of \$500 per year;

4 (n) for an eligible business in a targeted industry with a
5 qualified business facility that is used by the eligible business to
6 conduct a full time collaborative relationship with a college or
7 university, including, but not limited to, a doctoral university, an
8 increase of \$1,000 per year;

9 (o) for an eligible business with a project that generates solar
10 energy on site for use within the qualified business facility of an
11 amount that equals at least 50 percent of the qualified business
12 facility electric supply service needs, an increase of \$500 per year;

13 (p) for an eligible business with a marine terminal project in a
14 municipality located outside a government-restricted municipality,
15 but within the geographical boundaries of the South Jersey Port
16 District, an increase of \$1,500 per year; ¹**and**¹

17 (q) for an eligible business with a qualified business facility
18 located in a qualified opportunity zone, an increase of \$1,000 per
19 year ¹; and

20 (r) for an eligible business if one-third or more of the members
21 of the eligible business's governing board or other governing body
22 self-identify as members of an underrepresented community, which
23 may include Black, African American, Hispanic, Latino, Asian,
24 Pacific Islander, Native American, Native Hawaiian, Alaska Native
25 or gay, lesbian, bisexual or transgender, an increase of \$2,000 per
26 year. The authority shall work with the Chief Diversity Officer or
27 other State entities to ensure that the bonus provided under this
28 subparagraph is implemented faithfully and in compliance with
29 law¹.

30 (2) The authority shall not award a bonus to an eligible business
31 with full-time jobs at the qualified business facility that pay less
32 than \$15 per hour or 120 percent of the minimum wage fixed under
33 subsection a. of section 5 of P.L.1966, c.113 (C.34:11-56a4),
34 whichever is higher.

35 (3) The authority may adopt, pursuant to the provisions of the
36 "Administrative Procedure Act," P.L.1968, c.410 (C.52:14B-1 et
37 seq.), criteria in addition to, or in place of, the criteria set forth in
38 paragraph (1) of this subsection in response to the prevailing
39 economic conditions in the State.

40 d. The gross amount of the tax credit available to an eligible
41 business for each new or retained full-time job shall be the sum of
42 the base amount set forth in subsection b. of this section and the
43 various additional bonus amounts for which the business is eligible
44 pursuant to subsection c. of this section, subject to the following
45 limitations:

46 (1) for a mega project or a project in a government-restricted
47 municipality, the gross amount for each new or retained full-time
48 job shall not exceed \$8,000 per year;

1 (2) for a qualified business facility located within ¹~~【a distressed~~
2 ~~municipality or qualified opportunity zone】~~ an enhanced area¹, the
3 gross amount for each new or retained full-time job shall not exceed
4 \$6,000 per year;

5 (3) for a qualified business facility ¹~~【in a transit hub】~~ within a
6 distressed¹ municipality, the gross amount for each new or retained
7 full-time job shall not exceed \$5,000 per year;

8 (4) for a qualified business facility in ¹a qualified opportunity
9 zone or¹ an employment and investment corridor, the gross amount
10 for each new or retained full-time job shall not exceed \$4,000 per
11 year; and

12 (5) for a qualified business facility in other eligible areas, the
13 gross amount for each new or retained full-time job shall not exceed
14 \$3,000 per year.

15 e. The authority shall reduce the gross amount of tax credits
16 per full-time job if the median salary of new full-time jobs and
17 retained full-time jobs at the qualified business facility is less than
18 the existing median salary for the county in which the qualified
19 business facility is located. The authority shall reduce the gross
20 amount of tax credits per full-time job by an amount, in percentage
21 points, equal to the percentage the median salary of new full-time
22 jobs and retained full-time jobs at the qualified business facility is
23 below the existing median salary for the county in which the
24 qualified business facility is located. The authority shall not award
25 a tax credit to an eligible business if the median salary of new full-
26 time jobs and retained full-time jobs at the qualified business
27 facility is 30 percent or more below the existing median salary for
28 the county in which the qualified business facility is located.

29 f. After the determination by the authority of the gross amount
30 of tax credits for which an eligible business is eligible pursuant to
31 subsection d. of this section, the final total tax credit amount shall
32 be calculated as follows: (1) for each new full-time job, the eligible
33 business shall be allowed tax credits equaling the lesser of 100
34 percent of the gross amount of tax credits for each new full-time
35 job; and (2) for each retained full-time job, the eligible business
36 shall be allowed tax credits equaling 50 percent of the gross amount
37 of tax credits for each retained full-time job.

38 g. Notwithstanding the provisions of subsections a. through f.
39 of this section to the contrary, for each application approved by the
40 board, the amount of tax credits available to be applied by the
41 business annually shall not exceed an amount determined by the
42 authority to be necessary to induce the project to be sited in New
43 Jersey as determined by the board. The authority shall determine
44 the amount necessary to complete the project through staff analysis
45 of all locations under consideration by the eligible business and all
46 lease agreements, ownership documents, or substantially similar
47 documentation for the eligible business's current in-State locations

1 and potential out-of-State location alternatives, competitive
2 proposals from other states, the prevailing economic conditions, and
3 any other information that the authority deems relevant.

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

17 (2) If the annual report filed by an eligible business pursuant to
18 section 77 of P.L. , c. (C.) (pending before the Legislature
19 as this bill) provides that the number of new full-time employees
20 employed by the eligible business at the qualified business facility,
21 or the salaries thereof, was reduced by more than 10 percent of the
22 number of new full-time employees, or salaries thereof, in the
23 annual report of the prior year, or the project agreement if the
24 annual report is the first such report filed, then the authority may
25 reevaluate the net positive economic benefit of the project and
26 reduce the size of the award accordingly. This reduction shall not
27 affect any recapture under subsection f. of this section.

28 b. If, in any tax period, the number of full-time employees
29 employed by the eligible business at the qualified business facility,
30 or the salaries thereof, drops below 80 percent of the number of new
31 and retained full-time jobs, and the salaries thereof, specified in the
32 project agreement or the incentive phase agreement, then the
33 eligible business shall forfeit its tax credit amount for that tax
34 period and each subsequent tax period, until the first tax period for
35 which documentation demonstrating the restoration of the number
36 of full-time employees employed by the eligible business at the
37 qualified business facility to 80 percent of the number of jobs
38 specified in the project agreement or incentive phase agreement or
39 the restoration of 80 percent of the salaries specified in the project
40 agreement is reviewed and approved by the authority.

41 c. Except for an eligible business engaged primarily in a
42 targeted industry with less than 50 employees at application:

43 (1) If the qualified business facility is sold in whole or in part
44 during the eligibility period, the new owner shall not acquire the
45 capital investment of the seller, provided, however, that any tax
46 credits of tenants shall remain unaffected. The seller shall forfeit
47 all tax credits for the tax period in which the sale occurs and all

1 subsequent tax periods, provided, however, that an eligible business
2 may change the location of the qualified business facility if:

3 (a) the new facility:

4 (i) meets all applicable location qualifying criteria and has gross
5 leasable area not less than the gross leasable area of the qualified
6 business facility initially approved by the authority and the alternate
7 qualified business facility meets the minimum capital investment
8 and sustainability requirements of the program; or

9 (ii) does not meet all applicable location qualifying criteria or
10 has less gross leasable area than the gross leasable area of the
11 qualified business facility initially approved by the authority, if the
12 alternate qualified business facility meets the minimum capital
13 investment and sustainability requirements of the program, provided
14 that the authority shall require a new cost benefit analysis
15 illustrating the economics of the project which reflect occupancy at
16 the alternate proposed qualified business facility location for the
17 remaining duration of the commitment period and shall re-calculate
18 the net economic benefit of the project to reflect the economics of
19 occupancy at the alternate proposed location for the remaining
20 duration of the net benefit test period in lieu of the economics of
21 continuing occupancy at the qualified business facility proposed to
22 be vacated, and provided further that the award of tax credits shall
23 be reduced consistent with the variations in qualifying criteria for
24 the alternate qualified business facility location as well as in a
25 manner consistent with the revised net economic benefit
26 calculation.

27 (b) in the event that the modified project economics materially
28 deviate from the economics of the initial approval in a manner that
29 undermines the recommendation of approval made by the staff of
30 the authority at the time of the initial approval, then the business
31 requesting to re-locate a qualified business facility shall be required
32 to obtain the approval of the members of the authority.

33 (2) If a tenant subleases its tenancy in whole or in part during
34 the eligibility period, the new tenant shall not acquire the tax credits
35 of the sublessor, and the sublessor shall forfeit all tax credits for
36 any tax period of its sublease in which the sublessor, in continued
37 occupation of a portion of the qualified business facility, fails to
38 maintain the number of jobs required for the sublessor to earn tax
39 credits for the tax period or fails to independently satisfy the
40 minimum capital investment or sustainability requirements for the
41 program as set forth in section 71 of P.L. , c. (C. or
42 C.) (pending before the Legislature as this bill). Provided,
43 however, if the capital investment of the sublessor in the occupied
44 portion of the qualified business facility is below the project
45 minimum capital investment as set forth in section 71 of P.L. ,
46 c. (C.) (pending before the Legislature as this bill), the
47 sublessor may include capital investment made by or on behalf of
48 the new tenant in the subleased portion of the qualified business

1 facility, so long as that capital investment is not the subject of an
2 independent application under an incentive program with the
3 authority.

4 d. A small business may move its qualified business facility
5 provided that the business remains in New Jersey during the
6 commitment period.

7 e. The authority may require a small business to submit a
8 growth plan, which specifies the number of new full-time
9 employees at the qualified business facility that the eligible
10 business will hire each year of the eligibility period; provided that
11 by the end of the eligibility period, the eligible business shall have a
12 minimum of 25 percent growth of its workforce with new full-time
13 jobs. If the eligible business meets the number of new full-time
14 employees specified in the growth plan each year of the eligibility
15 period, then the eligible business shall be entitled to an increased
16 credit amount for that tax period, and each subsequent tax period,
17 for each additional full-time employee added above the number of
18 full-time employees certified, until the full-time employees number
19 the maximum number projected for the final year of the eligibility
20 period. Failure to meet the projections in any year shall not
21 constitute a default but shall cause the authority to reduce the award
22 in accordance with a schedule attached to the project agreement.

23 f. (1) The authority may recapture all or part of a tax credit
24 awarded if an eligible business does not remain in compliance with
25 the requirements of a project agreement for the duration of the
26 commitment period. A recapture pursuant to this subsection may
27 include interest on the recapture amount, at a rate equal to the
28 statutory rate for corporate business or insurance premiums tax
29 deficiencies, plus any statutory penalties, and all costs incurred by
30 the authority and the Division of Taxation in the Department of the
31 Treasury in connection with the pursuit of the recapture, including,
32 but not limited to, counsel fees, court costs, and other costs of
33 collection. Failure of the eligible business to meet any program
34 criteria shall constitute a default and shall result in the recapture of
35 all or part of the tax credit awarded.

36 (2) If all or part of a tax credit sold or assigned pursuant to
37 section 78 of P.L. , c. (C.) (pending before the Legislature
38 as this bill) is subject to recapture, then the authority shall pursue
39 recapture from the eligible business and not from the purchaser or
40 assignee of the tax credit transfer certificate. The purchaser or
41 assignee of a tax credit transfer certificate shall be subject to any
42 limitations and conditions that apply to the use of the tax credits by
43 the eligible business.

44 (3) Any funds recaptured pursuant to this subsection, including
45 penalties and interest, shall be deposited into the General Fund of
46 the State.

47 g. A business may include an affiliate for any period, provided
48 that the business provides a valid tax clearance certificate for the

1 affiliate and a verification of the nature of the affiliate relationship
2 during the relevant period, and provided further that the affiliate
3 provides acceptable responses to the authority's legal disclosures
4 inquiries, as determined by the authority. A formal modification of
5 the authority's approval of the incentive agreement shall not be
6 necessary to add or remove an affiliate after approval or execution
7 of the incentive agreement.

8 h. A business may change its name filed with the authority by
9 providing a copy of the filed amendment to the certificate of
10 incorporation or formation, as the case may be, of the business and
11 a valid tax clearance certificate with the business's new name. A
12 formal modification of the authority's approval shall not be
13 necessary to change a business's name after approval or execution
14 of the incentive agreement.

15
16 77. (New section) a. (1) An eligible business which is awarded
17 tax credits under the program shall submit annually, no later than
18 the date indicated in the project agreement, commencing in the year
19 in which the grant of tax credits is issued and for the remainder of
20 the commitment period, a report that indicates that the eligible
21 business continues to maintain the number of new and retained full-
22 time jobs, and the salaries thereof, specified in the project
23 agreement. As part of the annual report required pursuant to this
24 subsection, an eligible business shall provide to the authority a copy
25 of its applicable New Jersey tax return showing business income
26 and withholdings as a condition of its continuation in the program,
27 and the quarterly wage report required under R.S.43:21-14
28 submitted to the Department of Labor and Workforce Development
29 together with an annual payroll report showing: (a) the new full-
30 time jobs which were created in accordance with the project
31 agreement, and (b) the new full-time jobs created during each
32 subsequent year of the commitment period. The failure of an
33 eligible business to submit to the authority a copy of its annual
34 payroll report or submit the quarterly wage report in accordance
35 with the provisions of this subsection during the eligibility period
36 shall result in the forfeiture of the award for that year. An eligible
37 business shall explain, in the reports required by this subsection, the
38 reason for any discrepancies between the annual payroll report
39 submitted by the eligible business and the quarterly wage report.
40 The owner of the eligible business, or an authorized agent of the
41 owner, shall certify that the information provided pursuant to this
42 paragraph is true under the penalty of perjury. Claims, records, or
43 statements submitted by an eligible business to the authority in
44 order to receive tax credits shall not be considered claims, records,
45 or statements made in connection with State tax laws.

46 (2) Upon receipt and review of each report submitted during the
47 eligibility period, the authority shall provide to the eligible business
48 and the director a certificate of compliance indicating the amount of

1 tax credits that the eligible business may apply against its tax
2 liability. The authority shall pro rate the tax credit for the first and
3 last years of the eligibility period based on the number of full
4 months the project was certified in the year the eligible business
5 first certifies.

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

9 (2) An eligible business shall forfeit the credit amount for any
10 tax period for which the eligible business's documentation remains
11 uncertified as of the date for certification indicated in the project
12 agreement, although credit amounts for the remainder of the years
13 of the eligibility period shall remain available to the eligible
14 business.

15 c. Full-time employment for an accounting or privilege period
16 shall be determined as the average of the monthly full-time
17 employment for the period.

18 d. (1) Upon receipt by the director of the certificate of
19 compliance, the director shall allow the eligible business a tax
20 credit. The eligible business may apply the credit allowed by the
21 director against the eligible business's tax liability for the tax period
22 in which the director allowed the tax credit or may carry forward
23 the credit for use by the eligible business in any of the next seven
24 successive tax periods, which credit shall expire thereafter.

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

30 (b) Credits granted to a partnership shall be passed through to
31 the partners, members, or owners, respectively, pro-rata, or
32 pursuant to an executed agreement among the partners, members, or
33 owners documenting an alternate distribution method provided to
34 the director accompanied by any additional information as the
35 director may prescribe. With respect to credits passed through to a
36 person subject to tax liability due pursuant to sections 2 or 3 of
37 P.L.1945, c.132 (C.54:18A-2 and C.54:18A-3), the person shall be
38 allowed to apply credits against the person's tax liability without
39 the provision of a tax credit certificate to the Division of Taxation
40 in the Department of the Treasury for the tax period accompanying
41 the person's tax return and the person shall be considered the tax
42 certificate holder and be subject to subparagraph (c) of this
43 paragraph. The authority may recapture all or part of any tax
44 credits claimed by a person pursuant to subparagraph (b) of this
45 paragraph with penalties and interest from the person or the
46 business in the event the Division of Taxation in the Department of
47 the Treasury does not issue a tax credit certificate in an amount at

1 least equal to the tax credit amount claimed on the person's tax
2 return for the applicable tax period.

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

12 (4) In lieu of applying any credit certificate or credit transfer
13 certificate against tax liability otherwise due pursuant to section 5
14 of P.L.1945, c.162 (C.54:10A-5), sections 2 and 3 of P.L.1945,
15 c.132 (C.54:18A-2 and C.54:18A-3), section 1 of P.L.1950, c.231
16 (C.17:32-15), or N.J.S.17B:23-5, the credit certificate or credit
17 transfer certificate may be surrendered to the Division of Taxation
18 in the Department of the Treasury for a cash payment equal to 90
19 percent of the amount of tax credits evidenced by the certificate,
20 provided that the issuance date of the credit certificate or credit
21 transfer certificate to the taxpayer surrendering such certificate
22 occurred at least two years prior to the date of surrender.

23
24 78. (New section) a. An eligible business may apply to the
25 director and the chief executive officer of the authority for a tax
26 credit transfer certificate, within three years of the tax period in
27 which the director allows the eligible business a tax credit, in lieu of
28 any amount of the tax credit against the eligible business's State tax
29 liability. The tax credit transfer certificate, upon receipt thereof by
30 the eligible business from the director and the chief executive
31 officer of the authority, may be sold or assigned, in an amount not
32 less than \$25,000, within three years of the tax period in which the
33 eligible business receives the tax credit transfer certificate from the
34 director, to another person that may have a tax liability pursuant to
35 section 5 of P.L.1945, c.162 (C.54:10A-5), sections 2 and 3 of
36 P.L.1945, c.132 (C.54:18A-2 and 54:18A-3), section 1 of P.L.1950,
37 c.231 (C.17:32-15), or N.J.S.17B:23-5. A purchaser or assignee of
38 a tax credit transfer certificate pursuant to this section shall apply
39 the transferred credit against the same tax for which the eligible
40 business was approved a tax credit under the program. The tax
41 credit transfer certificate provided to the eligible business shall
42 include a statement waiving the eligible business's right to claim
43 the credit that the eligible business has elected to sell or assign.

44 b. (1) The eligible business shall not sell or assign a tax credit
45 transfer certificate allowed under this section for consideration
46 received by the eligible business of less than 85 percent of the
47 transferred credit amount before considering any further
48 discounting to present value which shall be permitted. The tax

1 credit transfer certificate issued to the eligible business by the
2 director shall be subject to any limitations and conditions imposed
3 on the application of State tax credits pursuant to sections 70
4 through 81 of P.L. , c. (C.) (pending before the Legislature
5 as this bill) and any other terms and conditions that the director may
6 prescribe.

7 (2) With respect to credits to be sold or assigned, in full or in
8 part, pursuant to an application to the authority for a tax credit
9 transfer certificate by a business to a person subject to tax liability
10 due pursuant to sections 2 or 3 of P.L.1945, c.132 (C.54:18A-2 or
11 C.54:18A-3), the person shall be allowed to apply the credits
12 against the person's tax liability without the provision of a tax
13 credit certificate to the Division of Taxation in the Department of
14 the Treasury for the tax period accompanying its tax return, and the
15 person be considered a tax credit transferee and be subject to
16 paragraph (3) of this subsection.

17 (3) The authority may recapture all or part of any tax credits
18 claimed by a person pursuant to paragraph (2) of this subsection
19 with penalties and interest from the person or the business in the
20 event the authority does not issue a tax credit certificate in an
21 amount at least equal to the tax credit amount claimed on the
22 person's tax return for the applicable tax period.

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

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

- 29 (1) the name of the transferrer;
- 30 (2) the name of the transferee;
- 31 (3) the value of the tax credit transfer certificate;
- 32 (4) the State tax against which the transferee may apply the tax
33 credit; and
- 34 (5) the consideration received by the transferrer.

35
36 79. (New section) a. The authority shall establish a
37 dedicated fund to be known as the "Recovery Infrastructure Fund."
38 Money in the fund shall be dedicated to the purpose of funding
39 local infrastructure, which shall include:

- 40 (1) buildings and structures, such as schools, fire houses, police
41 stations, recreation centers, public works garages, and water and
42 sewer treatment and pumping facilities;
- 43 (2) sidewalks, streets, roads, ramps, and jug handles;
- 44 (3) open space with improvements such as athletic fields,
45 playgrounds, and planned parks;
- 46 (4) open space without improvements;
- 47 (5) public transportation facilities such as train stations and
48 public parking facilities; and

- 1 (6) the purchase of equipment considered vital to public safety.
- 2 b. The fund shall be credited with money remitted by eligible
3 businesses pursuant to paragraph (2) of subsection b. of section 71
4 of P.L. , c. (C.) (pending before the Legislature as this
5 bill).
- 6 c. Money remitted to the fund by an eligible business pursuant
7 to paragraph (2) of subsection b. of section 71 of P.L. ,
8 c. (C.) (pending before the Legislature as this bill) shall be
9 earmarked for use on local infrastructure projects in the
10 municipality in which the eligible business's project is located.
- 11 d. A municipality shall apply to the authority, in a form and
12 manner prescribed by the authority, for disbursements from the
13 Recovery Infrastructure Fund. The authority, in consultation with
14 the Department of Community Affairs, shall review and approve
15 applications for disbursements of money from the fund pursuant to
16 the provisions of this section and the rules and regulation
17 promulgated by the authority pursuant to paragraph (1) of
18 subsection f. of this section.
- 19 e. The Department of Community Affairs shall coordinate with
20 the authority and other boards, commissions, institutions,
21 departments, agencies, State officers, and employees to carry out
22 the local infrastructure projects funded through the Recovery
23 Infrastructure Fund.
- 24 f. (1) The authority shall adopt rules and regulations pursuant
25 to the "Administrative Procedure Act," P.L.1968, c.410 (C.52:14B-
26 1 et seq.), to effectuate the purposes of subsections a. through d. of
27 this section.
- 28 (2) The Department of Community Affairs shall adopt rules and
29 regulations pursuant to the "Administrative Procedure Act,"
30 P.L.1968, c.410 (C.52:14B-1 et seq.), to effectuate the purposes of
31 subsection e. of this section.
- 32
- 33 80. (New section) Beginning the year next following the year in
34 which P.L. , c. (C.) (pending before the Legislature as this
35 bill) takes effect and every two years thereafter, a State college or
36 university shall, pursuant to an agreement executed between the
37 State college or university and the authority, prepare a report on the
38 implementation of the program, and submit the report to the
39 authority, the Governor, and, pursuant to section 2 of P.L.1991,
40 c.164 (C.52:14-19.1), to the Legislature. Each biennial report
41 required under this section shall include a description of each
42 eligible business receiving a tax credit under the program, a detailed
43 analysis of the consideration given to each applicant, an analysis of
44 whether the incentives awarded influenced the eligible business's
45 decisions to locate a qualified business facility in the State, the
46 return on investment for incentives awarded, the eligible business's
47 impact on the State's economy, and any other metrics the State
48 college determines are relevant based upon national best practices.

1 The authority shall prepare a written response to the report, which
2 the authority shall submit to the Governor and, pursuant to section 2
3 of P.L.1991, c.164 (C.52:14-19.1), to the Legislature.

4
5 81. (New section) Notwithstanding the provisions of the
6 "Administrative Procedure Act," P.L.1968, c.410 (C.52:14B-1 et
7 seq.), to the contrary, the chief executive officer of the authority
8 may adopt, immediately, upon filing with the Office of
9 Administrative Law, regulations that the chief executive officer
10 deems necessary to implement the provisions of sections 70 through
11 81 of P.L. , c. (C.) (C.) (pending before the
12 Legislature as this bill), including but not limited to examples of
13 and the determination of capital investment and the determination
14 of the limits, if any, on the expense or type of furnishings that may
15 constitute capital improvements, which regulations shall be
16 effective for a period not to exceed 180 days from the date of the
17 filing. The chief executive officer shall thereafter amend, adopt, or
18 readopt the regulations in accordance with the requirements of
19 P.L.1968, c.410 (C.52:14B-1 et seq.).

20
21 82 (New section) Sections 82 through 88 of P.L. ,
22 c. (C.) (pending before the Legislature as this bill) shall be
23 known and may be cited as the "Main Street Recovery Finance
24 Program Act."

25
26 83. (New section) As used in sections 82 through 88 of P.L. ,
27 c. (C.) (pending before the Legislature as this bill):

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

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

33 "Eligible microbusiness" means a business enterprise located in
34 the State that produces goods or provides services and has fewer
35 than 10 full-time equivalent employees and annual gross revenue of
36 less than \$1,000,000 at the time of application for a loan under the
37 program.

38 "Eligible small business" means any business that satisfies the
39 criteria set forth in subsection b. of section 85 of P.L. ,
40 c. (C.) (pending before the Legislature as this bill) at the
41 time of application for a grant under the program.

42 "Program" means the Main Street Recovery Finance Program
43 established pursuant to section 84 of P.L. , c. (C.) (pending
44 before the Legislature as this bill).

45 "Small business" means a business engaged in the conduct of a
46 trade or business in this State that qualifies as a "small business
47 concern" within the meaning of the federal "Small Business Act,"
48 Pub.L.85-536 (15 U.S.C. § 631 et seq.) for the purpose of the small

1 business's eligibility assistance from the United States Small
2 Business Administration.

3
4 84. (New section) The Main Street Recovery Finance Program
5 is hereby established as a program under the jurisdiction of the New
6 Jersey Economic Development Authority. The authority shall
7 administer the program for the purpose of providing grants, loans,
8 and loan guarantees to eligible small businesses in accordance with
9 the provisions of sections 82 through 88 of P.L. , c. (C.)
10 (pending before the Legislature as this bill). A business seeking a
11 grant, loan, or loan guarantee under the program shall submit an
12 application to the authority. The authority shall adopt eligibility
13 criteria for the program and may consider a business's benefit to the
14 community in which it is situated and the degree to which the
15 business enhances and promotes job creation and economic
16 development in communities that have been severely impacted by
17 the COVID-19 pandemic when making awards under the program.

18
19 85. (New section) a. As part of the Main Street Recovery
20 Finance Program, the authority shall provide grants to eligible small
21 businesses from the Main Street Recovery Fund, subject to
22 appropriation or the availability of federal funds provided that not
23 less than 40 percent of such funds shall be made available to
24 eligible microbusinesses certified by the State as a "minority
25 business" or a "women's business" pursuant to P.L.1986, c.195
26 (C.52:27H-21.17 et seq.). Grants awarded pursuant to the program
27 may be used by an eligible small business for capital improvements
28 or to cover operating expenses. The authority may dedicate up to
29 10 percent of any amount appropriated for the purposes of this
30 section to provide technical assistance grants to eligible
31 microbusinesses.

32 b. (1) A small business shall be eligible to receive a grant
33 pursuant to this section if the small business demonstrates to the
34 authority that:

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

40 (b) each worker employed by the small business shall be paid
41 not less than \$15 per hour or 120 percent of the minimum wage
42 fixed under subsection a. of section 5 of P.L.1966, c.113 (C.34:11-
43 56a4), whichever is higher ¹, except an employee who customarily
44 and regularly receives gratuities or tips shall be paid not less than
45 120 percent of the minimum wage¹.

46 (2) In addition to the requirements of paragraph (1) of this
47 subsection, a small business shall be eligible to receive a grant
48 pursuant to this subsection for capital improvements only if the

1 small business demonstrates to the authority at the time of
2 application that:

3 (a) any capital improvement undertaken with grant funds shall
4 comply with standards established by the authority in accordance
5 with the green building manual prepared by the Commissioner of
6 Community Affairs pursuant to section 1 of P.L.2007, c.132
7 (C.52:27D-130.6), regarding the use of renewable energy, energy-
8 efficient technology, and non-renewable resources to reduce
9 environmental degradation and encourage long-term cost reduction;
10 and

11 (b) each worker employed to perform construction work in
12 connection with a capital improvement undertaken with grant funds
13 in excess of \$50,000 shall be paid not less than the prevailing wage
14 rate for the worker's craft or trade, as determined by the
15 Commissioner of Labor and Workforce Development pursuant to
16 P.L.1963, c.150 (C.34:11-56.25 et seq.).

17 c. Prior to March 1, 2025, an eligible small business seeking a
18 grant pursuant to this section shall submit an application for
19 approval to the authority in the form and manner prescribed in
20 regulations adopted by the authority pursuant to the provisions of
21 the "Administrative Procedure Act," P.L.1968, c.410 (C.52:14B-1 et
22 seq.). Before the board may consider an eligible small business's
23 application for grants, the Department of Labor and Workforce
24 Development, the Department of Environmental Protection, and the
25 Department of the Treasury shall each report to the chief executive
26 officer of the authority whether the eligible small business is in
27 substantial good standing with the respective department, or has
28 entered into an agreement with the respective department that
29 includes a practical corrective action plan for the eligible small
30 business. The authority may also contract with an independent third
31 party to perform a background check on the eligible small business.
32 The eligible small business, or an authorized agent thereof, shall
33 certify under the penalty of perjury that any information provided in
34 the application required pursuant to this subsection is true.

35 d. Following approval by the board, but before the
36 disbursement of grant funds, the authority shall require an eligible
37 small business to enter into a grant agreement. The grant agreement
38 shall specify the amount of the grant to be awarded the eligible
39 small business and the frequency of payments. If the authority
40 determines that an eligible small business made a material
41 misrepresentation on the eligible small business's grant application
42 or the eligible small business has failed to comply with any
43 requirement set forth in paragraphs (1) through (4) of subsection b.
44 of this section, then the small business shall return to the authority
45 any grant awarded pursuant to this section.

46

47 86. (New section) a. As part of the Main Street Recovery
48 Finance Program, the authority shall make available from the Main

1 Street Recovery Fund, subject to annual appropriation and the
2 availability of funds, to eligible community development finance
3 institutions ¹and other eligible lenders¹ pursuant to subsection b. of
4 this section and to eligible microbusinesses pursuant to subsection
5 c. of this section, provided that not less than 40 percent of such
6 funds shall be made available to eligible microbusinesses certified
7 by the State as a "minority business" or a "women's business"
8 pursuant to P.L.1986, c.195 (C.52:27H-21.17 et seq.). The
9 authority may dedicate up to 10 percent of any amount appropriated
10 for the purposes of this section to provide technical assistance
11 grants to eligible microbusinesses.

12 b. The authority shall provide loans and grants to eligible
13 community development finance institutions ¹and other eligible
14 lenders¹ in accordance with this subsection. Loans and grants made
15 available to eligible community development finance institutions
16 ¹and other eligible lenders¹ pursuant to this paragraph shall be used
17 to strengthen capital structures, leverage additional debt capital, and
18 increase lending and investing in economically disadvantaged
19 communities. The authority shall require an eligible community
20 development finance ¹~~institutions~~ institution or other eligible
21 lender¹ that receives a grant or loan pursuant to this subsection to
22 enter into an agreement with the authority.

23 ¹As used in this section, "other eligible lender" means a zone
24 development corporation as defined in section 3 of P.L.1983, c.303
25 (C.52:27H-62) that is located in a municipality with a population
26 greater than 100,000 or another nonprofit lender with at least 10
27 years experience lending to microbusinesses.¹

28 c. The authority shall provide loans to eligible microbusinesses
29 in accordance with this subsection. Loans made available to
30 eligible microbusinesses pursuant to this subsection may be used for
31 capital improvements, employee training, salaries for new positions,
32 and to pay for day-to-day operating expenditures, including payroll,
33 rent, utilities, insurance, and purchases of goods and services. The
34 authority shall require an eligible microbusiness to enter into a loan
35 agreement. Loans made pursuant to this subsection shall have a
36 term and an interest rate determined by the authority based on
37 conditions currently prevailing in the market. The authority may
38 forgive loans provided to eligible microbusinesses pursuant to this
39 subsection at the authority's discretion. The authority may, through
40 the terms of the loan agreement, establish terms governing the
41 incidence of default by an eligible microbusiness.

42 d. Prior to March 1, 2025, an eligible community development
43 finance institution ¹or other eligible lender¹ seeking a loan or a
44 grant pursuant to subsection b. of this section or an eligible
45 microbusiness seeking a loan pursuant to subsection c. of this
46 section shall submit an application for approval to the authority in
47 the form and manner prescribed in regulations adopted by the

1 authority pursuant to the provisions of the "Administrative
2 Procedure Act," P.L.1968, c.410 (C.52:14B-1 et seq.). Before the
3 authority may consider an application, the Department of Labor and
4 Workforce Development, the Department of Environmental
5 Protection, and the Department of the Treasury shall each report to
6 the chief executive officer of the authority whether the applicant is
7 in substantial good standing with the respective department, or has
8 entered into an agreement with the respective department that
9 includes a practical corrective action plan for the applicant. The
10 authority may also contract with an independent third party to
11 perform a background check on the applicant. The applicant, or an
12 authorized agent thereof, shall certify under the penalty of perjury
13 that any information provided in the application required pursuant
14 to this subsection is true.

15

16 87. (New section) a. To aid in the economic recovery of
17 those communities most impacted by the COVID-19 pandemic and
18 to better ensure their long-term economic growth, there is created
19 the "Main Street Recovery Fund" to be held by the State Treasurer.
20 All moneys deposited in the fund shall be held and disbursed in the
21 amounts necessary to fulfill the purposes of providing grants and
22 loans pursuant to sections 85 and 86 of P.L. , c. (C.) (pending
23 before the Legislature as this bill) and the purposes enumerated in
24 subsection b. of this section, and for reasonable administrative
25 costs of implementing sections 82 through 88 of P.L. ,
26 c. (C.) (pending before the Legislature as this bill). The fund
27 may be credited with pay backs; bonuses; entitlements; money
28 received from the federal government; transfers; grants; gifts;
29 bequests; moneys appropriated by the Legislature; or any other
30 money made available from any source. The State Treasurer, in
31 consultation with the authority, may invest and reinvest any moneys
32 in the fund in the State Treasurer's discretion. Any income from,
33 interest on, or increment to moneys so invested or reinvested shall
34 be included in the fund.

35 b. Upon application to the State Treasurer, and in consultation
36 with the Chief Executive Officer of the New Jersey Economic
37 Development Authority, the State Treasurer shall make loan
38 guarantees from the fund to leverage private and public lending to
39 help finance small businesses, real estate developments, and
40 manufacturers that are creditworthy but not receiving the financing
41 needed to expand and create jobs. In making loan guarantees under
42 this section, the State Treasurer shall give due consideration to
43 small businesses and real estate developments in underserved
44 communities throughout the State that have been deeply impacted
45 by the COVID-19 pandemic.

46 c. (1) The State Treasurer shall monitor the activities of the
47 beneficiaries of the loan guarantees issued pursuant to this section

1 on an annual basis to ensure compliance with the terms and
2 conditions imposed on the recipient by the chief executive officer.

3 (2) An entity receiving a loan guarantee and the beneficiaries of
4 such loan guarantee under this section shall provide the State
5 Treasurer with an annual accounting of how the benefit it received
6 from the fund was applied.

7 (3) The annual accounting required under this section shall
8 include certifications by the Department of Labor and Workforce
9 Development, the Department of Environmental Protection, and the
10 Department of the Treasury that the entity and the beneficiaries are
11 in substantial good standing with the respective departments, or
12 have entered into an agreement with the respective department that
13 includes a practical corrective action plan.

14 (4) The entity and beneficiary, or an authorized agent thereof,
15 shall certify under the penalty of perjury that the information
16 provided pursuant to this subsection is true.

17

18 88. (New section) Notwithstanding the provisions of the
19 "Administrative Procedure Act," P.L.1968, c.410 (C.52:14B-1 et
20 seq.), to the contrary, the chief executive officer of the authority
21 may adopt, immediately, upon filing with the Office of
22 Administrative Law, regulations that the chief executive officer
23 deems necessary to implement the provisions of sections 82 through
24 88 of P.L. , c. (C.) (pending before the Legislature as this
25 bill), which regulations shall be effective for a period not to exceed
26 180 days from the date of the filing. The chief executive officer
27 shall thereafter amend, adopt, or readopt the regulations in
28 accordance with the requirements of P.L.1968, c.410 (C.52:14B-1
29 et seq.).

30

31 89. (New section) a. The Director of the Division of
32 Taxation in the Department of the Treasury may purchase unused
33 tax credits awarded under a program listed in subsection b. of this
34 section, including tax credit transfer certificates issued by the
35 director in lieu of a tax credit allowed under such programs. The
36 director shall not pay consideration in excess of 75 percent of the
37 credit amount to be purchased, except for a credit awarded under
38 the " Emerge Program Act," sections 68 through 81 of P.L. ,
39 c. (C.) (pending before the Legislature as this bill), which
40 shall be subject to the provisions of paragraph (4) of subsection d.
41 of section 77 of P.L. , c. (C.) (pending before the Legislature
42 as this bill).

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

46 (1) the "Historic Property Reinvestment Act," sections 1 through
47 8 of P.L. , c. (C.) (pending before the Legislature as this
48 bill);

- 1 (2) the "Brownfield Redevelopment Incentive Program Act,"
2 sections 9 through 19 of P.L. , c. (C.) (pending before the
3 Legislature as this bill);
- 4 (3) the "New Jersey Innovation Evergreen Act," sections 20
5 through 34 of P.L. , c. (C.) (pending before the Legislature
6 as this bill);
- 7 (4) the "Food Desert Relief Act," sections 35 through 42 of
8 P.L. , c. (C.) (pending before the Legislature as this bill);
- 9 (5) the "New Jersey Community-Anchored Development Act,"
10 sections 43 through 53 of P.L. , c. (C.) (pending before the
11 Legislature as this bill);
- 12 (6) the "New Jersey Aspire Program Act," sections 54 through
13 67 of P.L. , c. (C.) (pending before the Legislature as this
14 bill);
- 15 (7) the " Emerge Program Act," sections 68 through 81 of
16 P.L. , c. (C.) (pending before the Legislature as this bill);
- 17 (8) the Grow New Jersey Assistance Program established
18 pursuant to section 3 of P.L.2011, c.149 (C.34:1B-244);
- 19 (9) section 6 of P.L.2010, c.57 (C.34:1B-209.4);
- 20 (10) the State Economic Redevelopment and Growth Grant
21 program established pursuant to section 5 of P.L.2009, c.90
22 (C.52:27D-489e);
- 23 (11) section 1 of P.L.2018, c.56 (C.54:10A-5.39b); and
24 (12) section 2 of P.L.2018, c.56 (C.54A:4-12b).

25

26 90. (New section) a. There is established in the New Jersey
27 Economic Development Authority a Working Group on
28 Entrepreneur Zones for the purpose of making recommendations for
29 the establishment of entrepreneur zones throughout the State. The
30 working group shall consider whether the establishment of
31 entrepreneur zones in which the State provides the tax incentives,
32 regulation relief, and financial support to local entrepreneurs is the
33 most effective way to create jobs in the State. The working group
34 shall identify census tracts within the State that are suitable for
35 designation as an entrepreneur zone.

36 b. The working group shall consist of seven members
37 appointed by the chief executive officer of the New Jersey
38 Economic Development Authority.

39 c. Appointments to the working group shall be made within 30
40 days after the effective date of this act. Vacancies in the
41 membership of the working group shall be filled in the same
42 manner as the original appointments were made.

43

44 91. (New section) a. As used in this section:

45 "Personal protective equipment" means coveralls, face shields,
46 gloves, gowns, masks, respirators, and other equipment designed to
47 protect the wearer from the spread of infection or illness.

1 "State agency" means any principal department in the Executive
2 Branch of State government, and any division, board, bureau,
3 office, commission or other instrumentality within or created by
4 such department, and any independent State authority, commission,
5 instrumentality or agency, other than in the Legislative or Judicial
6 Branches of State government, which is authorized by law to award
7 public contracts.

8 b. Notwithstanding the provisions of any other law to the
9 contrary, whenever the Director of the Division of Purchase and
10 Property, or the head of any State agency shall consider bids on any
11 contract for the purchase of personal protective equipment that is
12 publicly advertised for bids, the director or the head of a State
13 agency shall list the bidders in order based upon which bid,
14 conforming to the invitation for bids, would be most advantageous
15 to the State, price, and other factors considered. If the first bidder
16 on the list has its principal place of business in this State it shall be
17 awarded the contract. If no bidder having its principal place of
18 business in this State has submitted a bid that is within five percent
19 of the bid submitted by the bidder at the top of the list that has its
20 principal place of business outside of this State, the contract shall
21 be awarded to the bidder at the top of the list. If the first bidder on
22 the list has its principal place of business outside of this State and a
23 bidder that has its principal place of business in this State is on the
24 list and has submitted a bid that is within five percent of the bid
25 submitted by the bidder at the top of the list that has its principal
26 place of business outside of this State, the contract shall be awarded
27 to the highest listed in-State bidder.

28 Any specifications for the provision ¹~~or~~ of¹ personal
29 protective equipment under this act shall be drafted in a manner to
30 encourage free, open, and competitive bidding.

31 Any specification which knowingly excludes prospective bidders
32 by reason of the impossibility of performance, bidding, or
33 qualifications by any but one bidder shall be null and void and of no
34 effect.

35 ¹Nothing in this section shall limit the ability of the Director of
36 the Division of Purchase and Property or the head of any State
37 agency to make awards to multiple bidders, pursuant to section 1 of
38 P.L.1986, c.26 (C.52:34-12.1) to furnish the same or similar
39 materials, supplies, services or equipment, where multiple bidders
40 are necessary.¹

41 c. The State Treasurer shall adopt such rules and regulations as
42 may be necessary to implement the provisions of this section
43 pursuant to the "Administrative Procedure Act," P.L.1968, c.410
44 (C.52:14B-1 et seq.).

45
46 92. (New section) Sections 92 through 97 of P.L. ,
47 c. (C.) (pending before the Legislature as this bill) shall be
48 known and may be cited as the "New Jersey Ignite Act."

1 93. (New section) As used in sections 92 through 97 of P.L. ,
2 c. (C.) (pending before the Legislature as this bill):

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

6 "Authority commitment period" means the period for which the
7 authority commits to provide a start-up rent grant for the payment
8 of rent in a collaborative workspace

9 "Collaborative workspace" means a business facility certified
10 pursuant to section 95 of P.L. , c. (C.) (pending before the
11 Legislature as this bill), located in this State, developed to provide
12 flexible workspaces for early stage innovation economy businesses,
13 and designed to encourage community and collaboration within an
14 inter-connected environment in which multiple start-up businesses
15 have access to shared community events and shared workplace
16 accommodations including, but not limited to, kitchens and
17 makerspaces.

18 "Collaborative workspace commitment period" means a period of
19 months equal to one-half the number of months of the authority
20 commitment period.

21 "Community event" means an event hosted by a collaborative
22 workspace and accessible to start-up tenant or member businesses,
23 without charge or with nominal charge, organized to support an
24 innovation ecosystem, as defined in section 21 of P.L. ,
25 c. (C.) (pending before the Legislature as this bill), at the
26 collaborative workspace, including, but not limited to, events such
27 as meet-ups, speaker series, and office hours for lawyers,
28 accountants, consultants, or investors.

29 "Early stage innovation economy business" means a business
30 that operates within a targeted industry with at least one full-time
31 employee, who is assigned to the collaborative workspace, and
32 fewer than 10 employees overall and with less than \$1,000,000 in
33 gross sales over the 12-month period immediately prior to
34 submitting an application for tenancy at a collaborative workspace.
35 To be considered an "early stage innovation economy business" the
36 earliest date of formation for the business must have been not more
37 than three years prior to utilizing or renting space in, or access to,
38 the collaborative workspace under the program, and the business
39 shall not have previously utilized or rented space in, or access to,
40 another collaborative workspace in the State.

41 "Full time employee" means a person who is: employed by the
42 start-up tenant or member business for at least 35 hours a week;
43 working as an independent contractor providing critical capabilities
44 to the start-up tenant or member business for at least 35 hours a
45 week; or an owner or partner of the start-up tenant or member
46 business who works for at start-up tenant or member business for at
47 least 35 hours a week.

1 "Grant agreement" means an agreement between the authority
2 and the owner and operator of a collaborative workspace which
3 memorializes the terms and conditions of the collaborative
4 workspace's participation in the program.

5 "Program" means the New Jersey Ignite Program established
6 pursuant to section 94 of P.L. , c. (C.) (pending before the
7 Legislature as this bill).

8 "Targeted industry" means any industry identified from time to
9 time by the authority which shall initially include advanced
10 transportation and logistics, advanced manufacturing, aviation,
11 autonomous vehicle and zero-emission vehicle research or
12 development, clean energy, life sciences, hemp processing,
13 information and high technology, finance and insurance,
14 professional services, film and digital media, ¹[and]¹ non-retail
15 food and beverage businesses ¹[,]¹ including food innovation ¹,¹
16 and other innovative industries that disrupt current technologies or
17 business models.

18 "Start-up rent grant" means a grant provided by the authority to a
19 collaborative workspace for the rent that would otherwise be due to
20 the collaborative workspace from a start-up tenant or member
21 business for the period of the authority commitment period.

22 "Start-up tenant or member business" means an early stage
23 innovation economy business that is registered to do business in
24 New Jersey, rents space in, or access to, a collaborative workspace
25 under the program, and enters into an agreement with the owner and
26 operator of the collaborative workspace to rent space in, or access
27 to, the collaborative workspace for an agreed upon period, which
28 shall include the authority commitment period, collaborative
29 workspace commitment period, and start-up tenant or member
30 business commitment period.

31 "Start-up tenant or member business commitment period" means
32 a period of months equal to the sum of the authority commitment
33 period and the collaborative workspace commitment period.

34

35 94. (New section) The New Jersey Ignite Program is hereby
36 established as a program under the jurisdiction of the authority.
37 The purpose of the program shall be to foster early stage innovation
38 economy businesses and to help those businesses overcome barriers
39 to commercial success. The authority shall structure the program as
40 a public-private partnership through which the authority provides
41 start-up rent grants to collaborative workspaces, certified pursuant
42 to section 95 of P.L. , c. (C.) (pending before the
43 Legislature as this bill), to support the early months of an early
44 stage innovation economy business's rent at the collaborative
45 workspace.

46

47 95. (New section) a. The owner and operator of a business
48 facility located in the State may apply to the authority to have the

1 business facility certified as a collaborative workspace under the
2 program. A business facility shall be eligible for certification as a
3 collaborative workspace if:

4 (1) the business facility is developed to provide flexible
5 workspaces for early stage innovation economy businesses;

6 (2) the business facility is designed to encourage community
7 and collaboration within an inter-connected environment in which
8 multiple start-up businesses have access to shared workplace
9 accommodations;

10 (3) the owner and operator of the business facility commits to
11 hosting at least eight community events at the business facility each
12 year;

13 (4) the owner and operator of the business facility possesses a
14 tax clearance certificate issued by the Division of Taxation in the
15 Department of the Treasury;

16 (5) the owner and operator of the business facility possesses a
17 business registration certificate issued by the Division of Revenue
18 in the Department of the Treasury;

19 (6) at least five unique tenant or member businesses, in which
20 the owner and operator of the business facility does not have a
21 direct financial interest, have paid rent for space in, or access to, the
22 business facility over the two years immediately preceding the
23 submission of the application for certification as a collaborative
24 workspace pursuant to this section or, if the business facility has
25 been open for less than 90 days, the owner and operator of the
26 business facility provides to the authority at least three letters of
27 intent from prospective tenant or member businesses;

28 (7) the business facility is subject to ongoing operating costs,
29 such as rent, mortgage payments, or internal corporate charge-
30 backs, at the time of application for certification pursuant to this
31 section;

32 (8) the owner and operator of the business facility offers at least
33 one type of workspace at the business facility for rent by an early
34 stage innovation economy business;

35 (9) the owner and operator of the business facility charges rent
36 to tenants or members; and

37 (10) the owner and operator of the business facility certifies that
38 any rent charged to a start-up tenant or member business is to be
39 market-rate.

40 b. In addition to the requirements set forth in subsection a. of
41 this section, for a business facility to qualify for certification as a
42 collaborative workspace, the authority may, in its discretion and
43 subject to available funds, require the owner and operator of the
44 business facility shall commit to paying one month's rent for a
45 start-up tenant or member business at the business facility for every
46 two months of rent to be paid by the authority as a start-up rent
47 grant under the program.

1 c. (1) The owner and operator of a business facility eligible
2 for certification as a collaborative workspace pursuant to
3 subsections a. and b. of this section shall submit an application for
4 certification and participation in the program in such form as
5 required by the authority. The application shall include any
6 information the authority determines is necessary to administer the
7 program.

8 (2) In evaluating applications for certification as a collaborative
9 workspace, the authority may conduct site visits or perform any
10 other investigation necessary to confirm any statement made in the
11 application submitted by the owner and operator of the business
12 facility. If the authority later finds that any statement made in the
13 application for certification is inaccurate, then the authority may
14 rescind its certification of the collaborative workspace.

15 d. Following approval of an application for certification, to
16 participate in the program the authority and the owner and operator
17 of a collaborative workspace shall enter into a grant agreement
18 governing the terms, conditions, and timing under which the
19 authority shall pay the start-up rent grant to the owner and operator
20 of the collaborative workspace. The grant agreement shall require a
21 collaborative workspace to share data concerning its participation in
22 the program and on collaborative workspace utilization for the
23 purpose of better program planning and the development of new
24 programs to further support the State's economy.

25
26 96. (New section) a. Up to the limits established in this
27 subsection and in accordance with the grant agreement, the
28 authority shall provide start-up rent grants to the owner and
29 operator of a collaborative workspace through a series of scheduled
30 payments as set forth in the grant agreement. The owner and
31 operator of the collaborative workspace shall utilize the grant
32 funding to provide rent-free space to a start-up tenant or member
33 business that agrees to continue renting space in, or access to, the
34 collaborative workspace for the start-up tenant or member business
35 commitment period. The maximum start-up rent grant that the
36 authority may provide to a collaborative workspace for the tenancy
37 of a single start-up tenant or member business shall not exceed
38 \$25,000.

39 b. The authority may provide a start-up rent grant for the
40 payment of rent for space in, or access to, a collaborative workspace
41 for up to six months; provided, however, if a collaborative
42 workspace or start-up tenant or member business satisfies any of the
43 bonuses set forth in paragraphs (1) through (5) of this subsection,
44 then the authority may provide an additional month of rent for each
45 bonus satisfied by the collaborative workspace or start-up tenant or
46 member business. The authority ¹~~shall~~ may¹ award a bonus to
47 the owner and operator of a collaborative workspace if:

1 (1) the collaborative workspace is located in a qualified
2 opportunity zone designated pursuant to 26 U.S.C. s.1400Z-1;

3 (2) the collaborative workspace is affiliated with a hospital
4 system or a New Jersey university;

5 (3) the collaborative workspace has been open less than 90 days
6 from the date on which the owner and operator of the collaborative
7 workspace applied to the authority to participate in the program and
8 the collaborative workspace is not in the same location as an
9 existing facility;

10 (4) the start-up tenant or member business for which the start-up
11 rent grant is paid is certified by the State as a "minority business" or
12 a "women's business" pursuant to P.L.1986, c.195 (C.52:27H-21.17
13 et seq.); or

14 (5) the start-up tenant or member business for which the start-up
15 rent grant is paid is the first presence of a foreign company entering
16 into the United States.

17 c. (1) The owner and operator of a collaborative workspace
18 shall annually certify to the authority, under the penalty of perjury,
19 that it is in compliance with the grant agreement.

20 (2) In addition to the certification required pursuant to
21 paragraph (1) of this subsection, the authority shall conduct an
22 annual inspection and review of the collaborative workspace and
23 may request documentation evidencing that the collaborative
24 workspace utilized the start-up rent grant it received from the
25 authority in accordance with the requirements of the program and
26 the grant agreement.

27 d. (1) If a start-up tenant or member business stops
28 occupying or accessing a collaborative workspace before the end of
29 the start-up tenant or member business commitment period, then the
30 collaborative workspace shall refund to the authority that portion of
31 the start-up rent grant covering any period in which the start-up
32 tenant or member business did not have space in, or access to, the
33 collaborative workspace.

34 (2) If the authority determines that a collaborative workspace is
35 not in compliance with the requirements of the program or of the
36 grant agreement, then the authority shall rescind the business
37 facility's certification as a collaborative workspace and bar the
38 business facility from further participation in the program.

39

40 97. (New section) The authority shall promulgate rules and
41 regulations necessary for the effective implementation of sections
42 92 through 97 of P.L. , c. (C.) (pending before the
43 Legislature as this bill). Notwithstanding any provision of the
44 "Administrative Procedure Act," P.L.1968, c.410 (C.52:14B-1 et
45 seq.) to the contrary, the authority may adopt, immediately upon
46 filing with the Office of Administrative Law, such regulations as
47 are necessary to implement the provisions of sections 92 through 97
48 of P.L. , c. (C.) (pending before the Legislature as this

1 bill), which shall be effective for a period not to exceed 12 months
 2 following enactment, and shall thereafter be amended, adopted, or
 3 readopted by the authority in accordance with the requirements of
 4 the "Administrative Procedure Act," P.L.1968, c.410 (C.52:14B-1 et
 5 seq.).

6
 7 98. (New section) a. The combined value of all tax credits
 8 awarded under the "Historic Property Reinvestment Act," sections 1
 9 through 8 of P.L. , c. (C.) (pending before the Legislature
 10 as this bill), the "Brownfield Redevelopment Incentive Program
 11 Act," sections 9 through 19 of P.L. , c. (C.) (pending
 12 before the Legislature as this bill), the "New Jersey Innovation
 13 Evergreen Act," sections 20 through 34 of P.L. , c. (C.)
 14 (pending before the Legislature as this bill), the "Food Desert Relief
 15 Act," sections 35 through 42 of P.L. , c. (C.) (pending
 16 before the Legislature as this bill), the "New Jersey Community-
 17 Anchored Development Act," sections 43 through 53 of P.L. ,
 18 c. (C.) (pending before the Legislature as this bill); the "New
 19 Jersey Aspire Program Act," sections 54 through 67 of P.L. ,
 20 c. (C.) (pending before the Legislature as this bill); and the
 21 "Emerge Program Act," sections 68 through 81 of P.L. ,
 22 c. (C.) (pending before the Legislature as this bill) shall not
 23 exceed an overall cap of \$11.5 billion over a ¹**【six-year】** seven-
 24 year¹ period, subject to the conditions and limitations set forth in
 25 this section. Of this \$11.5 billion, \$2.5 billion shall be reserved for
 26 transformative projects approved under the Aspire Program or the
 27 Emerge Program.

28 b. (1) The total value of tax credits awarded under any
 29 constituent program of the "New Jersey Economic Recovery Act of
 30 2020," P.L. , c. (C.) (pending before the Legislature as this
 31 bill) shall be subject to the following annual limitations, except as
 32 otherwise provided in subsection c. of this section:

33 (a) for tax credits awarded under the "Historic Property
 34 Reinvestment Act," sections 1 through 8 of P.L. , c. (C.)
 35 (pending before the Legislature as this bill), the total value of tax
 36 credits annually awarded during ¹each of¹ the ¹**【six-year】** first six
 37 years of the seven-year¹ period shall not exceed \$50 million;

38 (b) for tax credits awarded under the "Brownfield
 39 Redevelopment Incentive Program Act," sections 9 through 19 of
 40 P.L. , c. (C.) (pending before the Legislature as this bill),
 41 the total value of tax credits annually awarded during ¹each of¹ the
 42 ¹**【six-year】** first six years of the seven-year¹ period shall not exceed
 43 \$50 million;

44 (c) for tax credits awarded under the "New Jersey Innovation
 45 Evergreen Act," sections 20 through 34 of P.L. , c. (C.)
 46 (pending before the Legislature as this bill), the total value of tax
 47 credits annually awarded during ¹each of¹ the ¹**【six-year】** first six

1 years of the seven-year¹ period shall not exceed \$60 million ¹and
2 the total value of tax credits awarded over the entirety of the seven-
3 year program shall not exceed \$300,000,000¹;

4 (d) for tax credits awarded under the "Food Desert Relief Act,"
5 sections 35 through 42 of P.L. , c. (C.) (pending before the
6 Legislature as this bill), the total value of tax credits annually
7 awarded during ¹each of¹ the ¹【six-year】 first six years of the
8 seven-year¹ period shall not exceed \$40 million;

9 (e) for tax credits awarded under the "New Jersey Community-
10 Anchored Development Act," sections 43 through 53 of P.L. ,
11 c. (C.) (pending before the Legislature as this bill), the total
12 value of tax credits annually awarded during¹each of¹ the ¹【six-
13 year】 first six years of the seven-year¹ period shall not exceed \$200
14 million, except that during each of the first ¹【three】 six¹ years of
15 the ¹【six-year】 seven-year¹ period, the authority shall annually
16 award tax credits valuing no greater than \$130 million for projects
17 located in the 13 northern counties of the State, and the authority
18 shall annually award tax credits valuing no greater than \$70 million
19 for projects located in the eight southern counties of the State. If
20 during any of the first ¹【three】 six¹ years of the ¹【six-year】 seven-
21 year¹ period, the authority awards tax credits in an amount less than
22 the annual limitation for projects located in northern counties or
23 southern counties, as applicable, the uncommitted portion of the
24 annual limitation shall be available to be deployed by the authority
25 in ¹【the】 a¹ subsequent year, provided that the uncommitted portion
26 of tax credits shall be awarded for projects located in the applicable
27 geographic area ¹【. During each of the final three years of the six-
28 year period, the authority may annually award】 , except that (i)
29 after the completion of the third year of the seven-year period, the
30 authority may deploy 50 percent of the uncommitted portion of tax
31 credits from any previous year without consideration to the county
32 in which a project is located; and (ii) after the completion of the
33 sixth year of the seven-year period, the authority may deploy all¹
34 available tax credits, including the uncommitted portion of the
35 annual limitation for any previous year, without consideration to the
36 county in which ¹【the】 a¹ project is located;

37 (f) for tax credits awarded under the "New Jersey Aspire
38 Program Act," sections 54 through 67 of P.L. , c. (C.)
39 (pending before the Legislature as this bill), and the "Emerge
40 Program Act," sections 68 through 81 of P.L. , c. (C.)
41 (pending before the Legislature as this bill), not including tax
42 credits awarded for transformative projects, the total value of tax
43 credits annually awarded during ¹each of¹ the ¹【six-year】 first six
44 years of the seven-year¹ period shall not exceed \$1.1 billion, except
45 that during each of the first ¹【three】 six¹ years of the ¹【six-year】
46 seven-year¹ period, the authority shall annually award tax credits

1 valuing no greater than \$715 million for projects located in the
2 northern counties of the State, and the authority shall annually
3 award tax credits valuing no greater than \$385 million for projects
4 located in the southern counties of the State. If during any of the
5 first ~~three~~ six¹ years of the ~~six-year~~ seven-year¹ period, the
6 authority awards tax credits in an amount less than the annual
7 limitation for projects located in northern counties or southern
8 counties, as applicable, the uncommitted portion of the annual
9 limitation shall be available to be deployed by the authority in
10 ~~the~~ a¹ subsequent year, provided that the uncommitted portion of
11 tax credits shall be awarded for projects located in the applicable
12 geographic area ~~].~~ During each of the final three years of the six-
13 year period, the authority may annually award ~~], except that (i)~~
14 after the completion of the third year of the seven-year period, the
15 authority may deploy 50 percent of the uncommitted portion of tax
16 credits for any previous year without consideration to the county in
17 which a project is located; and (ii) after the completion of the sixth
18 year of the seven-year period, the authority may deploy all¹
19 available tax credits, including the uncommitted portion of the
20 annual limitation for any previous year, without consideration to the
21 county in which ~~the~~ a¹ project is located; and

22 (g) for tax credits awarded for transformative projects under the
23 "New Jersey Aspire Program Act," sections 54 through 67 of
24 P.L. , c. (C.) (pending before the Legislature as this bill),
25 and the "Emerge Program Act," sections 68 through 81 of P.L. ,
26 c. (C.) (pending before the Legislature as this bill), the total
27 value of tax credits awarded during the ~~six-year~~ seven-year¹
28 period shall not exceed \$2.5 billion. The total value of tax credits
29 awarded for transformative projects in a given year shall not be
30 subject to an annual limitation, except that no more than 10
31 transformative projects shall be awarded tax credits during the
32 ~~six-year~~ seven-year¹ period, and the total value of tax credits
33 awarded to any transformative project shall not exceed \$250
34 million.

35 (2) The authority may in any given year determine that it is in
36 the State's interest to approve an amount of tax credits in excess of
37 the annual limitations set forth in paragraph (1) of this subsection,
38 but in no event more than \$200,000,000 in excess of the annual
39 limitation, upon a determination by the authority board that such
40 increase is warranted based on specific criteria that may include:

41 (i) the increased demand for opportunities to create or retain
42 employment and investment the State as indicated by the volume of
43 project applications and the amount of tax credits being sought by
44 those applications;

45 (ii) the need to protect the State's economic position in the event
46 of an economic downturn;

- 1 (iii) the quality of project applications and the net economic
2 benefit to the State and municipalities associated with those
3 applications;
- 4 (iv) opportunities for project applications to strengthen or protect
5 the competitiveness of the state under the prevailing market
6 conditions;
- 7 (v) enhanced access to employment and investment for
8 underserved populations in distressed municipalities and qualified
9 incentives tracts;
- 10 (vi) increased investment and employment in high-growth
11 technology sectors and in projects that entail collaboration with
12 education institutions in the State;
- 13 (vii) increased development proximate to mass transit facilities;
- 14 (viii) any other factor deemed relevant by the authority.
- 15 c. In the event that the authority in any year approves projects
16 for tax credits in an amount less than the annual limitations set forth
17 in paragraph (1) of subsection b. of this section, then the
18 uncommitted portion of the annual limitation shall be available to
19 be deployed by the authority in future years for projects ¹under the
20 same program¹; provided however, that in no event shall the
21 aggregate amount of tax credits approved be in excess of the overall
22 cap of \$11.5 billion ¹, and in no event shall the uncommitted
23 portion of the annual limitation for any previous year be deployed
24 after the conclusion of the seven-year period¹.

25
26 99. (New section) Sections 99 through 105 of P.L. ,
27 c. (C.) (pending before the Legislature as this bill) shall be
28 known and may be cited as the "Economic Development Authority
29 Integrity and Protection Act."
30

31 100. (New section) As used in sections 99 through 105 of
32 P.L. , c. (C.) (pending before the Legislature as this bill):

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

39 "Fraud" means a deception or misrepresentation made by any
40 person or entity with the knowledge that the deception or
41 misrepresentation could result in some unauthorized benefit to that
42 person or entity or another person or entity, including any act that
43 constitutes fraud under applicable federal or State law.

44 "Economic development investigation" means an investigation of
45 fraud, abuse, or illegal acts perpetrated within economic
46 development incentive programs by applicants for, or recipients of,
47 economic development incentives.

1 "Office of the Economic Development Inspector General" means
2 the Office of the Economic Development Inspector General created
3 by section 102 of P.L. , c. (C.) (pending before the
4 Legislature as this bill).

5
6 101. (New section) a. The New Jersey Economic Development
7 Authority shall employ a Chief Compliance Officer, who shall be
8 appointed by the Chief Executive Officer of the authority to manage
9 the Division of Portfolio Management and Compliance in the
10 authority.

11 b. The Chief Compliance Officer shall:

12 (1) create, maintain, monitor, and coordinate procedures to
13 ensure that all economic development incentive programs, authority
14 employees, and economic development incentive program
15 applicants and recipients comply fully with the requirements of the
16 corresponding economic development incentive program;

17 (2) conduct, on such periodic basis as determined by the
18 authority, systematic audits of economic development incentive
19 programs for compliance with the laws, regulations, codes, orders,
20 procedures, advisory opinions and rulings concerning those
21 programs;

22 (3) maintain a central database of information concerning the
23 management of all economic development incentive programs and
24 information on economic development incentive program applicants
25 and recipients to provide for the regular and ongoing reporting,
26 verification, and monitoring of the State's economic development
27 incentive programs;

28 (4) prior to the adoption of any rule or regulation by the
29 authority or the board related to the general administration of the
30 programs administered by the authority pursuant to section 6 of
31 P.L. , c. (C.) (pending before the Legislature as this bill),
32 section 19 of P.L. , c. (C.) (pending before the Legislature
33 as this bill), section 29 of P.L. , c. (C.) (pending before the
34 Legislature as this bill), section 34 of P.L. , c. (C.)
35 (pending before the Legislature as this bill), section 41 of P.L. ,
36 c. (C.) (pending before the Legislature as this bill), section
37 67 of P.L. , c. (C.) (pending before the Legislature as this
38 bill), section 79 of P.L. , c. (C.) (pending before the
39 Legislature as this bill), section 88 of P.L. , c. (C.)
40 (pending before the Legislature as this bill), and section 97 of
41 P.L. , c. (C.) (pending before the Legislature as this bill), or
42 any other regulation specifically related to the recapture of
43 economic development incentive award values, review and certify
44 that the provisions of program rules or regulations provide the
45 authority with adequate procedures to pursue the recapture of the
46 value of an economic development incentive in the case of
47 substantial noncompliance, fraud, or abuse by the economic
48 development incentive recipient, and that program rules and

1 regulations are sufficient to ensure against economic development
2 incentive fraud, waste, and abuse; and

3 (5) refer, to the Economic Development Inspector General and
4 to the Attorney General, information on suspected fraud or abuse
5 identified by the Division of Portfolio Management and
6 Compliance.

7 c. The Chief Compliance Officer, in consultation with the
8 Department of Labor and Workforce Development and the
9 Department of the Treasury, shall:

10 Develop, adopt, and implement a corrective action plan, within
11 one year of the effective date of sections 99 through 105 of P.L. ,
12 c. (C.) (pending before the Legislature as this bill) and
13 within six months of receiving notice of any program deficiency
14 issued by the Economic Development Inspector General, that is
15 designed to enable the authority to properly manage the economic
16 development incentive programs administered by the authority, and
17 adopt rules and regulations concerning the administration and
18 enforcement of the Division of Portfolio Management and
19 Compliance's duties in a manner that is most compatible with
20 ensuring against fraud and abuse in the State's economic
21 development incentive programs.

22

23 102. (New section) a. There is established, in the authority, the
24 Office of the Economic Development Inspector General, which
25 shall operate independent of the oversight or management of the
26 Chief Executive Officer of the authority. The Office of the
27 Economic Development Inspector General shall operate under the
28 Economic Development Inspector General, who shall be a retired
29 member of the Judicial Branch of the State, to be appointed by the
30 Governor with the advice and consent of the Senate for a term of
31 four years. The Economic Development Inspector General shall
32 direct the work of the Office of the Economic Development
33 Inspector General and have the following general functions, duties,
34 powers, and responsibilities:

35 (1) to appoint such deputies, directors, assistants, and other
36 officers and employees as may be needed for the Office of the
37 Economic Development Inspector General to meet its
38 responsibilities, and to prescribe their duties and fix their
39 compensation within the amounts appropriated therefor;

40 (2) to conduct and supervise State government activities relating
41 to State economic development incentive integrity, fraud, and
42 abuse;

43 (3) to call upon any department, office, division, or agency of
44 State government to provide such information, resources, or other
45 assistance as the Economic Development Inspector General deems
46 necessary to discharge the duties and functions and to fulfill the
47 responsibilities of the Economic Development Inspector General
48 under sections 99 through 105 of P.L. , c. (C.) (pending

1 before the Legislature as this bill). Each department, office,
2 division, and agency of this State shall cooperate with the Economic
3 Development Inspector General and furnish the Office of the
4 Economic Development Inspector General with the assistance
5 necessary to accomplish the purposes of sections 99 through 105 of
6 P.L. , c. (C.) (pending before the Legislature as this bill);

7 (4) to coordinate activities to prevent, detect, and investigate
8 economic development incentive fraud and abuse among the
9 following: the authority, State and local government officials, and
10 all economic development incentive applicants and recipients;

11 (5) to recommend and implement policies relating to economic
12 development incentive integrity, fraud, and abuse, and monitor the
13 implementation of any recommendations made by the Office of the
14 Economic Development Inspector General to the authority for the
15 administration of economic development incentives;

16 (6) to perform any other functions that are necessary or
17 appropriate in furtherance of the mission of the Office of the
18 Economic Development Inspector General; and

19 (7) to direct an economic development incentive applicant or
20 recipient to cooperate with the Office of the Economic
21 Development Inspector General and provide such information or
22 assistance as shall be reasonably required by the Office of the
23 Economic Development Inspector General.

24 b. As it relates to ensuring compliance with applicable
25 economic development incentive standards and requirements,
26 identifying and reducing fraud and abuse, and improving the
27 efficiency and effectiveness of economic development incentives,
28 the functions, duties, powers, and responsibilities of the Economic
29 Development Inspector General shall include, but not be limited to,
30 the following:

31 (1) to establish, in consultation with the authority and the
32 Attorney General, guidelines under which the withholding of
33 payments or exclusion from economic development incentive
34 programs shall be imposed on an economic development incentive
35 applicant or recipient;

36 (2) to review the utilization of economic development incentives
37 to ensure that economic development incentive funds are
38 appropriately spent to meet the goals and purposes of an individual
39 economic development incentive program;

40 (3) to review and audit contracts, reports, documentation,
41 claims, and all awards of economic development incentives to
42 determine compliance with applicable laws, regulations, guidelines,
43 and standards, and enhance program integrity;

44 (4) to consult with the authority to optimize the economic
45 development incentive management information system in
46 furtherance of the mission of the Office of the Economic
47 Development Inspector General. The authority shall consult with
48 the Economic Development Inspector General on matters that

- 1 concern the operation, upgrade, and implementation of the
2 economic development incentive management information system;
- 3 (5) to coordinate the implementation of information technology
4 relating to economic development incentive integrity, fraud, and
5 abuse;
- 6 (6) to conduct educational programs for economic development
7 incentive State and local government officials and economic
8 development incentive recipients designed to limit economic
9 development incentive fraud and abuse; and
- 10 (7) to provide notice to the Chief Compliance Officer, appointed
11 pursuant to section 101 of P.L. , c. (C.) (pending before the
12 Legislature as this bill) if the Economic Development Inspector
13 General determines that a program deficiency exists in an economic
14 development incentive program administered by the authority and
15 to provide notice to the Chief Executive Officer of the Authority of
16 pending investigations if the Economic Development Inspector
17 General determines that such disclosure is consistent with the
18 public interest in maintaining the integrity of an economic
19 development incentive program administered by the authority or to
20 abate the continuation of fraud or abuse.
- 21 c. As it relates to investigating allegations of economic
22 development incentive fraud and abuse and enforcing applicable
23 laws, rules, regulations, and standards, the functions, duties,
24 powers, and responsibilities of the Economic Development
25 Inspector General shall include, but not be limited to, the following:
- 26 (1) to conduct economic development investigations concerning
27 any acts of misconduct within economic development incentive
28 programs;
- 29 (2) to provide information concerning the economic
30 development investigations of the Office of the Economic
31 Development Inspector General to the Attorney General, law
32 enforcement authorities, and any prosecutor of competent
33 jurisdiction, and endeavor to develop these economic development
34 investigations in a manner that expedites and facilitates criminal
35 prosecutions and the recovery of improperly expended economic
36 development incentives, including the maintenance of detailed
37 records for cases processed by the Economic Development
38 Inspector General. The records shall include: information on the
39 total number of cases processed and, for each case, the agency and
40 division to which the case is referred for an economic development
41 investigation; the date on which the case is referred; and the nature
42 of the suspected fraud or abuse.
- 43 (3) to provide information and evidence relating to suspected
44 criminal acts that the Economic Development Inspector General
45 may obtain in carrying out its duties to law enforcement officials
46 when appropriate, and to provide such information to the Attorney
47 General and county prosecutors in order to facilitate criminal
48 economic development investigations and prosecutions;

1 (4) to refer complaints alleging criminal conduct to the Attorney
2 General or other appropriate prosecutorial authority.;

3 The Economic Development Inspector General shall maintain a
4 record of all matters referred to the Attorney General and shall be
5 authorized to disclose information received, as appropriate and as
6 may be necessary to resolve the matter referred, to the extent
7 consistent with the public interest in disclosure, the need for
8 protecting the confidentiality of complainants and informants, and
9 preserving the confidentiality of ongoing criminal economic
10 development investigations. Notwithstanding any referral made
11 pursuant to this subsection, the Economic Development Inspector
12 General may pursue any administrative or civil remedy under the
13 law. A referral by the inspector general to the Attorney General or
14 a prosecutorial authority shall in no way preclude the inspector
15 general from performing its own separate, independent
16 investigation; and

17 (5) in furtherance of an economic development investigation, to
18 compel at a specific time and place, by subpoena, the appearance
19 and sworn testimony of any person whom the Economic
20 Development Inspector General reasonably believes may be able to
21 give information relating to a matter subject to an economic
22 development investigation:

23 (a) for this purpose, the Economic Development Inspector
24 General is empowered to administer oaths and examine witnesses
25 under oath, and compel any person to produce at a specific time and
26 place, by subpoena, any documents, books, records, papers, objects,
27 or other evidence that the Economic Development Inspector
28 General reasonably believes may relate to a matter subject to an
29 economic development investigation; and

30 (b) if any person to whom a subpoena is issued fails to appear
31 or, having appeared, refuses to give testimony, or fails to produce
32 the books, papers, or other documents required, the Economic
33 Development Inspector General may apply to the Superior Court
34 and the court may order the person to appear and give testimony or
35 produce the books, papers, or other documents, as applicable. Any
36 person failing to obey that order may be held by the court in
37 contempt;

38 (6) subject to applicable State law, to have full and unrestricted
39 access to all records, reports, audits, reviews, documents, papers,
40 data, recommendations, or other material available to the authority
41 and other State and local government agencies with respect to
42 which the Office of the Economic Development Inspector General
43 has responsibilities under sections 102 through 105 of P.L. ,
44 c. (C.) (pending before the Legislature as this bill);

45 (7) to solicit, receive, and investigate complaints related to
46 economic development incentive integrity, fraud, and abuse; and

47 (8) to prepare cases, provide expert testimony, and support
48 administrative hearings and other legal proceedings.

1 d. As it relates to recovering improperly obtained economic
2 development incentives, imposing administrative sanctions,
3 damages, or penalties, and negotiating settlements to assure that all
4 governmental resources have been properly expended, the
5 functions, duties, powers, and responsibilities of the Economic
6 Development Inspector General shall include, but not be limited to,
7 the following:

8 (1) to pursue civil and administrative enforcement actions
9 against those who engage in fraud, abuse, or illegal acts perpetrated
10 under economic development incentive programs. These civil and
11 administrative enforcement actions shall include the imposition of
12 administrative sanctions, penalties, suspension of fraudulent or
13 illegal awards, and actions for civil recovery and seizure of property
14 or other assets connected with such economic incentive awards;

15 (2) to initiate civil suits consistent with the provisions of
16 sections 99 through 105 of P.L. , c. (C.) (pending before
17 the Legislature as this bill), maintain actions for civil recovery on
18 behalf of the State, and enter into civil settlements;

19 (3) to require that the authority withhold payments to an
20 economic development incentive applicant or recipient if the
21 applicant or recipient unreasonably fails to produce complete and
22 accurate records related to an economic development investigation
23 that is initiated by the Office of the Economic Development
24 Inspector General with reasonable cause; and

25 (4) to monitor and pursue the recoupment of economic
26 development incentive awards or portions thereof, damages,
27 penalties, and sanctions.

28
29 103. (New section) a. The Economic Development Inspector
30 General is authorized to request, and shall be entitled to receive,
31 such information, assistance, and cooperation from any State or
32 local government department, board, bureau, commission, or other
33 agency or unit thereof, as may be necessary to carry out the duties
34 and responsibilities of the Office of the Economic Development
35 Inspector General pursuant to sections 102 through 105 of P.L. ,
36 c. (C.) (pending before the Legislature as this bill).

37 b. Upon the request of a prosecutor of competent jurisdiction,
38 an office, department, or any other State or local government entity,
39 the Economic Development Inspector General shall provide
40 information, data, assistance, staff, and other resources as shall be
41 necessary, appropriate and available to aid and facilitate the
42 economic development investigation and prosecution of economic
43 development incentive fraud.

44
45 104. (New section) The Economic Development Inspector
46 General shall report annually to the Governor, to the Legislature,
47 pursuant to section 2 of P.L.1991, c.164 (C.52:14-19.1), and to the
48 Attorney General, the activities of the Office of the Economic

1 Development Inspector General, as well as recommendations, if
2 any, for legislation to provide for the management of the State's
3 economic development incentive programs.

4
5 105. (New section) The Economic Development Inspector
6 General, pursuant to the "Administrative Procedure Act," P.L.1968,
7 c.410 (C.52:14B-1 et seq.), shall adopt rules and regulations, in
8 consultation with the authority, the Department of Labor and
9 Workforce Development, and the Department of the Treasury,
10 concerning the administration and enforcement of the Office of the
11 Economic Development Inspector General's duties pursuant to
12 sections 102 through 105 of P.L. , c. (C.) (pending before
13 the Legislature as this bill) in a manner that is most compatible with
14 ensuring against fraud and abuse in the State's economic
15 development incentive programs.

16
17 106. (New section) a. For privilege periods ending in 2020,
18 2021, and 2022, a taxpayer, upon approval of an application to the
19 authority, shall be allowed a credit against the tax imposed pursuant
20 to section 5 of P.L.1945, c.162 (C.54:10A-5) in the amount of
21 \$10,000 for each qualifying new hire involved in the manufacture
22 of personal protective equipment in a qualified facility in which the
23 taxpayer made a capital investment during the privilege period.

24 b. The minimum capital investment in a qualified facility
25 required to be eligible for a credit under this section shall be as
26 follows:

27 (1) for the rehabilitation, improvement, fit-out, or retrofit of an
28 existing premises in Atlantic County, Burlington County, Cape May
29 County, Cumberland County, Gloucester County, Ocean County, or
30 Salem County, a minimum investment of \$10 per square foot of
31 gross leasable area;

32 (2) for the rehabilitation, improvement, fit-out, or retrofit of an
33 existing premises in counties in the State not listed in paragraph (1)
34 of this subsection, a minimum investment of \$20 per square foot of
35 gross leasable area;

36 (3) for the new construction of a premises in Atlantic County,
37 Burlington County, Cape May County, Cumberland County,
38 Gloucester County, Ocean County, or Salem County, a minimum
39 investment of \$100 per square foot of gross leasable area; or

40 (4) for the new construction of a premises in counties in the
41 State not listed in paragraph (3) of this subsection, a minimum
42 investment of \$120 per square foot of gross leasable area.

43 c. The minimum number of new or retained qualifying full-
44 time jobs required to be eligible for a credit under this section shall
45 be as follows:

46 (1) for a qualified facility in Atlantic County, Burlington
47 County, Cape May County, Cumberland County, Gloucester

1 County, Ocean County, or Salem County, a minimum of five new or
2 15 retained qualifying full-time jobs; or

3 (2) for a qualified facility in counties in the State not listed in
4 paragraph (1) of this subsection, a minimum of ten new or 25
5 retained qualifying full-time jobs.

6 d. In addition to the amount of credit allowed pursuant to
7 subsection a. of this section, a taxpayer shall be allowed the
8 following tax credits for privilege periods ending in 2020, 2021,
9 and 2022:

10 (1) \$1,000 per qualifying full-time job in the privilege period at
11 a qualified facility that is a building vacant for not less than seven
12 years in need of rehabilitation with a minimum of 250,000 square
13 feet;

14 (2) \$1,500 per qualifying full-time job in the privilege period at
15 a qualified facility in which the manufacturing of personal
16 protective equipment is part of a research collaboration between the
17 taxpayer and a college or university located within the State; and

18 (3) \$1,000 per qualifying full-time job in the privilege period at
19 a qualified facility in which the taxpayer has established an
20 apprenticeship program or pre-apprenticeship program with a
21 technical school or county college located within the State.

22 e. The total credit allowed to a taxpayer pursuant to this section
23 during the privilege period shall not exceed \$500,000. A taxpayer
24 shall not be eligible for a tax credit under this section for the same
25 qualifying new hire for which the taxpayer is receiving a tax credit
26 incentive award under the Emerge Program established by sections
27 68 through 81 of P.L. , c. (C.) (pending before the
28 Legislature as this bill).

29 f. Notwithstanding the minimum tax schedule imposed
30 pursuant to subsection (e) of section 5 of P.L.1945, c.162
31 (C.54:10A-5), if the amount of the tax credit allowed exceeds the
32 amount of corporation business tax otherwise due pursuant to
33 section 5 of P.L.1945, c.162 (C.54:10A-5), the amount of excess
34 shall be treated as a refundable overpayment except that interest
35 shall not be paid pursuant to section 7 of P.L.1992, c.175 (C.54:49-
36 15.1) on the amount of overpayment attributable to this credit
37 amount. The director shall determine the order of priority of the
38 application of the credit allowed pursuant to this section and any
39 other credits allowed by law.

40 g. The combined value of all tax credits approved by the
41 authority and the director pursuant to this section and pursuant to
42 section 2 of P.L. , c. (C.)(pending before the Legislature as
43 this bill) shall not exceed \$10,000,000 in any State fiscal year to
44 apply against the tax imposed pursuant to the “New Jersey Gross
45 Income Tax Act,” N.J.S.54A:1-1 et seq., and the tax imposed
46 pursuant to section 5 of P.L.1945, c.162 (C.54:10A-5).

47 h. An application for the tax credit shall be submitted to the
48 authority in a form and manner prescribed by the chief executive

1 officer of the authority. As a condition of receiving tax credits
2 under this section, an applicant shall be required to commit to
3 employ qualifying new hires for which tax credits are awarded
4 under this section for a period of five years.

5 i. Notwithstanding any provision of the “Administrative
6 Procedure Act,” P.L.1968, c.410 (C.52:14B-1 et seq.) to the
7 contrary, the director chief executive officer of the authority is
8 authorized to adopt immediately upon filing with the Office of
9 Administrative Law such rules and regulations shall be effective for
10 a period not to exceed 360 days following the date of filing and may
11 thereafter be amended, adopted, or readopted by the chief executive
12 officer of the authority in accordance with the requirements of
13 P.L.1968, c.410 (C.52:14B-1 et seq.). The chief executive officer
14 of the authority shall consult with the Commissioner of Health
15 related to any specification requirements for what manufactured
16 products are to qualify as personal protective equipment pursuant to
17 this section.

18 j. As used in this section:

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

22 “Director” means Director of the Division of Taxation in the
23 Department of the Treasury;

24 “Personal protective equipment” means coveralls, face shields,
25 gloves, gowns, masks, respirators, safeguard equipment, and other
26 equipment designed to protect the wearer from the spread of
27 infection or illness as may be modified from time to time by the
28 board of the authority.

29 “Qualified facility” means a facility that is:

30 (1) located in a redevelopment area or rehabilitation area as
31 defined in section 3 of P.L.1992, c.79 (C.40A:12A-3);

32 (2) located in a Smart Growth Area as identified by the Office
33 of Planning Advocacy;

34 (3) a facility in which the manufacturing of personal protective
35 equipment is part of a research collaboration between the taxpayer a
36 college or university located within the State;

37 (4) a facility in which the taxpayer has established an
38 apprenticeship program or pre-apprenticeship program with a
39 technical school or community located within the State; or

40 (5) a building vacant for not less than seven years in need of
41 rehabilitation with a minimum of 250,000 square feet.

42 “Qualifying full-time job” means a full-time position in a
43 business in this State which the business has filled with a full-time
44 employee for the manufacturing of personal protective equipment in
45 this State. The employee shall be employed for at least 35 hours a
46 week and shall be paid employee wages at a rate of not less than
47 \$15 per hour, or render any other standard of service generally
48 accepted by custom or practice as full-time employment, whose

1 wages are subject to withholding as provided in the “New Jersey
2 Gross Income Tax Act,” N.J.S.54A:1-1 et seq. and is paid employee
3 wages at a rate of not less than \$15 per hour. “Qualifying new hire”
4 shall not include any person who works as an independent
5 contractor or on a consulting basis for the business. “Qualifying
6 new or retained job” includes only a position for which the taxpayer
7 provides employee health benefits under a health benefits plan
8 authorized pursuant to State or federal law.
9

10 107. a. For taxable years 2020, 2021, and 2022, a taxpayer,
11 upon approval of an application to the authority shall be allowed a
12 credit against the tax imposed pursuant to the “New Jersey Gross
13 Income Tax Act” N.J.S.54A:1-1 et seq. in the amount of \$10,000
14 for each qualifying new hire involved in the manufacture of
15 personal protective equipment in a qualified facility in which the
16 taxpayer made a capital investment during the taxable year.

17 b. The minimum capital investment in a qualified facility
18 required to be eligible for a credit under this section shall be as
19 follows:

20 (1) for the rehabilitation, improvement, fit-out, or retrofit of an
21 existing premises in Atlantic County, Burlington County, Cape May
22 County, Cumberland County, Gloucester County, Ocean County, or
23 Salem County, a minimum investment of \$10 per square foot of
24 gross leasable area;

25 (2) for the rehabilitation, improvement, fit-out, or retrofit of an
26 existing premises in counties in the State not listed in paragraph (1)
27 of this subsection, a minimum investment of \$20 per square foot of
28 gross leasable area;

29 (3) for the new construction of a premises in Atlantic County,
30 Burlington County, Cape May County, Cumberland County,
31 Gloucester County, Ocean County, or Salem County, a minimum
32 investment of \$100 per square foot of gross leasable area; or

33 (4) for the new construction of a premises in counties in the
34 State not listed in paragraph (3) of this subsection, a minimum
35 investment of \$120 per square foot of gross leasable area.

36 c. The minimum number of new or retained qualifying full-
37 time jobs required to be eligible for a credit under this section shall
38 be as follows:

39 (1) for a qualified facility in Atlantic County, Burlington
40 County, Cape May County, Cumberland County, Gloucester
41 County, Ocean County, or Salem County, a minimum of five new or
42 15 retained qualifying full-time jobs; and

43 (2) for a qualified facility in counties in the State not listed in
44 paragraph (1) of this subsection, a minimum of ten new or 25
45 retained qualifying full-time jobs.

46 d. In addition to the amount of credit allowed pursuant to
47 subsection a. of this section, a taxpayer shall be allowed the
48 following tax credits for taxable years 2020, 2021, and 2022:

1 (1) \$1,000 per qualifying full-time job in a taxable year at a
2 qualified facility that is a building vacant for not less than seven
3 years in need of rehabilitation with a minimum of 250,000 square
4 feet;

5 (2) \$1,500 per qualifying full-time job in a taxable year at a
6 qualified facility in which the manufacturing of personal protective
7 equipment is part of a research collaboration between the taxpayer
8 and a college or university located within the State; and

9 (3) \$1,000 per qualifying full-time job in a taxable year at a
10 qualified facility in which the taxpayer has established an
11 apprenticeship program or pre-apprenticeship program with a
12 technical school or county college located within the State.

13 e. The total credit allowed to a taxpayer pursuant to this section
14 during the taxable year shall not exceed \$500,000. A taxpayer shall
15 not be eligible for a tax credit under this section for the same
16 qualifying new hire for which the taxpayer is receiving a tax credit
17 incentive award under the Emerge Program established by sections
18 68 through 81 of P.L. , c. (C.)(pending before the
19 Legislature as this bill)

20 f. If the amount of the credit exceeds the amount of tax
21 otherwise due, that amount of excess shall be an overpayment for
22 the purposes of N.J.S.54A:9-7; provided however, that subsection
23 (f) of N.J.S.54A:9-7 shall not apply. The director shall determine
24 the order of priority of the application of the credit allowed
25 pursuant to this section and any other credits allowed by law.

26 g. (1) A business entity that is classified as a partnership for
27 federal income tax purposes shall not be allowed a tax credit
28 pursuant to this section directly, but the amount of tax credit of a
29 taxpayer in respect to distributive share of entity income, shall be
30 determined by allocating to the taxpayer that proportion of the tax
31 credit acquired by the entity that is equal to the taxpayer's share,
32 whether or not distributed, of the total distributive income or gain
33 of the entity for its taxable year ending within or with the
34 taxpayer's taxable year.

35 (2) A New Jersey S Corporation shall not be allowed a tax credit
36 pursuant to this section directly, but the amount of the tax credit of
37 a taxpayer in respect of a pro rata share of S Corporation income,
38 shall be determined by allocating to the taxpayer that proportion of
39 the tax credit acquired by the New Jersey S Corporation that is
40 equal to the taxpayer's share, whether or not distributed, of the total
41 pro rata share of S Corporation income of the New Jersey S
42 Corporation for its privilege period ending within or with the
43 taxpayer's taxable year.

44 h. The combined value of all tax credits approved by the
45 authority and the director pursuant to this section and pursuant to
46 section 1 of P.L. , c. (C.)(pending before the Legislature
47 as this bill) shall not exceed \$10,000,000 in any State fiscal year to
48 apply against the tax imposed pursuant to the "New Jersey Gross

1 Income Tax Act,” N.J.S.54A:1-1 et seq., and the tax imposed
2 pursuant to section 5 of P.L.1945, c.162 (C.54:10A-5).

3 i. An application for the tax credit shall be submitted to the
4 authority in a form and manner prescribed by the chief executive
5 officer of the authority. As a condition of receiving tax credits
6 under this section, an applicant shall be required to commit to
7 employ qualifying new hires for which tax credits are awarded
8 under this section for a period of five years.

9 j. Notwithstanding any provision of the “Administrative
10 Procedure Act,” P.L.1968, c.410 (C.52:14B-1 et seq.) to the
11 contrary, the chief executive officer of the authority is authorized to
12 adopt immediately upon filing with the Office of Administrative
13 Law such rules and regulations shall be effective for a period not to
14 exceed 360 days following the date of filing and may thereafter be
15 amended, adopted, or readopted by the chief executive officer of the
16 authority in accordance with the requirements of P.L.1968, c.410
17 (C.52:14B-1 et seq.). The chief executive officer of the authority
18 shall consult with the Commissioner of Health related to any
19 specification requirements for what manufactured products are to
20 qualify as personal protective equipment pursuant to this section.

21 k. As used in this section:

22 “Authority” means the New Jersey Economic Development
23 Authority established pursuant to section 4 of P.L.1974, c.80
24 (C.34:1B-4).

25 “Director” means Director of the Division of Taxation in the
26 Department of the Treasury;

27 “Personal protective equipment” means coveralls, face shields,
28 gloves, gowns, masks, respirators, safeguard equipment, and other
29 equipment designed to protect the wearer from the spread of
30 infection or illness as may be modified from time to time by the
31 board of the authority.

32 “Qualified facility” means a facility that is:

33 (1) located in a redevelopment area or rehabilitation area as
34 defined in section 3 of P.L.1992, c.79 (C.40A:12A-3);

35 (2) located in a Smart Growth Area as identified by the Office
36 of Planning Advocacy;

37 (3) a facility in which the manufacturing of personal protective
38 equipment is part of a research collaboration between the taxpayer a
39 college or university located within the State;

40 (4) a facility in which the taxpayer has established an
41 apprenticeship program or pre-apprenticeship program with a
42 technical school or community located within the State; or

43 (5) a building vacant for not less than seven years in need of
44 rehabilitation with a minimum of 250,000 square feet.

45 “Qualifying full-time job” means a full-time employee hired by
46 the taxpayer during the privilege period for the manufacturing of
47 personal protective equipment in this State. The person hired shall
48 be employed for at least 35 hours a week and shall be paid

1 employee wages at a rate of not less than \$15 per hour, or render
2 any other standard of service generally accepted by custom or
3 practice as full-time employment, whose wages are subject to
4 withholding as provided in the "New Jersey Gross Income Tax
5 Act," N.J.S.54A:1-1 et seq. and is paid employee wages at a rate of
6 not less than \$15 per hour. "Qualifying new hire" shall not include
7 any person who works as an independent contractor or on a
8 consulting basis for the business. "Qualifying new or retained job"
9 includes only a position for which the taxpayer provides employee
10 health benefits under a health benefits plan authorized pursuant to
11 State or federal law.

12

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

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

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

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

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

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

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

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

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

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

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

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

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

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

35 The credit amount may be taken by the tax certificate holder for
36 the tax period for which it was issued or may be carried forward for
37 use by the tax certificate holder in any of the next 20 successive tax
38 periods, and shall expire thereafter. The tax certificate holder may
39 transfer the tax credit amount on or after the date of issuance or at
40 any time within three years of the date of issuance for use by the
41 transferee in the tax period for which it was issued or in any of the
42 next 20 successive tax periods. Notwithstanding the foregoing, no
43 more than the amount of tax credits equal to the total credit amount
44 divided by the duration of the eligibility period in years may be
45 taken in any tax period.

46 A business may elect to suspend its obligations for the 2020 tax
47 period and, if the public health emergency or state of emergency
48 declared due to the COVID-19 pandemic extends past March 2021,

1 the 2021 tax period, provided that the business shall make such
2 election in writing to the authority before the date the annual report
3 is due and such suspension shall extend the term of the eligibility
4 period by a corresponding amount of time. The authority shall
5 amend the incentive agreement, and the business shall execute the
6 amended incentive agreement within the time period provided by
7 the authority. The amended incentive agreement shall provide that
8 the failure to submit the annual report due to the suspension shall
9 not be a forfeiture or an uncertified tax period.

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

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

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

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

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

1 for which documentation demonstrating the restoration of the
2 number of full-time employees employed by the business at the
3 qualified business facility to 80 percent of the number of jobs
4 specified in the incentive agreement.

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

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

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

47 (b) For a project located within a Garden State Growth Zone
48 which qualifies under the "Municipal Rehabilitation and Economic

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

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

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

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

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

46 g. A business that has entered into an incentive agreement may
47 request before December 31, 2022 to terminate the incentive
48 agreement due to the COVID-19 public health emergency; provided

1 that the business shall submit a certification from the business's
2 chief executive officer or equivalent officer stating that the
3 termination is due to the public health emergency and describing
4 the impact of the public health emergency on the business. All
5 credits for the tax period in which the termination occurs and all
6 subsequent tax periods shall be forfeited, provided however that any
7 credits of the business shall remain unaffected.

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

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

25 (cf: P.L.2020, c.8, s.3)

26
27 109. Section 6 of P.L.2010, c.57 (C.34:1B-209.4) is amended to
28 read as follows:

29 6. a. (1) A business, upon application to and approval from
30 the authority, shall be **【allowed】** awarded a credit of 100 percent of
31 its capital investment, made after the effective date of P.L.2010,
32 c.57 (C.48:3-87.1 et al.) but prior to its submission of
33 documentation pursuant to subsection c. of this section, in a
34 qualified wind energy facility located **【within an eligible wind**
35 **energy zone】** in the State, pursuant to the restrictions and
36 requirements of this section. The award of a tax credit pursuant to
37 this section shall be structured so that the authority shall make up to
38 four awards, each equaling 25 percent of the total value of the tax
39 credit, to a qualified business over four privilege periods or taxable
40 years in which the business meets the requirements for the
41 minimum number of new, full-time employees. Otherwise eligible
42 businesses with between 150 and 300 new, full-time jobs may
43 receive an award based on a prorated formula developed by the
44 authority. To be eligible for any tax credits authorized under this
45 section, a business shall demonstrate to the authority, at the time of
46 application, that the State's financial support of the proposed capital
47 investment in a qualified wind energy facility will yield a net
48 positive benefit to the State. The value of all credits approved by

1 the authority pursuant to this section may be up to \$100,000,000,
2 except as may be increased by the authority if the chief executive
3 officer of the authority judges certain qualified offshore wind
4 projects to be meritorious. Credits provided pursuant to this section
5 shall not be applicable to the cap on the credits provided in section
6 3 of P.L.2007, c.346 (C.34:1B-209).

7 (2) (a) A business, other than a tenant eligible pursuant to
8 subparagraph (b) of this paragraph, shall make or acquire capital
9 investments totaling not less than \$50,000,000 in a qualified wind
10 energy facility, at which the business, including tenants at the
11 qualified wind energy facility, shall employ **【at least 300】** the
12 minimum number of new, full-time employees, to be eligible for a
13 credit under this section. A business that acquires a qualified wind
14 energy facility after the effective date of P.L.2010, c.57 (C.48:3-
15 87.1 et al.) shall also be deemed to have acquired the capital
16 investment made or acquired by the seller.

17 (b) A business that is a tenant in the qualified wind energy
18 facility, the owner of which has made or acquired capital
19 investments in the facility totaling more than \$50,000,000, shall
20 occupy a leased area of the qualified wind energy facility that
21 represents at least \$17,500,000 of the capital investment in the
22 qualified wind energy facility at which **【at least 300】** the minimum
23 number of new, full-time employees in the aggregate are employed,
24 to be eligible for a credit under this section. The amount of capital
25 investment in a facility that a leased area represents shall be equal
26 to that percentage of the owner's total capital investment in the
27 facility that the percentage of net leasable area leased by the tenant
28 is of the total net leasable area of the qualified business facility.
29 Capital investments made by a tenant shall be deemed to be
30 included in the calculation of the capital investment made or
31 acquired by the owner, but only to the extent necessary to meet the
32 owner's minimum capital investment of \$50,000,000. Capital
33 investments made by a tenant and not allocated to meet the owner's
34 minimum capital investment threshold of \$50,000,000 shall be
35 added to the amount of capital investment represented by the
36 tenant's leased area in the qualified wind energy facility.

37 (c) The calculation of the number of new, full-time employees
38 required pursuant to subparagraphs (a) and (b) of this paragraph
39 may include the number of new, full-time positions resulting from
40 an equipment supply coordination agreement with equipment
41 manufacturers, suppliers, installers and operators associated with
42 the supply chain required to support the qualified wind energy
43 facility.

44 For the purposes of this paragraph, "full time employee" shall
45 not include an employee who is a resident of another state and
46 whose income is not subject to the "New Jersey Gross Income Tax
47 Act," N.J.S.54A:1-1 et seq., unless that state has entered into a
48 reciprocity agreement with the State of New Jersey **【**, provided that

1 any employee whose work is provided pursuant to a collective
2 bargaining agreement with a business in the wind energy zone may
3 be included].

4 (3) A business shall not be **[allowed]** awarded a tax credit
5 pursuant to this section if the business receives a business
6 employment incentive grant pursuant to the "Business Employment
7 Incentive Program Act," P.L.1996, c.26 (C.34:1B-124 et al.),
8 relating to the same capital and employees that qualify the business
9 for this credit, or if the business receives assistance pursuant to the
10 "Business Retention and Relocation Assistance Act," P.L.1996, c.25
11 (C.34:1B-112 et seq.). A business that is **[allowed]** awarded a tax
12 credit under this section shall not be eligible for incentives
13 authorized pursuant to the "Municipal Rehabilitation and Economic
14 Recovery Act," P.L.2002, c.43 (C.52:27BBB-1 et al.).

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

18 b. A business shall apply for the credit by July 1, **[2024]** 2025,
19 and a business shall submit its documentation for approval of its
20 credit amount by July 1, **[2027]** 2028.

21 c. The credit **[allowed]** awarded pursuant to this section shall
22 be administered in accordance with the provisions of subsection c.
23 of section 3 of P.L.2007, c.346 (C.34:1B-209) and section 33 of
24 P.L.2009, c.90 (C.34:1B-209.1), except that all references therein to
25 "qualified business facility" shall be deemed to refer to "qualified
26 wind energy facility," as that term is defined in subsection f. of this
27 section.

28 d. The amount of the credit **[allowed]** awarded pursuant to this
29 section shall, except as otherwise provided, be equal to the capital
30 investment made by the business, or the capital investment
31 represented by the business's leased area, and shall be taken over a
32 **[10-year]** five-year period, at the rate of **[one-tenth]** one-fifth of
33 the total amount of the business's credit for each tax accounting or
34 privilege period of the business, beginning with the **[tax period]**
35 privilege period or taxable year in which the business is first
36 approved by the authority as having met the investment capital and
37 employment qualifications, subject to any disqualification as
38 determined by annual review by the authority. In conducting its
39 annual review, the authority may require a business to submit any
40 information determined by the authority to be necessary and
41 relevant to its review. The credit amount for any **[tax period]**
42 privilege period or taxable year ending after the date 18 years after
43 the effective date of P.L.2007, c.346 (C.34:1B-207 et seq.) during
44 which the documentation of a business's credit amount remains
45 unapproved shall be forfeited, although credit amounts for the
46 remainder of the years of the **[10-year]** five-year credit period shall
47 remain available. The amount of the credit **[allowed]** awarded for

1 a **【tax period】** privilege period or taxable year to a business that is a
2 tenant in a qualified wind energy facility shall not exceed the
3 business's total lease payments for occupancy of the qualified wind
4 energy facility for the **【tax period】** privilege period or taxable year.

5 e. The authority shall adopt rules and regulations pursuant to
6 the "Administrative Procedure Act," P.L.1968, c.410 (C.52:14B-1 et
7 seq.) as are necessary to implement this section, including, but not
8 limited to: examples of and the determination of capital investment;
9 the nature of businesses and employment positions constituting and
10 participating in an equipment supply coordination agreement; a
11 determination of the types of businesses that may be eligible and
12 expenses that may constitute capital improvements; the
13 promulgation of procedures and forms necessary to apply for a
14 credit; and provisions for applicants to be charged an initial
15 application fee, and ongoing service fees, to cover the
16 administrative costs related to the credit.

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

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

29 In addition, as used in this section:

30 "Equipment supply coordination agreement" means an agreement
31 between a business and equipment manufacturer, supplier, installer,
32 and operator that supports a qualified offshore wind project, or
33 other wind energy project as determined by the authority, and that
34 indicates the number of new, full-time jobs to be created by the
35 agreement participants towards the employment requirement as set
36 forth in paragraph (2) of subsection a. of this section.

37 "Minimum number of new, full-time employees" means:

38 (1) for the first award, at least a cumulative 100 new, full-time
39 employees compared to the number of full-time employees at the
40 time of application;

41 (2) for the second award, for a privilege period or taxable year
42 following the first award, at least a cumulative 150 new, full-time
43 employees compared to the number of full-time employees at the
44 time of application;

45 (3) for the third award, for a privilege period or taxable year
46 following the second award, at least a cumulative 200 new, full-
47 time employees compared to the number of full-time employees at
48 the time of application; and

1 (4) for the fourth award, for a privilege period or taxable year
2 following the third award, at least a cumulative 300 new, full-time
3 employees compared to the number of full-time employees at the
4 time of application.

5 "Qualified offshore wind project" shall have the same meaning
6 as provided in section 3 of P.L.1999, c.23 (C.48:3-51).

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

15 **["Wind energy zone" means property located in the South Jersey**
16 **Port District established pursuant to "The South Jersey Port**
17 **Corporation Act," P.L.1968, c.60 (C.12:11A-1 et seq.).]**
18 (cf: P.L.2018, c.17, s.7)

19
20 110. Section 1 of P.L.2018, c.56 (C.54:10A-5.39b) is amended to
21 read as follows:

22 1. a. (1) A taxpayer, upon approval of an application to the
23 authority and the director, shall be allowed a credit against the tax
24 imposed pursuant to section 5 of P.L.1945, c.162 (C.54:10A-5) in
25 an amount equal to 30 percent of the qualified film production
26 expenses of the taxpayer during a privilege period commencing on
27 or after July 1, 2018 but before July 1, 2028, provided that:

28 (a) at least 60 percent of the total film production expenses,
29 exclusive of post-production costs, of the taxpayer are incurred for
30 services performed, and goods purchased through vendors
31 authorized to do business, in New Jersey, or the qualified film
32 production expenses of the taxpayer during the privilege period
33 exceed \$1,000,000 per production;

34 (b) principal photography of the film commences within the
35 earlier of 180 days from the date of the original application for the
36 tax credit, or 150 days from the date of approval of the application
37 for the tax credit;

38 (c) the film includes, when determined to be appropriate by the
39 commission, at no cost to the State, marketing materials promoting
40 this State as a film and entertainment production destination, which
41 materials shall include placement of a "Filmed in New Jersey" or
42 "Produced in New Jersey" statement, or an approved logo approved
43 by the commission, in the end credits of the film;

44 (d) the taxpayer submits a tax credit verification report prepared
45 by an independent certified public accountant licensed in this State
46 in accordance with subsection f. of this section; and

1 (e) the taxpayer complies with the withholding requirements
2 provided for payments to loan out companies and independent
3 contractors in accordance with subsection g. of this section.

4 (2) Notwithstanding the provisions of paragraph (1) of
5 subsection a. of this section to the contrary, the tax credit allowed
6 pursuant to this subsection against the tax imposed pursuant to
7 section 5 of P.L.1945, c.162 (C.54:10A-5) shall be in an amount
8 equal to 35 percent of the qualified film production expenses of the
9 taxpayer during a privilege period that are incurred for services
10 performed and tangible personal property purchased through
11 vendors whose primary place of business is located in Atlantic,
12 Burlington, Camden, Cape May, Cumberland, Gloucester, Mercer
13 or Salem County.

14 b. (1) A taxpayer, upon approval of an application to the
15 authority and the director, shall be allowed a credit against the tax
16 imposed pursuant to section 5 of P.L.1945, c.162 (C.54:10A-5) in
17 an amount equal to 20 percent of the qualified digital media content
18 production expenses of the taxpayer during a privilege period
19 commencing on or after July 1, 2018 but before July 1, 2028,
20 provided that:

21 (a) at least \$2,000,000 of the total digital media content
22 production expenses of the taxpayer are incurred for services
23 performed, and goods purchased through vendors authorized to do
24 business, in New Jersey;

25 (b) at least 50 percent of the qualified digital media content
26 production expenses of the taxpayer are for wages and salaries paid
27 to full-time or full-time equivalent employees in New Jersey;

28 (c) the taxpayer submits a tax credit verification report prepared
29 by an independent certified public accountant licensed in this State
30 in accordance with subsection f. of this section; and

31 (d) the taxpayer complies with the withholding requirements
32 provided for payments to loan out companies and independent
33 contractors in accordance with subsection g. of this section.

34 (2) Notwithstanding the provisions of paragraph (1) of
35 subsection b. of this section to the contrary, the tax credit allowed
36 pursuant to this subsection against the tax imposed pursuant to
37 section 5 of P.L.1945, c.162 (C.54:10A-5) shall be in an amount
38 equal to 25 percent of the qualified digital media content production
39 expenses of the taxpayer during a privilege period that are incurred
40 for services performed and tangible personal property purchased
41 through vendors whose primary place of business is located in
42 Atlantic, Burlington, Camden, Cape May, Cumberland, Gloucester,
43 Mercer, or Salem County.

44 c. No tax credit shall be allowed pursuant to this section for
45 any costs or expenses included in the calculation of any other tax
46 credit or exemption granted pursuant to a claim made on a tax
47 return filed with the director, or included in the calculation of an
48 award of business assistance or incentive, for a period of time that

1 coincides with the privilege period for which a tax credit authorized
2 pursuant to this section is allowed. The order of priority in which
3 the tax credit allowed pursuant to this section and any other tax
4 credits allowed by law may be taken shall be as prescribed by the
5 director. The amount of the tax credit applied under this section
6 against the tax imposed pursuant to section 5 of P.L.1945, c.162
7 (C.54:10A-5), for a privilege period, when taken together with any
8 other payments, credits, deductions, and adjustments allowed by
9 law shall not reduce the tax liability of the taxpayer to an amount
10 less than the statutory minimum provided in subsection (e) of
11 section 5 of P.L.1945, c.162 (C.54:10A-5). The amount of the tax
12 credit otherwise allowable under this section which cannot be
13 applied for the privilege period due to the limitations of this
14 subsection or under other provisions of P.L.1945, c.162 (C.54:10A-
15 1 et seq.) may be carried forward, if necessary, to the seven
16 privilege periods following the privilege period for which the tax
17 credit was allowed.

18 d. A taxpayer, with an application for a tax credit provided for
19 in subsection a. or subsection b. of this section, may apply to the
20 authority and the director for a tax credit transfer certificate in lieu
21 of the taxpayer being allowed any amount of the tax credit against
22 the tax liability of the taxpayer. The tax credit transfer certificate,
23 upon receipt thereof by the taxpayer from the authority and the
24 director, may be sold or assigned, in full or in part, to any other
25 taxpayer that may have a tax liability under the "Corporation
26 Business Tax Act (1945)," P.L.1945, c.162 (C.54:10A-1 et seq.), or
27 the "New Jersey Gross Income Tax Act," N.J.S.54A:1-1 et seq., in
28 exchange for private financial assistance to be provided by the
29 purchaser or assignee to the taxpayer that has applied for and been
30 granted the tax credit. The tax credit transfer certificate provided to
31 the taxpayer shall include a statement waiving the taxpayer's right
32 to claim that amount of the tax credit against the tax imposed
33 pursuant to section 5 of P.L.1945, c.162 (C.54:10A-5) that the
34 taxpayer has elected to sell or assign. The sale or assignment of any
35 amount of a tax credit transfer certificate allowed under this section
36 shall not be exchanged for consideration received by the taxpayer of
37 less than 75 percent of the transferred tax credit amount. Any
38 amount of a tax credit transfer certificate used by a purchaser or
39 assignee against a tax liability under P.L.1945, c.162 (C.54:10A-1
40 et seq.) shall be subject to the same limitations and conditions that
41 apply to the use of a tax credit pursuant to subsection c. of this
42 section. Any amount of a tax credit transfer certificate obtained by
43 a purchaser or assignee under subsection a. or subsection b. of this
44 section may be applied against the purchaser's or assignee's tax
45 liability under N.J.S.54A:1-1 et seq. and shall be subject to the
46 same limitations and conditions that apply to the use of a credit
47 pursuant to subsections c. and d. of section 2 of P.L.2018, c.56
48 (C.54A:4-12b).

1 e. (1) The value of tax credits, including tax credits allowed
2 through the granting of tax credit transfer certificates, approved by
3 the director and the authority pursuant to subsection a. of this
4 section and pursuant to subsection a. of section 2 of P.L.2018, c.56
5 (C.54A:4-12b) to taxpayers, other than New Jersey film partners
6 and New Jersey film-lease partners, shall not exceed a cumulative
7 total of \$100,000,000 in fiscal year 2019 and in each fiscal year
8 thereafter prior to fiscal year 2029 to apply against the tax imposed
9 pursuant to section 5 of P.L.1945, c.162 (C.54:10A-5) and the tax
10 imposed pursuant to the "New Jersey Gross Income Tax Act,"
11 N.J.S.54A:1-1 et seq. In addition to the \$100,000,000 limitation on
12 the value of tax credits approved by the director for New Jersey
13 film-lease partners and the \$100,000,000 limitation on the value of
14 tax credits approved by the director for other taxpayers imposed by
15 this paragraph, the value of tax credits, including tax credits
16 allowed through the granting of tax credit transfer certificates,
17 approved by the director and the authority pursuant to subsection a.
18 of this section and pursuant to subsection a. of section 2 of
19 P.L.2018, c.56 (C.54A:4-12b) to New Jersey film partners shall not
20 exceed a cumulative total of \$100,000,000 in fiscal year 2021 and
21 in each fiscal year thereafter prior to fiscal year ¹[2029] 2034¹ to
22 apply against the tax imposed pursuant to section 5 of P.L.1945,
23 c.162 (C.54:10A-5) and the tax imposed pursuant to the "New
24 Jersey Gross Income Tax Act," N.J.S.54A:1-1 et seq. In addition to
25 the \$100,000,000 limitation on the value of tax credits approved by
26 the director for New Jersey film partners and the \$100,000,000
27 limitation on the value of tax credits approved by the director for
28 other taxpayers imposed by this paragraph, the value of tax credits,
29 including tax credits allowed through the granting of tax credit
30 transfer certificates, approved by the director and the authority
31 pursuant to subsection a. of this section and pursuant to subsection
32 a. of section 2 of P.L.2018, c.56 (C.54A:4-12b) to New Jersey film-
33 lease partners shall not exceed a cumulative total of \$100,000,000
34 in fiscal year 2021 and in each fiscal year thereafter prior to fiscal
35 year ¹[2029] 2034¹ to apply against the tax imposed pursuant to
36 section 5 of P.L.1945, c.162 (C.54:10A-5) and the tax imposed
37 pursuant to the "New Jersey Gross Income Tax Act," N.J.S.54A:1-1
38 et seq.

39 If the cumulative total amount of tax credits, and tax credit
40 transfer certificates, allowed to taxpayers for privilege periods or
41 taxable years commencing during a single fiscal year under
42 subsection a. of this section and subsection a. of section 2 of
43 P.L.2018, c.56 (C.54A:4-12b) exceeds the amount of tax credits
44 available in that fiscal year, then taxpayers who have first applied
45 for and have not been allowed a tax credit or tax credit transfer
46 certificate amount for that reason shall be allowed, in the order in
47 which they have submitted an application, the amount of tax credit
48 or tax credit transfer certificate on the first day of the next

1 succeeding fiscal year in which tax credits and tax credit transfer
2 certificates under subsection a. of this section and subsection a. of
3 section 2 of P.L.2018, c.56 (C.54A:4-12b) are not in excess of the
4 amount of credits available.

5 Notwithstanding any provision of paragraph (1) of this
6 subsection to the contrary, for any fiscal year in which the amount
7 of tax credits approved pursuant to this paragraph is less than the
8 cumulative total amount of tax credits permitted to be approved in
9 that fiscal year, the authority shall certify the amount of the
10 remaining tax credits available for approval in that fiscal year, and
11 shall increase the cumulative total amount of tax credits permitted
12 to be approved in the subsequent fiscal year by the certified amount
13 remaining from the prior fiscal year. The authority shall also
14 certify, for each fiscal year, the amount of tax credits that were
15 previously approved, but that the taxpayer is not able to redeem or
16 transfer to another taxpayer under this section, and shall increase
17 the cumulative total amount of tax credits permitted to be approved
18 in the subsequent fiscal year by the amount of tax credits previously
19 approved, but not subject to redemption or transfer. ¹【The
20 combined increase to the cumulative total permitted to be approved
21 in a subsequent fiscal year pursuant to this paragraph shall not
22 exceed \$50,000,000】¹.

23 (2) The value of tax credits, including tax credits allowed
24 through the granting of tax credit transfer certificates, approved by
25 the authority and the director pursuant to subsection b. of this
26 section and pursuant to subsection b. of section 2 of P.L.2018, c.56
27 (C.54A:4-12b) shall not exceed a cumulative total of \$10,000,000 in
28 fiscal year 2019 and in each fiscal year thereafter prior to fiscal year
29 2029 to apply against the tax imposed pursuant to section 5 of
30 P.L.1945, c.162 (C.54:10A-5) and the tax imposed pursuant to the
31 "New Jersey Gross Income Tax Act," N.J.S.54A:1-1 et seq.

32 If the total amount of tax credits and tax credit transfer
33 certificates allowed to taxpayers for privilege periods or taxable
34 years commencing during a single fiscal year under subsection b. of
35 this section and subsection b. of section 2 of P.L.2018, c.56
36 (C.54A:4-12.b) exceeds the amount of tax credits available in that
37 year, then taxpayers who have first applied for and have not been
38 allowed a tax credit or tax credit transfer certificate amount for that
39 reason shall be allowed, in the order in which they have submitted
40 an application, the amount of tax credit or tax credit transfer
41 certificate on the first day of the next succeeding fiscal year in
42 which tax credits and tax credit transfer certificates under
43 subsection b. of this section and subsection b. of section 2 of
44 P.L.2018, c.56 (C.54A:4-12.b) are not in excess of the amount of
45 credits available.

46 Notwithstanding any provision of this paragraph to the contrary,
47 for any fiscal year in which the amount of tax credits approved
48 pursuant to this paragraph is less than the cumulative total amount

1 of tax credits permitted to be approved in that fiscal year, the
2 authority shall certify the amount of the remaining tax credits
3 available for approval in that fiscal year, and shall increase the
4 cumulative total amount of tax credits permitted to be approved in
5 the subsequent fiscal year by the certified amount remaining from
6 the prior fiscal year. The authority shall also certify, for each fiscal
7 year, the amount of tax credits that were previously approved, but
8 that the taxpayer is not able to redeem or transfer to another
9 taxpayer under this section, and shall increase the cumulative total
10 amount of tax credits permitted to be approved in the subsequent
11 fiscal year by the amount of tax credits previously approved, but not
12 subject to redemption or transfer.

13 f. A taxpayer shall submit to the authority and the director a
14 report prepared by an independent certified public accountant
15 licensed in this State to verify the taxpayer's tax credit claim
16 following the completion of the production. The report shall be
17 prepared by the independent certified public accountant pursuant to
18 agreed upon procedures prescribed by the authority and the director,
19 and shall include such information and documentation as shall be
20 determined to be necessary by the authority and the director to
21 substantiate the qualified film production expenses or the qualified
22 digital media content production expenses of the taxpayer. A single
23 report with attachments deemed necessary by the authority shall be
24 submitted electronically. Upon receipt of the report, the authority
25 and the director shall review the findings of the independent
26 certified public accountant's report, and shall make a determination
27 as to the qualified film production expenses or the qualified digital
28 media content production expenses of the taxpayer. The
29 determination shall be provided in writing to the taxpayer, and a
30 copy of the written determination shall be included in the filing of a
31 return that includes a claim for a tax credit allowed pursuant to this
32 section.

33 g. A taxpayer shall withhold from each payment to a loan out
34 company or to an independent contractor an amount equal to 6.37
35 percent of the payment otherwise due. The amounts withheld shall
36 be deemed to be withholding of liability pursuant to the "New
37 Jersey Gross Income Tax Act," N.J.S.54A:1-1 et seq., and the
38 taxpayer shall be deemed to have the rights, duties, and
39 responsibilities of an employer pursuant to chapter 7 of Title 54A of
40 the New Jersey Statutes. The director shall allocate the amounts
41 withheld for a taxable year to the accounts of the individuals who
42 are employees of a loan out company in proportion to the
43 employee's payment by the loan out company in connection with a
44 trade, profession, or occupation carried on in this State or for the
45 rendition of personal services performed in this State during the
46 taxable year. A loan out company that reports its payments to
47 employees in connection with a trade, profession, or occupation
48 carried on in this State or for the rendition of personal services

1 performed in this State during a taxable year shall be relieved of its
2 duties and responsibilities as an employer pursuant to chapter 7 of
3 Title 54A of the New Jersey Statutes for the taxable year for any
4 payments relating to the payments on which the taxpayer withheld.

5 h. As used in this section:

6 "Authority" means the New Jersey Economic Development
7 Authority.

8 "Business assistance or incentive" means "business assistance or
9 incentive" as that term is defined pursuant to section 1 of P.L.2007,
10 c.101 (C.54:50-39).

11 "Commission" means the Motion Picture and Television
12 Development Commission.

13 "Digital media content" means any data or information that is
14 produced in digital form, including data or information created in
15 analog form but reformatted in digital form, text, graphics,
16 photographs, animation, sound, and video content. "Digital media
17 content" shall not mean content offerings generated by the end user
18 (including postings on electronic bulletin boards and chat rooms);
19 content offerings comprised primarily of local news, events,
20 weather, or local market reports; public service content; electronic
21 commerce platforms (such as retail and wholesale websites);
22 websites or content offerings that contain obscene material as
23 defined pursuant to N.J.S.2C:34-2 and N.J.S.2C:34-3; websites or
24 content that are produced or maintained primarily for private,
25 industrial, corporate, or institutional purposes; or digital media
26 content acquired or licensed by the taxpayer for distribution or
27 incorporation into the taxpayer's digital media content.

28 "Film" means a feature film, a television series, or a television
29 show of 22 minutes or more in length, intended for a national
30 audience, or a television series or a television show of 22 minutes
31 or more in length intended for a national or regional audience,
32 including, but not limited to, a game show, award show, or other
33 gala event filmed and produced at a nonprofit arts and cultural
34 venue receiving State funding. "Film" shall not include a
35 production featuring news, current events, weather, and market
36 reports or public programming, talk show, or sports event, a
37 production that solicits funds, a production containing obscene
38 material as defined under N.J.S.2C:34-2 and N.J.S.2C:34-3, or a
39 production primarily for private, industrial, corporate, or
40 institutional purposes, or a reality show, except if the production
41 company of the reality show owns, leases, or otherwise occupies a
42 production facility of no less than 20,000 square feet of real
43 property for a minimum term of 24 months, and invests no less than
44 \$3,000,000 in such a facility within a designated enterprise zone
45 established pursuant to the "New Jersey Urban Enterprise Zones
46 Act," P.L.1983, c.303 (C.52:27H-60 et al.), or a UEZ-impacted
47 business district established pursuant to section 3 of P.L.2001,
48 c.347 (C.52:27H-66.2). "Film" shall not include an award show or

1 other gala event that is not filmed and produced at a nonprofit arts
2 and cultural venue receiving State funding.

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

19 "Highly compensated individual" means an individual who
20 directly or indirectly receives compensation in excess of \$500,000
21 for the performance of services used directly in a production. An
22 individual receives compensation indirectly when the taxpayer pays
23 a loan out company that, in turn, pays the individual for the
24 performance of services.

25 "Independent contractor" means an individual treated as an
26 independent contractor for federal and State tax purposes who is
27 contracted with by the taxpayer for the performance of services
28 used directly in a production.

29 "Loan out company" means a personal service corporation or
30 other entity that is contracted with by the taxpayer to provide
31 specified individual personnel, such as artists, crew, actors,
32 producers, or directors for the performance of services used directly
33 in a production. "Loan out company" shall not include entities
34 contracted with by the taxpayer to provide goods or ancillary
35 contractor services such as catering, construction, trailers,
36 equipment, or transportation.

37 "New Jersey film partner" means a film production company that
38 has made a commitment to produce films or commercial
39 audiovisual products in New Jersey and has developed, purchased,
40 or executed a 10-year contract to lease a production facility of
41 250,000 square feet or more as a "transformative project" pursuant
42 to section 65 of P.L. , c. (C.) (pending before the Legislature
43 as this bill). No more than five film production companies may be
44 designated as a New Jersey film partner.

45 "New Jersey film-lease partner" means a taxpayer, including any
46 taxpayer that is a member of a combined group under P.L.2018,
47 c.131 (C:54:10A-4.11), that has made a commitment to lease or
48 acquire a New Jersey production facility with an aggregate square

1 footage of at least 50,000 square feet, which includes a sound stage
2 and production support space such as production offices or a
3 backlot, for a period of five or more successive years and commits
4 to spend, on a separate-entity basis or in the aggregate with other
5 members of the taxpayer's combined group, an annual average of
6 \$50,000,000 of qualified film production expenses over the period
7 of at least five but not to exceed 10 years. ¹【The authority shall be
8 permitted to recapture any credits awarded to a New Jersey film-
9 lease partner if the New Jersey film-lease partner, or any member of
10 the New Jersey film-lease partner's combined group fails to
11 maintain a New Jersey production facility during the period
12 prescribed or if the New Jersey film-lease partner, on a separate-
13 entity basis or in the aggregate with other members of the New
14 Jersey film-lease partner's combined group, fails to spend an annual
15 average of \$50,000,000 of qualified film production expenses over
16 the prescribed period.】¹

17 "Partnership" means an entity classified as a partnership for
18 federal income tax purposes.

19 "Post-production costs" means the costs of the phase of
20 production of a film that follows principal photography, in which
21 raw footage is cut and assembled into a finished film with sound
22 synchronization and visual effects.

23 "Pre-production costs" means the costs of the phase of
24 production of a film that precedes principal photography, in which a
25 detailed schedule and budget for the production is prepared, the
26 script and location is finalized, and contracts with vendors are
27 negotiated.

28 "Qualified digital media content production expenses" means an
29 expense incurred in New Jersey for the production of digital media
30 content. "Qualified digital media content production expenses"
31 shall include but not be limited to: wages and salaries of individuals
32 employed in the production of digital media content on which the
33 tax imposed by the "New Jersey Gross Income Tax Act,"
34 N.J.S.54A:1-1 et seq. has been paid or is due; and the costs of
35 computer software and hardware, data processing, visualization
36 technologies, sound synchronization, editing, and the rental of
37 facilities and equipment. Payment made to a loan out company or
38 to an independent contractor shall not be deemed a "qualified digital
39 media content production expense" unless the payment is made in
40 connection with a trade, profession, or occupation carried on in this
41 State or for the rendition of personal services performed in this
42 State and the taxpayer has made the withholding required pursuant
43 to subsection g. of this section. "Qualified digital media content
44 production expenses" shall not include expenses incurred in
45 marketing, promotion, or advertising digital media or other costs
46 not directly related to the production of digital media content.
47 Costs related to the acquisition or licensing of digital media content
48 by the taxpayer for distribution or incorporation into the taxpayer's

1 digital media content shall not be deemed "qualified digital media
2 content production expenses."

3 "Qualified film production expenses" means an expense incurred
4 in New Jersey for the production of a film including pre-production
5 costs and post-production costs incurred in New Jersey. "Qualified
6 film production expenses" shall include but not be limited to:
7 wages and salaries of individuals employed in the production of a
8 film on which the tax imposed by the "New Jersey Gross Income
9 Tax Act," N.J.S.54A:1-1 et seq. has been paid or is due; and the
10 costs for tangible personal property used, and services performed,
11 directly and exclusively in the production of a film, such as
12 expenditures for film production facilities, props, makeup,
13 wardrobe, film processing, camera, sound recording, set
14 construction, lighting, shooting, editing, and meals. Payment made
15 to a loan out company or to an independent contractor shall not be
16 deemed a "qualified film production expense" unless the payment is
17 made in connection with a trade, profession, or occupation carried
18 on in this State or for the rendition of personal services performed
19 in this State and the taxpayer has made the withholding required
20 pursuant to subsection g. of this section. "Qualified film production
21 expenses" shall not include: expenses incurred in marketing or
22 advertising a film; and payment in excess of \$500,000 to a highly
23 compensated individual for costs for a story, script, or scenario used
24 in the production of a film and wages or salaries or other
25 compensation for writers, directors, including music directors,
26 producers, and performers, other than background actors with no
27 scripted lines, except as follows:

28 (1) for a New Jersey film partner that incurs more than
29 '~~[\$30,000,000]~~ \$15,000,000¹ , but less than '~~[\$100,000,000]~~
30 \$50,000,000¹ , in qualified film production expenses in the State, an
31 amount, not to exceed \$15,000,000, of the wages or salaries or other
32 compensation for writers, directors, including music directors,
33 producers, and performers, other than background actors with no
34 scripted lines, shall constitute qualified film production expenses;

35 (2) ¹for a New Jersey film partner that incurs \$50,000,000 or
36 more, but less than \$100,000,000, in qualified film production
37 expenses in the State, an amount, not to exceed \$25,000,000, of the
38 wages or salaries or other compensation for writers, directors,
39 including music directors, producers, and performers, other than
40 background actors with no scripted lines, shall constitute qualified
41 film production expenses;

42 (3)¹ for a New Jersey film partner that incurs \$100,000,000 or
43 more, but less than \$150,000,000, in qualified film production
44 expenses in the State, an amount, not to exceed '~~[\$30,000,000]~~
45 \$40,000,000¹ , of the wages or salaries or other compensation for
46 writers, directors, including music directors, producers, and

1 performers, other than background actors with no scripted lines,
2 shall constitute qualified film production expenses; and

3 '[(3)] (4)' for a New Jersey film partner that incurs
4 \$150,000,000 or more in qualified film production expenses in the
5 State, an amount, not to exceed \$60,000,000, of the wages or
6 salaries or other compensation for writers, directors, including
7 music directors, producers, and performers, other than background
8 actors with no scripted lines, shall constitute qualified film
9 production expenses.

10 "Total digital media content production expenses" means costs
11 for services performed and property used or consumed in the
12 production of digital media content.

13 "Total film production expenses" means costs for services
14 performed and tangible personal property used or consumed in the
15 production of a film.

16 i. A business that is not a "taxpayer" as defined and used in the
17 "Corporation Business Tax Act (1945)," P.L.1945, c.162
18 (C.54:10A-1 et seq.) and therefore is not directly allowed a credit
19 under this section, but is a business entity that is classified as a
20 partnership for federal income tax purposes and is ultimately owned
21 by a business entity that is a "corporation" as defined in subsection
22 (c) of section 4 of P.L.1945, c.162 (C.54:10A-4), or a limited
23 liability company formed under the "Revised Uniform Limited
24 Liability Company Act," P.L.2012, c.50 (C.42:2C-1 et seq.), or
25 qualified to do business in this State as a foreign limited liability
26 company, with one member, and is wholly owned by the business
27 entity that is a "corporation" as defined in subsection (c) of section
28 4 of P.L.1945, c.162 (C.54:10A-4), but otherwise meets all other
29 requirements of this section, shall be considered an eligible
30 applicant and "taxpayer" as that term is used in this section.

31 (cf: P.L.2019, c.506, s.1)

32

33 111. Section 2 of P.L.2018, c.56 (C.54A:4-12b) is amended to
34 read as follows:

35 2. a. (1) A taxpayer, upon approval of an application to the
36 authority and the director, shall be allowed a credit against the tax
37 otherwise due for the taxable year under the "New Jersey Gross
38 Income Tax Act," N.J.S.54A:1-1 et seq., in an amount equal to 30
39 percent of the qualified film production expenses of the taxpayer
40 during a taxable year commencing on or after July 1, 2018 but
41 before July 1, 2028, provided that:

42 (a) at least 60 percent of the total film production expenses,
43 exclusive of post-production costs, of the taxpayer are incurred for
44 services performed, and goods purchased through vendors
45 authorized to do business, in New Jersey, or the qualified film
46 production expenses of the taxpayer during the taxable year exceed
47 \$1,000,000 per production;

1 (b) principal photography of the film commences within the
2 earlier of 180 days from the date of the original application for the
3 tax credit, or 150 days from the date of approval of the application
4 for the tax credit;

5 (c) the film includes, when determined to be appropriate by the
6 commission, at no cost to the State, marketing materials promoting
7 this State as a film and entertainment production destination, which
8 materials shall include placement of a "Filmed in New Jersey" or
9 "Produced in New Jersey" statement, or an appropriate logo
10 approved by the commission, in the end credits of the film;

11 (d) the taxpayer submits a tax credit verification report prepared
12 by an independent certified public accountant licensed in this State
13 in accordance with subsection g. of this section; and

14 (e) the taxpayer complies with the withholding requirements
15 provided for payments to loan out companies and independent
16 contractors in accordance with subsection h. of this section.

17 (2) Notwithstanding the provisions of paragraph (1) of
18 subsection a. of this section to the contrary, the tax credit allowed
19 pursuant to this subsection against the tax otherwise due for the
20 taxable year under the "New Jersey Gross Income Tax Act,"
21 N.J.S.54A:1-1 et seq., shall be in an amount equal to 35 percent of
22 the qualified film production expenses of the taxpayer during a
23 taxable year that are incurred for services performed and tangible
24 personal property purchased through vendors whose primary place
25 of business is located in Atlantic, Burlington, Camden, Cape May,
26 Cumberland, Gloucester, Mercer, or Salem County.

27 b. (1) A taxpayer, upon approval of an application to the
28 authority and the director, shall be allowed a credit against the tax
29 otherwise due for the taxable year under the "New Jersey Gross
30 Income Tax Act," N.J.S.54A:1-1 et seq., in an amount equal to 20
31 percent of the qualified digital media content production expenses
32 of the taxpayer during a taxable year commencing on or after July
33 1, 2018 but before July 1, 2028, provided that:

34 (a) at least \$2,000,000 of the total digital media content
35 production expenses of the taxpayer are incurred for services
36 performed, and goods purchased through vendors authorized to do
37 business, in New Jersey;

38 (b) at least 50 percent of the qualified digital media content
39 production expenses of the taxpayer are for wages and salaries paid
40 to full-time or full-time equivalent employees in New Jersey;

41 (c) the taxpayer submits a tax credit verification report prepared
42 by an independent certified public accountant licensed in this State
43 in accordance with subsection g. of this section; and

44 (d) the taxpayer complies with the withholding requirements
45 provided for payments to loan out companies and independent
46 contractors in accordance with subsection h. of this section.

47 (2) Notwithstanding the provisions of paragraph (1) of
48 subsection b. of this section to the contrary, the tax credit allowed

1 pursuant to this subsection against the tax otherwise due for the
2 taxable year under the "New Jersey Gross Income Tax Act,"
3 N.J.S.54A:1-1 et seq., shall be in an amount equal to 25 percent for
4 the qualified digital media content production expenses of the
5 taxpayer during a taxable year that are incurred for services
6 performed and tangible personal property purchased through
7 vendors whose primary place of business is located in Atlantic,
8 Burlington, Camden, Cape May, Cumberland, Gloucester, Mercer,
9 or Salem County.

10 c. No tax credit shall be allowed pursuant to this section for
11 any costs or expenses included in the calculation of any other tax
12 credit or exemption granted pursuant to a claim made on a tax
13 return filed with the director, or included in the calculation of an
14 award of business assistance or incentive, for a period of time that
15 coincides with the taxable year for which a tax credit authorized
16 pursuant to this section is allowed. The order of priority in which
17 the tax credit allowed pursuant to this section and any other tax
18 credits allowed by law may be taken shall be as prescribed by the
19 director. The amount of the tax credit applied under this section
20 against the tax otherwise due under the "New Jersey Gross Income
21 Tax Act," N.J.S.54A:1-1 et seq., for a taxable year, when taken
22 together with any other payments, credits, deductions, and
23 adjustments allowed by law shall not reduce the tax liability of the
24 taxpayer to an amount less than zero. The amount of the tax credit
25 otherwise allowable under this section which cannot be applied for
26 the taxable year due to the limitations of this subsection or under
27 other provisions of N.J.S.54A:1-1 et seq., may be carried forward, if
28 necessary, to the seven taxable years following the taxable year for
29 which the tax credit was allowed.

30 d. (1) A business entity that is classified as a partnership for
31 federal income tax purposes shall not be allowed a tax credit
32 pursuant to this section directly, but the amount of tax credit of a
33 taxpayer in respect of a distributive share of entity income, shall be
34 determined by allocating to the taxpayer that proportion of the tax
35 credit acquired by the entity that is equal to the taxpayer's share,
36 whether or not distributed, of the total distributive income or gain
37 of the entity for its taxable year ending within or with the taxpayer's
38 taxable year.

39 (2) A New Jersey S Corporation shall not be allowed a tax credit
40 pursuant to this section directly, but the amount of tax credit of a
41 taxpayer in respect of a pro rata share of S Corporation income,
42 shall be determined by allocating to the taxpayer that proportion of
43 the tax credit acquired by the New Jersey S Corporation that is
44 equal to the taxpayer's share, whether or not distributed, of the total
45 pro rata share of S Corporation income of the New Jersey S
46 Corporation for its privilege period ending within or with the
47 taxpayer's taxable year.

1 A business entity that is not a gross income "taxpayer" as defined
2 and used in the "New Jersey Gross Income Tax Act," N.J.S.54A:1-1
3 et seq., and therefore is not directly allowed a credit under this
4 section, but otherwise meets all the other requirements of this
5 section, shall be considered an eligible applicant and "taxpayer" as
6 that term is used in this section, and the application of an otherwise
7 allowed credit amount shall be distributed to appropriate gross
8 income taxpayers pursuant to the other requirements of this
9 subsection.

10 e. A taxpayer, with an application for a tax credit provided for
11 in subsection a. or subsection b. of this section, may apply to the
12 authority and the director for a tax credit transfer certificate in lieu
13 of the taxpayer being allowed any amount of the tax credit against
14 the tax liability of the taxpayer. The tax credit transfer certificate,
15 upon receipt thereof by the taxpayer from the authority and the
16 director, may be sold or assigned, in full or in part, to any other
17 taxpayer that may have a tax liability under the "New Jersey Gross
18 Income Tax Act," N.J.S.54A:1-1 et seq., or the "Corporation
19 Business Tax Act (1945)," P.L.1945, c.162 (C.54:10A-1 et seq.), in
20 exchange for private financial assistance to be provided by the
21 purchaser or assignee to the taxpayer that has applied for and been
22 granted the tax credit. The tax credit transfer certificate provided to
23 the taxpayer shall include a statement waiving the taxpayer's right
24 to claim that amount of the tax credit against the tax imposed
25 pursuant to N.J.S.54A:1-1 et seq. that the taxpayer has elected to
26 sell or assign. The sale or assignment of any amount of a tax credit
27 transfer certificate allowed under this section shall not be
28 exchanged for consideration received by the taxpayer of less than
29 75 percent of the transferred tax credit amount. Any amount of a
30 tax credit transfer certificate used by a purchaser or assignee against
31 a tax liability under N.J.S.54A:1-1 et seq. shall be subject to the
32 same limitations and conditions that apply to the use of a tax credit
33 pursuant to subsections c. and d. of this section. Any amount of a
34 tax credit transfer certificate obtained by a purchaser or assignee
35 under subsection e. of this section may be applied against the
36 purchaser's or assignee's tax liability under P.L.1945, c.162
37 (C.54:10A-1 et seq.) and shall be subject to the same limitations
38 and conditions that apply to the use of a credit pursuant to
39 subsection c. of section 1 of P.L.2018, c.56 (C.54:10A-5.39b).

40 f. (1) The value of tax credits, including tax credits allowed
41 through the granting of tax credit transfer certificates, approved by
42 the director and the authority pursuant to subsection a. of this
43 section and pursuant to subsection a. of section 1 of P.L.2018, c.56
44 (C.54:10A-5.39b) to taxpayers, other than New Jersey film partners
45 and New Jersey film-lease partners, shall not exceed a cumulative
46 total of \$100,000,000 in fiscal year 2019 and in each fiscal year
47 thereafter prior to fiscal year 2029 to apply against the tax imposed
48 pursuant to the "New Jersey Gross Income Tax Act," N.J.S.54A:1-1

1 et seq., and pursuant to section 5 of P.L.1945, c.162 (C.54:10A-5).
2 In addition to the \$100,000,000 limitation on the value of tax
3 credits approved by the director for New Jersey film-lease partners
4 and the \$100,000,000 limitation on the value of tax credits
5 approved by the director for other taxpayers imposed by this
6 paragraph, the value of tax credits, including tax credits allowed
7 through the granting of tax credit transfer certificates, approved by
8 the director and the authority pursuant to subsection a. of this
9 section and pursuant to subsection a. of section 2 of P.L.2018, c.56
10 (C.54A:4-12b) to New Jersey film partners shall not exceed a
11 cumulative total of \$100,000,000 in fiscal year 2021 and in each
12 fiscal year thereafter prior to fiscal year ¹~~2029~~ 2034¹ to apply
13 against the tax imposed pursuant to section 5 of P.L.1945, c.162
14 (C.54:10A-5) and the tax imposed pursuant to the "New Jersey
15 Gross Income Tax Act," N.J.S.54A:1-1 et seq. In addition to the
16 \$100,000,000 limitation on the value of tax credits approved by the
17 director for New Jersey film partners and the \$100,000,000
18 limitation on the value of tax credits approved by the director for
19 other taxpayers imposed by this paragraph, the value of tax credits,
20 including tax credits allowed through the granting of tax credit
21 transfer certificates, approved by the director and the authority
22 pursuant to subsection a. of this section and pursuant to subsection
23 a. of section 1 of P.L.2018, c.56 (C.54A:4-12b) to New Jersey film-
24 lease partners shall not exceed a cumulative total of \$100,000,000
25 in fiscal year 2021 and in each fiscal year thereafter prior to fiscal
26 year ¹~~2029~~ 2034¹ to apply against the tax imposed pursuant to
27 section 5 of P.L.1945, c.162 (C.54:10A-5) and the tax imposed
28 pursuant to the "New Jersey Gross Income Tax Act," N.J.S.54A:1-1
29 et seq.

30 If the cumulative total amount of tax credits, and tax credit
31 transfer certificates, allowed to taxpayers for taxable years or
32 privilege periods commencing during a single fiscal year under
33 subsection a. of this section and subsection a. of section 1 of
34 P.L.2018, c.56 (C.54:10A-5.39b) exceeds the amount of tax credits
35 available in that fiscal year, then taxpayers who have first applied
36 for and have not been allowed a tax credit or tax credit transfer
37 certificate amount for that reason shall be allowed, in the order in
38 which they have submitted an application, the amount of tax credit
39 or tax credit transfer certificate on the first day of the next
40 succeeding fiscal year in which tax credits and tax credit transfer
41 certificates under subsection a. of this section and subsection a. of
42 section 1 of P.L.2018, c.56 (C.54:10A-5.39b) are not in excess of
43 the amount of credits available.

44 Notwithstanding any provision of paragraph (1) of this
45 subsection to the contrary, for any fiscal year in which the amount
46 of tax credits approved pursuant to this paragraph is less than the
47 cumulative total amount of tax credits permitted to be approved in
48 that fiscal year, the authority shall certify the amount of the

1 remaining tax credits available for approval in that fiscal year, and
2 shall increase the cumulative total amount of tax credits permitted
3 to be approved in the subsequent fiscal year by the certified amount
4 remaining from the prior fiscal year. The authority shall also
5 certify, for each fiscal year, the amount of tax credits that were
6 previously approved, but that the taxpayer is not able to redeem or
7 transfer to another taxpayer under this section, and shall increase
8 the cumulative total amount of tax credits permitted to be approved
9 in the subsequent fiscal year by the amount of tax credits previously
10 approved, but not subject to redemption or transfer. ¹【The
11 combined increase to the cumulative total permitted to be approved
12 in a subsequent fiscal year pursuant to this paragraph shall not
13 exceed \$50,000,000】¹.

14 (2) The value of tax credits, including tax credits allowed
15 through the granting of tax credit transfer certificates, approved by
16 the authority and the director pursuant to subsection b. of this
17 section and pursuant to subsection b. of section 1 of P.L.2018, c.56
18 (C.54:10A-5.39b) shall not exceed a cumulative total of
19 \$10,000,000 in fiscal year 2019 and in each fiscal year thereafter
20 prior to fiscal year 2029 to apply against the tax imposed pursuant
21 to the "New Jersey Gross Income Tax Act," N.J.S.54A:1-1 et seq.
22 and the tax imposed pursuant to section 5 of P.L.1945, c.162
23 (C.54:10A-5).

24 If the total amount of tax credits and tax credit transfer
25 certificates allowed to taxpayers for taxable years or privilege
26 periods commencing during a single fiscal year under subsection b.
27 of this section and subsection b. of section 1 of P.L.2018, c.56
28 (C.54:10A-5.39b) exceeds the amount of tax credits available in
29 that year, then taxpayers who have first applied for and have not
30 been allowed a tax credit or tax credit transfer certificate amount for
31 that reason shall be allowed, in the order in which they have
32 submitted an application, the amount of tax credit or tax credit
33 transfer certificate on the first day of the next succeeding fiscal year
34 in which tax credits and tax credit transfer certificates under
35 subsection b. of this section and subsection b. of section 1 of
36 P.L.2018, c.56 (C.54:10A-5.39b) are not in excess of the amount of
37 credits available.

38 Notwithstanding any provision of this paragraph to the contrary,
39 for any fiscal year in which the amount of tax credits approved
40 pursuant to this paragraph is less than the cumulative total amount
41 of tax credits permitted to be approved in that fiscal year, the
42 authority shall certify the amount of the remaining tax credits
43 available for approval in that fiscal year, and shall increase the
44 cumulative total amount of tax credits permitted to be approved in
45 the subsequent fiscal year by the certified amount remaining from
46 the prior fiscal year. The authority shall also certify, for each fiscal
47 year, the amount of tax credits that were previously approved, but
48 that the taxpayer is not able to redeem or transfer to another

1 taxpayer under this section, and shall increase the cumulative total
2 amount of tax credits permitted to be approved in the subsequent
3 fiscal year by the amount of tax credits previously approved, but not
4 subject to redemption or transfer.

5 g. A taxpayer shall submit to the authority and the director a
6 report prepared by an independent certified public accountant
7 licensed in this State to verify the taxpayer's tax credit claim
8 following the completion of the production. The report shall be
9 prepared by the independent certified public accountant pursuant to
10 agreed upon procedures prescribed by the authority and the director,
11 and shall include such information and documentation as shall be
12 determined to be necessary by the authority and the director to
13 substantiate the qualified film production expenses or the qualified
14 digital media content production expenses of the taxpayer. A single
15 report with attachments deemed necessary by the authority shall be
16 submitted electronically. Upon receipt of the report, the authority
17 and the director shall review the findings of the independent
18 certified public accountant's report, and shall make a determination
19 as to the qualified film production expenses or the qualified digital
20 media content production expenses of the taxpayer. The
21 determination shall be provided in writing to the taxpayer, and a
22 copy of the written determination shall be included in the filing of a
23 return that includes a claim for a tax credit allowed pursuant to this
24 section.

25 h. A taxpayer shall withhold from each payment to a loan out
26 company or to an independent contractor an amount equal to 6.37
27 percent of the payment otherwise due. The amounts withheld shall
28 be deemed to be withholding of liability pursuant to the "New
29 Jersey Gross Income Tax Act," N.J.S.54A:1-1 et seq., and the
30 taxpayer shall be deemed to have the rights, duties, and
31 responsibilities of an employer pursuant to chapter 7 of Title 54A of
32 the New Jersey Statutes. The director shall allocate the amounts
33 withheld for a taxable year to the accounts of the individuals who
34 are employees of a loan out company in proportion to the
35 employee's payment by the loan out company in connection with a
36 trade, profession, or occupation carried on in this State or for the
37 rendition of personal services performed in this State during the
38 taxable year. A loan out company that reports its payments to
39 employees in connection with a trade, profession, or occupation
40 carried on in this State or for the rendition of personal services
41 performed in this State during a taxable year shall be relieved of its
42 duties and responsibilities as an employer pursuant to chapter 7 of
43 Title 54A of the New Jersey Statutes for the taxable year for any
44 payments relating to the payments on which the taxpayer withheld.

45 i. As used in this section:

46 "Authority" means the New Jersey Economic Development
47 Authority.

1 "Business assistance or incentive" means "business assistance or
2 incentive" as that term is defined pursuant to section 1 of P.L.2007,
3 c.101 (C.54:50-39).

4 "Commission" means the Motion Picture and Television
5 Development Commission.

6 "Digital media content" means any data or information that is
7 produced in digital form, including data or information created in
8 analog form but reformatted in digital form, text, graphics,
9 photographs, animation, sound, and video content. "Digital media
10 content" shall not mean content offerings generated by the end user
11 (including postings on electronic bulletin boards and chat rooms);
12 content offerings comprised primarily of local news, events,
13 weather or local market reports; public service content; electronic
14 commerce platforms (such as retail and wholesale websites);
15 websites or content offerings that contain obscene material as
16 defined pursuant to N.J.S.2C:34-2 and N.J.S.2C:34-3; websites or
17 content that are produced or maintained primarily for private,
18 industrial, corporate, or institutional purposes; or digital media
19 content acquired or licensed by the taxpayer for distribution or
20 incorporation into the taxpayer's digital media content.

21 "Film" means a feature film, a television series, or a television
22 show of 22 minutes or more in length, intended for a national
23 audience, or a television series or a television show of 22 minutes
24 or more in length intended for a national or regional audience,
25 including, but not limited to, a game show, award show, or other
26 gala event filmed and produced at a nonprofit arts and cultural
27 venue receiving State funding. "Film" shall not include a
28 production featuring news, current events, weather, and market
29 reports or public programming, talk show, sports event, or reality
30 show, a production that solicits funds, a production containing
31 obscene material as defined under N.J.S.2C:34-2 and N.J.S.2C:34-
32 3, or a production primarily for private, industrial, corporate, or
33 institutional purposes. "Film" shall not include an award show or
34 other gala event that is not filmed and produced at a nonprofit arts
35 and cultural venue receiving State funding.

36 "Full-time or full-time equivalent employee" means an individual
37 employed by the taxpayer for consideration for at least 35 hours a
38 week, or who renders any other standard of service generally
39 accepted by custom or practice as full-time or full-time equivalent
40 employment, whose wages are subject to withholding as provided in
41 the "New Jersey Gross Income Tax Act," N.J.S.54A:1-1 et seq., or
42 who is a partner of a taxpayer, who works for the partnership for at
43 least 35 hours a week, or who renders any other standard of service
44 generally accepted by custom or practice as full-time or full-time
45 equivalent employment, and whose distributive share of income,
46 gain, loss, or deduction, or whose guaranteed payments, or any
47 combination thereof, is subject to the payment of estimated taxes, as
48 provided in the "New Jersey Gross Income Tax Act," N.J.S.54A:1-1

1 et seq. "Full-time or full-time equivalent employee" shall not
2 include an individual who works as an independent contractor or on
3 a consulting basis for the taxpayer.

4 "Highly compensated individual" means an individual who
5 directly or indirectly receives compensation in excess of \$500,000
6 for the performance of services used directly in a production. An
7 individual receives compensation indirectly when the taxpayer pays
8 a loan out company that, in turn, pays the individual for the
9 performance of services.

10 "Independent contractor" means an individual treated as an
11 independent contractor for federal and State tax purposes who is
12 contracted with by the taxpayer for the performance of services
13 used directly in a production.

14 "Loan out company" means a personal service corporation or
15 other entity that is contracted with by the taxpayer to provide
16 specified individual personnel, such as artists, crew, actors,
17 producers, or directors for the performance of services used directly
18 in a production. "Loan out company" shall not include entities
19 contracted with by the taxpayer to provide goods or ancillary
20 contractor services such as catering, construction, trailers,
21 equipment, or transportation.

22 "New Jersey film partner" means a film production company that
23 has made a commitment to produce films or commercial
24 audiovisual products in New Jersey and has developed, purchased,
25 or executed a 10-year contract to lease a production facility of
26 250,000 square feet or more as a "transformative project" pursuant
27 to section 65 of P.L. , c. (C.) (pending before the Legislature
28 as this bill). No more than five film production companies may be
29 designated as a New Jersey film partner.

30 "New Jersey film-lease partner" means a taxpayer, including any
31 taxpayer that is a member of a combined group under P.L.2018,
32 c.131 (C:54:10A-4.11), that has made a commitment to lease or
33 acquire a New Jersey production facility with an aggregate square
34 footage of at least 50,000 square feet, which includes a sound stage
35 and production support space such as production offices or a
36 backlot, for a period of five or more successive years and commits
37 to spend, on a separate-entity basis or in the aggregate with other
38 members of the taxpayer's combined group, an annual average of
39 \$50,000,000 of qualified film production expenses over the period
40 of at least five but not to exceed 10 years. ¹【The authority shall be
41 permitted to recapture any credits awarded to a New Jersey film-
42 lease partner if the New Jersey film-lease partner, or any member of
43 the New Jersey film-lease partner's combined group fails to
44 maintain a New Jersey production facility during the period
45 prescribed or if the New Jersey film-lease partner, on a separate-
46 entity basis or in the aggregate with other members of the New
47 Jersey film-lease partner's combined group, fails to spend an annual

1 average of \$50,000,000 of qualified film production expenses over
2 the prescribed period.】¹

3 "Partnership" means an entity classified as a partnership for
4 federal income tax purposes.

5 "Post-production costs" means the costs of the phase of
6 production of a film that follows principal photography, in which
7 raw footage is cut and assembled into a finished film with sound
8 synchronization and visual effects.

9 "Pre-production costs" means the costs of the phase of
10 production of a film that precedes principal photography, in which a
11 detailed schedule and budget for the production is prepared, the
12 script and location is finalized, and contracts with vendors are
13 negotiated.

14 "Qualified digital media content production expenses" means an
15 expense incurred in New Jersey for the production of digital media
16 content. "Qualified digital media content production expenses"
17 shall include but not be limited to: wages and salaries of individuals
18 employed in the production of digital media content on which the
19 tax imposed by the "New Jersey Gross Income Tax Act,"
20 N.J.S.54A:1-1 et seq. has been paid or is due; and the costs of
21 computer software and hardware, data processing, visualization
22 technologies, sound synchronization, editing, and the rental of
23 facilities and equipment. Payment made to a loan out company or
24 to an independent contractor shall not be deemed a "qualified digital
25 media content production expense" unless the payment is made in
26 connection with a trade, profession, or occupation carried on in this
27 State or for the rendition of personal services performed in this
28 State and the taxpayer has made the withholding required pursuant
29 to subsection h. of this section. "Qualified digital media content
30 production expenses" shall not include expenses incurred in
31 marketing, promotion, or advertising digital media or other costs
32 not directly related to the production of digital media content.
33 Costs related to the acquisition or licensing of digital media content
34 by the taxpayer for distribution or incorporation into the taxpayer's
35 digital media content shall not be deemed "qualified digital media
36 content production expenses."

37 "Qualified film production expenses" means an expense incurred
38 in New Jersey for the production of a film including pre-production
39 costs and post-production costs incurred in New Jersey. "Qualified
40 film production expenses" shall include but not be limited to:
41 wages and salaries of individuals employed in the production of a
42 film on which the tax imposed by the "New Jersey Gross Income
43 Tax Act," N.J.S.54A:1-1 et seq. has been paid or is due; and the
44 costs for tangible personal property used, and services performed,
45 directly and exclusively in the production of a film, such as
46 expenditures for film production facilities, props, makeup,
47 wardrobe, film processing, camera, sound recording, set
48 construction, lighting, shooting, editing, and meals. Payment made

1 to a loan out company or to an independent contractor shall not be
2 deemed a "qualified film production expense" unless the payment is
3 made in connection with a trade, profession, or occupation carried
4 on in this State or for the rendition of personal services performed
5 in this State and the taxpayer has made the withholding required by
6 subsection h. of this section. "Qualified film production expenses"
7 shall not include: expenses incurred in marketing or advertising a
8 film; and payment in excess of \$500,000 to a highly compensated
9 individual for costs for a story, script, or scenario used in the
10 production of a film and wages or salaries or other compensation
11 for writers, directors, including music directors, producers, and
12 performers, other than background actors with no scripted lines,
13 except as follows:

14 (1) for a New Jersey film partner that incurs more than
15 '~~[\$30,000,000]~~ \$15,000,000¹ , but less than '~~[\$100,000,000]~~
16 \$50,000,000¹ , in qualified film production expenses in the State, an
17 amount, not to exceed \$15,000,000, of the wages or salaries or other
18 compensation for writers, directors, including music directors,
19 producers, and performers, other than background actors with no
20 scripted lines, shall constitute qualified film production expenses;

21 (2) ¹for a New Jersey film partner that incurs \$50,000,000 or
22 more, but less than \$100,000,000, in qualified film production
23 expenses in the State, an amount, not to exceed \$25,000,000, of the
24 wages or salaries or other compensation for writers, directors,
25 including music directors, producers, and performers, other than
26 background actors with no scripted lines, shall constitute qualified
27 film production expenses;

28 (3)¹ for a New Jersey film partner that incurs \$100,000,000 or
29 more, but less than \$150,000,000, in qualified film production
30 expenses in the State, an amount, not to exceed '~~[\$30,000,000]~~
31 \$40,000,000¹ , of the wages or salaries or other compensation for
32 writers, directors, including music directors, producers, and
33 performers, other than background actors with no scripted lines,
34 shall constitute qualified film production expenses; and

35 '~~(3)~~ (4)¹ for a New Jersey film partner that incurs
36 \$150,000,000 or more in qualified film production expenses in the
37 State, an amount, not to exceed \$60,000,000, of the wages or
38 salaries or other compensation for writers, directors, including
39 music directors, producers, and performers, other than background
40 actors with no scripted lines, shall constitute qualified film
41 production expenses.

42 "Total digital media content production expenses" means costs
43 for services performed and property used or consumed in the
44 production of digital media content.

45 "Total film production expenses" means costs for services
46 performed and tangible personal property used or consumed in the

1 production of a film.
2 (cf: P.L.2019, c.506, s.2)

3

4 ¹[112. Section 1 of P.L.1979, c.303 (C.34:1b-5.1) is amended to
5 read as follows:

6 1. a. The New Jersey Economic Development Authority shall
7 adopt rules and regulations requiring that not less than the
8 prevailing wage rate be paid to workers employed in the
9 performance of any construction contract, including contracts for
10 millwork fabrication, undertaken in connection with authority
11 financial assistance or any of its projects, those projects which it
12 undertakes pursuant to P.L.2002, c.43 (C.52:27BBB-1 et al.), or
13 undertaken to fulfill any condition of receiving authority financial
14 assistance, including the performance of any contract to construct,
15 renovate or otherwise prepare a facility for operations which are
16 necessary for the receipt of authority financial assistance, unless the
17 work performed under the contract is performed on a facility owned
18 by a landlord of the entity receiving the assistance and less than
19 55% of the facility is leased by the entity at the time of the contract
20 and under any agreement to subsequently lease the facility. The
21 prevailing wage rate shall be the rate determined by the
22 Commissioner of Labor and Workforce Development pursuant to
23 the provisions of P.L.1963, c.150 (C.34:11-56.25 et seq.). For the
24 purposes of this section, "authority financial assistance" means any
25 loan, loan guarantee, grant, incentive, tax exemption or other
26 financial assistance that is approved, funded, authorized,
27 administered or provided by the authority to any entity and is
28 provided before, during or after completion of a project, including
29 but not limited to, all authority financial assistance received by the
30 entity pursuant to the "Business Employment Incentive Program
31 Act," P.L.1996, c.26 (C.34:1B-124 et al.) that enables the entity to
32 engage in a construction contract, but this section shall not be
33 construed as requiring the payment of the prevailing wage for
34 construction commencing more than two years after an entity has
35 executed with the authority a commitment letter regarding authority
36 financial assistance and the first payment or other provision of the
37 assistance is received.

38 b. The New Jersey Economic Development Authority shall
39 adopt rules and regulations requiring that not less than the
40 prevailing wage rate be paid to workers employed in the
41 performance of any contract, for construction, demolition,
42 remediation, removal of hazardous substances, alteration, custom
43 fabrication, repair work, or maintenance work, including painting
44 and decorating, or excavation, grading, pile driving, concrete form,
45 or other types of foundation work in connection with the "New
46 Jersey Aspire Program Act," sections 54 through 67 of P.L. , c.
47 (C.) (pending before the Legislature as this bill) and the "New
48 Jersey Community-Anchored Development Act," sections 43

1 through 53 of P.L. , c. (C.) (pending before the Legislature
2 as this bill). The requirements of this subsection shall apply to any
3 site preparation work performed 24 months prior to and during the
4 incentive eligibility period of any project receiving tax credits under
5 the "New Jersey Aspire Program Act," sections 54 through 67 of
6 P.L. , c. (C.) (pending before the Legislature as this bill)
7 and the "New Jersey Community-Anchored Development Act,"
8 sections 43 through 53 of P.L. , c. (C.) (pending before the
9 Legislature as this bill), in which there is a continuity of ownership
10 in the site of the redevelopment project, including work undertaken
11 to fulfill any condition of receiving tax credits under the programs.
12 Work that is subject to the requirements of this subsection shall
13 include the performance of any contract for construction,
14 demolition, remediation, removal of hazardous substances,
15 alteration, custom fabrication, repair work, or maintenance work,
16 including painting and decorating, or excavation, grading, pile
17 driving, concrete form, or other types of foundation work
18 undertaken on a facility for operations which are necessary for the
19 receipt of tax credits under the "New Jersey Aspire Program Act,"
20 sections 54 through 67 of P.L. , c. (C.) (pending before the
21 Legislature as this bill) and the "New Jersey Community-Anchored
22 Development Act," sections 43 through 53 of P.L. , c. (C.)
23 (pending before the Legislature as this bill), unless the work
24 performed under the contract is performed on a facility owned by a
25 landlord of the entity receiving the tax credit and less than 35
26 percent of the facility is leased by the entity at the time of the
27 contract and under any agreement to subsequently lease the facility.
28 The prevailing wage rate shall be the rate determined by the
29 Commissioner of Labor and Workforce Development pursuant to
30 the provisions of P.L.1963, c.150 (C.34:11-56.25 et seq.), and all
31 contractors and subcontractors subject to the prevailing wage
32 requirement set forth in this section shall be registered with the
33 Department of Labor and Workforce Development pursuant to the
34 provisions of section 5 of P.L.1999, c.238 (C.34:11-56.52). An
35 applicant for tax credits under the "New Jersey Aspire Program
36 Act," sections 54 through 67 of P.L. , c. (C.) (pending
37 before the Legislature as this bill) and the "New Jersey Community-
38 Anchored Development Act," sections 43 through 53 of P.L. ,
39 c. (C.) (pending before the Legislature as this bill), shall
40 certify under penalty of perjury as part of its application that all
41 construction contracts undertaken on any project in connection with
42 an award under the programs comply with the prevailing wage
43 requirements of this subsection. If at any time the authority
44 determines that the developer made a material misrepresentation
45 regarding compliance with the provisions of this subsection on the
46 developer's application, the developer shall forfeit 35 percent of the
47 tax credits allowed under the programs, and pay to the affected

1 workers back wages in an amount that compensates the workers at
2 the prevailing wage rate for the work performed.

3 (cf: P.L.2007, c.245, s.1)】¹

4

5 ¹112. Section 1 of P.L.1979, c.303 (C.34:1b-5.1) is amended to
6 read as follows:

7 1. a. The New Jersey Economic Development Authority shall
8 adopt rules and regulations requiring that not less than the
9 prevailing wage rate be paid to workers employed in the
10 performance of any construction contract, including contracts for
11 millwork fabrication, undertaken in connection with authority
12 financial assistance or any of its projects, those projects which it
13 undertakes pursuant to P.L.2002, c.43 (C.52:27BBB-1 et al.), or
14 undertaken to fulfill any condition of receiving authority financial
15 assistance, including the performance of any contract to construct,
16 renovate or otherwise prepare a facility for operations which are
17 necessary for the receipt of authority financial assistance, unless the
18 work performed under the contract is performed on a facility owned
19 by a landlord of the entity receiving the assistance and less than
20 **【55%】** 35 percent of the facility is leased by the entity at the time
21 of the contract and under any agreement to subsequently lease the
22 facility. The prevailing wage rate shall be the rate determined by
23 the Commissioner of Labor and Workforce Development pursuant
24 to the provisions of P.L.1963, c.150 (C.34:11-56.25 et seq.). For
25 the purposes of this section, "authority financial assistance" means
26 any loan, loan guarantee, grant, incentive, tax exemption or other
27 financial assistance that is approved, funded, authorized,
28 administered or provided by the authority to any entity and is
29 provided before, during or after completion of a project, including
30 but not limited to, all authority financial assistance received by the
31 entity pursuant to the "Business Employment Incentive Program
32 Act," P.L.1996, c.26 (C.34:1B-124 et al.) that enables the entity to
33 engage in a construction contract, but this section shall not be
34 construed as requiring the payment of the prevailing wage for
35 construction commencing more than two years after an entity has
36 executed with the authority a commitment letter regarding authority
37 financial assistance and the first payment or other provision of the
38 assistance is received.

39 b. The New Jersey Economic Development Authority shall adopt
40 rules and regulations requiring that not less than the prevailing
41 wage rate be paid to workers employed in the performance of any
42 contract, for construction, demolition, remediation, removal of
43 hazardous substances, alteration, custom fabrication, repair work, or
44 maintenance work, including painting and decorating, or
45 excavation, grading, pile driving, concrete form, or other types of
46 foundation work in connection with the "New Jersey Community-
47 Anchored Development Act," sections 43 through 53 of P.L. _____,
48 c. (C. _____) (pending before the Legislature as this bill), the "New

1 Jersey Aspire Program Act," sections 54 through 67 of P.L. _____,
2 c. (C. _____) (pending before the Legislature as this bill), and the
3 "New Jersey Emerge Program Act," sections 68 through 81 of
4 P.L. _____, c. (C. _____) (pending before the Legislature as this bill).
5 The requirements of this subsection shall apply to any site
6 preparation work performed 24 months prior to and during the
7 incentive eligibility period of any project receiving tax credits under
8 the "New Jersey Community-Anchored Development Act," sections
9 43 through 53 of P.L. _____, c. (C. _____) (pending before the
10 Legislature as this bill), the "New Jersey Aspire Program Act,"
11 sections 54 through 67 of P.L. _____, c. (C. _____) (pending before the
12 Legislature as this bill), and the "New Jersey Emerge Program Act,"
13 sections 68 through 81 of P.L. _____, c. (C. _____) (pending before the
14 Legislature as this bill), in which there is a continuity of ownership
15 in the site of the redevelopment project, including work undertaken
16 to fulfill any condition of receiving tax credits under the programs.
17 Work that is subject to the requirements of this subsection shall
18 include the performance of any contract for construction,
19 demolition, remediation, removal of hazardous substances,
20 alteration, custom fabrication, repair work, or maintenance work,
21 including painting and decorating, or excavation, grading, pile
22 driving, concrete form, or other types of foundation work
23 undertaken on a facility for operations which are necessary for the
24 receipt of tax credits under the "New Jersey Community-Anchored
25 Development Act," sections 43 through 53 of P.L. _____, c. (C. _____)
26 (pending before the Legislature as this bill), the "New Jersey Aspire
27 Program Act," sections 54 through 67 of P.L. _____, c. (C. _____)
28 (pending before the Legislature as this bill), and the "New Jersey
29 Emerge Program Act," sections 68 through 81 of P.L. _____,
30 c. (C. _____) (pending before the Legislature as this bill), unless
31 the work performed under the contract is performed on a facility
32 owned by a landlord of the entity receiving the tax credit and less
33 than 35 percent of the facility is leased by the entity at the time of
34 the contract and under any agreement to subsequently lease the
35 facility. The prevailing wage rate shall be the rate determined by
36 the Commissioner of Labor and Workforce Development pursuant
37 to the provisions of P.L.1963, c.150 (C.34:11-56.25 et seq.), and all
38 contractors and subcontractors subject to the prevailing wage
39 requirement set forth in this section shall be registered with the
40 Department of Labor and Workforce Development pursuant to the
41 provisions of section 5 of P.L.1999, c.238 (C.34:11-56.52). An
42 applicant for tax credits under the "New Jersey Community-
43 Anchored Development Act," sections 43 through 53 of P.L. _____,
44 c. (C. _____) (pending before the Legislature as this bill), the "New
45 Jersey Aspire Program Act," sections 54 through 67 of P.L. _____,
46 c. (C. _____) (pending before the Legislature as this bill), and the
47 "New Jersey Emerge Program Act," sections 68 through 81 of
48 P.L. _____, c. (C. _____) (pending before the Legislature as this bill),

1 shall certify under penalty of perjury as part of its application that
2 all construction contracts undertaken on any project in connection
3 with an award under the programs comply with the prevailing wage
4 requirements of this subsection. If at any time the authority
5 determines that the developer made a material misrepresentation
6 regarding compliance with the provisions of this subsection on the
7 developer's application, the developer shall forfeit 35 percent of the
8 tax credits allowed under the programs, and pay to the affected
9 workers back wages in an amount that compensates the workers at
10 the prevailing wage rate for the work performed.¹

11 (cf: P.L.2007, c.245, s.1)

12

13 ¹¶113. Section 1 of P.L.1997, c. 334 (C.34:1B-7.42a) is
14 amended to read as follows:

15 1. a. The New Jersey Economic Development Authority shall
16 establish within the New Jersey Emerging Technology and
17 Biotechnology Financial Assistance Program established pursuant
18 to P.L.1995, c.137 (C.34:1B-7.37 et seq.), a corporation business
19 tax benefit certificate transfer program to allow new or expanding
20 emerging technology and biotechnology companies in this State
21 with unused amounts of research and development tax credits
22 otherwise allowable which cannot be applied for the credit's tax
23 year due to the limitations of subsection b. of section 1 of P.L.1993,
24 c.175 (C.54:10A-5.24) and unused net operating loss carryover
25 pursuant to subparagraph (B) of paragraph (6) of subsection (k) of
26 section 4 of P.L.1945, c.162 (C.54:10A-4), to surrender those tax
27 benefits for use by other corporation business taxpayers in this
28 State, provided that the taxpayer receiving the surrendered tax
29 benefits is not affiliated with a corporation that is surrendering its
30 tax benefits under the program established under P.L.1997, c.334.
31 For the purposes of this section, the test of affiliation is whether the
32 same entity directly or indirectly owns or controls 5% or more of
33 the voting rights or 5% or more of the value of all classes of stock
34 of both the taxpayer receiving the benefits and a corporation that is
35 surrendering the benefits. The tax benefits may be used on the
36 corporation business tax returns to be filed by those taxpayers in
37 exchange for private financial assistance to be provided by the
38 corporation business taxpayer that is the recipient of the corporation
39 business tax benefit certificate to assist in the funding of costs
40 incurred by the new or expanding emerging technology and
41 biotechnology company.

42 b. The authority, in cooperation with the Division of Taxation
43 in the Department of the Treasury, shall review and approve
44 applications by new or expanding emerging technology and
45 biotechnology companies in this State with unused but otherwise
46 allowable carryover of research and development tax credits
47 pursuant to section 1 of P.L.1993, c.175 (C.54:10A-5.24), and
48 unused but otherwise allowable net operating loss carryover

1 pursuant to paragraph (6) of subsection (k) of section 4 of P.L.1945,
2 c.162 (C.54:10A-4), to surrender those tax benefits in exchange for
3 private financial assistance to be made by the corporation business
4 taxpayer that is the recipient of the corporation business tax benefit
5 certificate in an amount equal to at least 80% of the amount of the
6 surrendered tax benefit. Provided that the amount of the surrendered
7 tax benefit for a surrendered research and development tax credit
8 carryover is the amount of the credit, and provided that the amount
9 of the surrendered tax benefit for a surrendered net operating loss
10 carryover is the amount of the loss multiplied by the new or
11 expanding emerging technology or biotechnology company's
12 anticipated allocation factor, as determined pursuant to section 6 of
13 P.L.1945, c.162 (C.54:10A-6) for the tax year in which the benefit
14 is transferred and subsequently multiplied by the corporation
15 business tax rate provided pursuant to subsection (c) of section 5 of
16 P.L.1945, c.162 (C.54:10A-5). The authority shall be authorized to
17 approve the transfer of no more than ~~【\$60,000,000】~~ \$75,000,000 of
18 tax benefits in a State fiscal year. If the total amount of transferable
19 tax benefits requested to be surrendered by approved applicants
20 exceeds ~~【\$60,000,000】~~ \$75,000,000 for a State fiscal year, the
21 authority, in cooperation with the Division of Taxation in the
22 Department of the Treasury, shall not be authorized to approve the
23 transfer of more than ~~【\$60,000,000】~~ \$75,000,000 for that State
24 fiscal year and shall allocate the transfer of tax benefits by approved
25 companies using the following method:

26 (1) an eligible applicant with \$250,000 or less of transferable
27 tax benefits shall be authorized to surrender the entire amount of its
28 transferable tax benefits;

29 (2) an eligible applicant with more than \$250,000 of transferable
30 tax benefits shall be authorized to surrender a minimum of
31 \$250,000 of its transferable tax benefits;

32 (3) (Deleted by amendment, P.L.2009, c.90.)

33 (4) an eligible applicant with more than \$250,000 shall also be
34 authorized to surrender additional transferable tax benefits
35 determined by multiplying the applicant's transferable tax benefits
36 less the minimum transferable tax benefits that company is
37 authorized to surrender under paragraph (2) of this subsection by a
38 fraction, the numerator of which is the total amount of transferable
39 tax benefits that the authority is authorized to approve less the total
40 amount of transferable tax benefits approved under paragraphs (1),
41 (2), and (5) of this subsection and the denominator of which is the
42 total amount of transferable tax benefits requested to be surrendered
43 by all eligible applicants less the total amount of transferable tax
44 benefits approved under paragraphs (1), (2), and (5) of this
45 subsection;

46 (5) The authority shall establish the boundaries for three
47 innovation zones to be geographically distributed in the northern,

1 central, and southern portions of this State. Of the **【\$60,000,000】**
2 \$75,000,000 of transferable tax benefits authorized for each State
3 fiscal year, \$10,000,000 shall be allocated for the surrender of
4 transferable tax benefits exclusively by new and expanding
5 emerging technology and biotechnology companies that operate
6 within the boundaries of the innovation zones, except that any
7 portion of the \$10,000,000 that is not so approved shall be available
8 for that State fiscal year for the surrender of transferable tax
9 benefits by new and expanding emerging technology and
10 biotechnology companies that do not operate within the boundaries
11 of an innovation zone.

12 If the total amount of transferable tax benefits that would be
13 authorized using the above method exceeds **【\$60,000,000】**
14 \$75,000,000 for a State fiscal year, then the authority, in
15 cooperation with the Division of Taxation in the Department of the
16 Treasury, shall limit the total amount of tax benefits authorized to
17 be transferred to **【\$60,000,000】** \$75,000,000 by applying the above
18 method on an apportioned basis.

19 For purposes of this section transferable tax benefits include an
20 eligible applicant's unused but otherwise allowable carryover of net
21 operating losses multiplied by the applicant's anticipated allocation
22 factor as determined pursuant to section 6 of P.L.1945, c.162
23 (C.54:10A-6) for the tax year in which the benefit is transferred and
24 subsequently multiplied by the corporation business tax rate as
25 provided in subsection (c) of section 5 of P.L.1945, c.162
26 (C.54:10A-5) plus the total amount of the applicant's unused but
27 otherwise allowable carryover of research and development tax
28 credits. An eligible applicant's transferable tax benefits shall be
29 limited to net operating losses and research and development tax
30 credits that the applicant requests to surrender in its application to
31 the authority and shall not, in total, exceed the maximum amount of
32 tax benefits that the applicant is eligible to surrender.

33 No application for a corporation business tax benefit transfer
34 certificate shall be approved in which the new or expanding
35 emerging technology or biotechnology company (1) has
36 demonstrated positive net operating income in any of the two
37 previous full years of ongoing operations as determined on its
38 financial statements issued according to generally accepted
39 accounting standards endorsed by the Financial Accounting
40 Standards Board; or (2) is directly or indirectly at least 50 percent
41 owned or controlled by another corporation that has demonstrated
42 positive net operating income in any of the two previous full years
43 of ongoing operations as determined on its financial statements
44 issued according to generally accepted accounting standards
45 endorsed by the Financial Accounting Standards Board or is part of
46 a consolidated group of affiliated corporations, as filed for federal
47 income tax purposes, that in the aggregate has demonstrated
48 positive net operating income in any of the two previous full years

1 of ongoing operations as determined on its combined financial
2 statements issued according to generally accepted accounting
3 standards endorsed by the Financial Accounting Standards Board.

4 The maximum lifetime value of surrendered tax benefits that a
5 corporation shall be permitted to surrender pursuant to the program
6 is ~~【\$15,000,000】~~ \$20,000,000. Applications must be received on or
7 before June 30 of each State fiscal year.

8 The authority, in consultation with the Division of Taxation,
9 shall establish rules for the recapture of all, or a portion of, the
10 amount of a grant of a corporation business tax benefit certificate
11 from the new or emerging technology and biotechnology company
12 having surrendered tax benefits pursuant to this section in the event
13 the taxpayer fails to use the private financial assistance received for
14 the surrender of tax benefits as required by this section or fails to
15 maintain a headquarters or a base of operation in this State during
16 the five years following receipt of the private financial assistance;
17 except if the failure to maintain a headquarters or a base of
18 operation in this State is due to the liquidation of the new or
19 expanding emerging technology and biotechnology company.

20 c. The authority, in cooperation with the Division of Taxation
21 in the Department of the Treasury, shall review and approve
22 applications by taxpayers under the Corporation Business Tax Act
23 (1945), P.L.1945, c.162 (C.54:10A- 1 et seq.), to acquire
24 surrendered tax benefits approved pursuant to subsection b. of this
25 section which shall be issued in the form of corporation business
26 tax benefit transfer certificates, in exchange for private financial
27 assistance to be made by the taxpayer in an amount equal to at least
28 80% of the amount of the surrendered tax benefit of an emerging
29 technology or biotechnology company in the State. A corporation
30 business tax benefit transfer certificate shall not be issued unless the
31 applicant certifies that as of the date of the exchange of the
32 corporation business tax benefit certificate it is operating as a new
33 or expanding emerging technology or biotechnology company and
34 has no current intention to cease operating as a new or expanding
35 emerging technology or biotechnology company.

36 The private financial assistance shall assist in funding expenses
37 incurred in connection with the operation of the new or expanding
38 emerging technology or biotechnology company in the State,
39 including but not limited to the expenses of fixed assets, such as the
40 construction and acquisition and development of real estate,
41 materials, start-up, tenant fit-out, working capital, salaries, research
42 and development expenditures and any other expenses determined
43 by the authority to be necessary to carry out the purposes of the
44 New Jersey Emerging Technology and Biotechnology Financial
45 Assistance Program.

46 The authority shall require a corporation business taxpayer that
47 acquires a corporation business tax benefit certificate to enter into a
48 written agreement with the new or expanding emerging technology

1 or biotechnology company concerning the terms and conditions of
2 the private financial assistance made in exchange for the certificate.
3 The written agreement may contain terms concerning the
4 maintenance by the new or expanding emerging technology or
5 biotechnology company of a headquarters or a base of operation in
6 this State.

7 d. (Deleted by amendment, P.L.2009, c.90.)
8 (cf: P.L.2009, c.90, s.29)】¹

9
10 ¹113. Section 1 of P.L.1997, c. 334 (C.34:1B-7.42a) is amended
11 to read as follows:

12 1. a. The New Jersey Economic Development Authority shall
13 establish within the New Jersey Emerging Technology and
14 Biotechnology Financial Assistance Program established pursuant
15 to P.L.1995, c.137 (C.34:1B-7.37 et seq.), a corporation business
16 tax benefit certificate transfer program to allow new or expanding
17 emerging technology and biotechnology companies in this State
18 with unused amounts of research and development tax credits
19 otherwise allowable which cannot be applied for the credit's tax
20 year due to the limitations of subsection b. of section 1 of P.L.1993,
21 c.175 (C.54:10A-5.24) and unused prior net operating loss
22 conversion carryover or net operating loss carryover pursuant to
23 section 4 of P.L.1945, c.162 (C.54:10A-4), to surrender those tax
24 benefits for use by other corporation business taxpayers in this
25 State, provided that the taxpayer receiving the surrendered tax
26 benefits is not affiliated with a corporation that is surrendering its
27 tax benefits under the program established under P.L.1997, c.334.
28 For the purposes of this section, the test of affiliation is whether the
29 same entity directly or indirectly owns or controls **【5%】** five
30 percent or more of the voting rights or **【5%】** five percent or more of
31 the value of all classes of stock of both the taxpayer receiving the
32 benefits and a corporation that is surrendering the benefits. The tax
33 benefits may be used on the corporation business tax returns to be
34 filed by those taxpayers in exchange for private financial assistance
35 to be provided by the corporation business taxpayer that is the
36 recipient of the corporation business tax benefit certificate to assist
37 in the funding of costs incurred by the new or expanding emerging
38 technology and biotechnology company. For purposes of this
39 subsection, a member of a combined group may sell prior net
40 operating loss conversion carryover to other members of the
41 combined group, if otherwise applicable and allowable under
42 section 2 of P.L.1997, c.334 (C.54:10A-4.2) and this section;
43 provided, however, such sale of prior net operating loss conversion
44 carryover shall be made at arm's length price at the same rate as
45 though the sale was to an unrelated taxpayer.

46 b. The authority, in cooperation with the Division of Taxation
47 in the Department of the Treasury, shall review and approve

1 applications by new or expanding emerging technology and
2 biotechnology companies in this State with unused but otherwise
3 allowable carryover of research and development tax credits
4 pursuant to section 1 of P.L.1993, c.175 (C.54:10A-5.24), and
5 unused but otherwise allowable prior net operating loss conversion
6 carryover or net operating loss carryover pursuant to section 4 of
7 P.L.1945, c.162 (C.54:10A-4), to surrender those tax benefits in
8 exchange for private financial assistance to be made by the
9 corporation business taxpayer that is the recipient of the corporation
10 business tax benefit certificate in an amount equal to at least 80% of
11 the amount of the surrendered tax benefit. Provided that the amount
12 of the surrendered tax benefit for a surrendered research and
13 development tax credit carryover is the amount of the credit, and
14 provided that the amount of the surrendered tax benefit for a
15 surrendered prior net operating loss conversion carryover or net
16 operating loss carryover is that amount for the tax year in which the
17 benefit is transferred and subsequently multiplied by the
18 corporation business tax rate provided pursuant to subsection (c) of
19 section 5 of P.L.1945, c.162 (C.54:10A-5). The authority shall be
20 authorized to approve the transfer of no more than **【\$60,000,000】**
21 \$75,000,000 of tax benefits in a State fiscal year. If the total
22 amount of transferable tax benefits requested to be surrendered by
23 approved applicants exceeds **【\$60,000,000】** \$75,000,000 for a State
24 fiscal year, the authority, in cooperation with the Division of
25 Taxation in the Department of the Treasury, shall not be authorized
26 to approve the transfer of more than **【\$60,000,000】** \$75,000,000 for
27 that State fiscal year and shall allocate the transfer of tax benefits
28 by approved companies using the following method:

29 (1) an eligible applicant with \$250,000 or less of transferable
30 tax benefits shall be authorized to surrender the entire amount of its
31 transferable tax benefits;

32 (2) an eligible applicant with more than \$250,000 of transferable
33 tax benefits shall be authorized to surrender a minimum of
34 \$250,000 of its transferable tax benefits;

35 (3) (Deleted by amendment, P.L.2009, c.90.)

36 (4) an eligible applicant with more than \$250,000 shall also be
37 authorized to surrender additional transferable tax benefits
38 determined by multiplying the applicant's transferable tax benefits
39 less the minimum transferable tax benefits that company is
40 authorized to surrender under paragraph (2) of this subsection by a
41 fraction, the numerator of which is the total amount of transferable
42 tax benefits that the authority is authorized to approve less the total
43 amount of transferable tax benefits approved under paragraphs (1),
44 (2), and (5) of this subsection and the denominator of which is the
45 total amount of transferable tax benefits requested to be surrendered
46 by all eligible applicants less the total amount of transferable tax
47 benefits approved under paragraphs (1), (2), and (5) of this
48 subsection;

1 (5) The authority shall establish the boundaries for three
2 innovation zones to be geographically distributed in the northern,
3 central, and southern portions of this State. Of the **【\$60,000,000】**
4 \$75,000,000 of transferable tax benefits authorized for each State
5 fiscal year, \$10,000,000 shall be allocated for the surrender of
6 transferable tax benefits exclusively by new and expanding
7 emerging technology and biotechnology companies that operate
8 within the boundaries of the innovation zones, except that any
9 portion of the \$10,000,000 that is not so approved shall be available
10 for that State fiscal year for the surrender of transferable tax
11 benefits by new and expanding emerging technology and
12 biotechnology companies that do not operate within the boundaries
13 of an innovation zone.

14 If the total amount of transferable tax benefits that would be
15 authorized using the above method exceeds **【\$60,000,000】**
16 \$75,000,000 for a State fiscal year, then the authority, in
17 cooperation with the Division of Taxation in the Department of the
18 Treasury, shall limit the total amount of tax benefits authorized to
19 be transferred to **【\$60,000,000】** \$75,000,000 by applying the above
20 method on an apportioned basis.

21 For purposes of this section transferable tax benefits include an
22 eligible applicant's unused but otherwise allowable prior net
23 operating loss conversion carryover or net operating loss carryover
24 determined pursuant to section 4 of P.L.1945, c.162 (C.54:10A-4)
25 for the tax year in which the benefit is transferred and subsequently
26 multiplied by the corporation business tax rate as provided in
27 subsection (c) of section 5 of P.L.1945, c.162 (C.54:10A-5) plus the
28 total amount of the applicant's unused but otherwise allowable
29 carryover of research and development tax credits. An eligible
30 applicant's transferable tax benefits shall be limited to net operating
31 losses and research and development tax credits that the applicant
32 requests to surrender in its application to the authority and shall not,
33 in total, exceed the maximum amount of tax benefits that the
34 applicant is eligible to surrender.

35 No application for a corporation business tax benefit transfer
36 certificate shall be approved in which the new or expanding
37 emerging technology or biotechnology company (1) has
38 demonstrated positive net operating income in any of the two
39 previous full years of ongoing operations as determined on its
40 financial statements issued according to generally accepted
41 accounting standards endorsed by the Financial Accounting
42 Standards Board; or (2) is directly or indirectly at least 50 percent
43 owned or controlled by another corporation that has demonstrated
44 positive net operating income in any of the two previous full years
45 of ongoing operations as determined on its financial statements
46 issued according to generally accepted accounting standards
47 endorsed by the Financial Accounting Standards Board or is part of
48 a consolidated group of affiliated corporations, as filed for federal

1 income tax purposes, that in the aggregate has demonstrated
2 positive net operating income in any of the two previous full years
3 of ongoing operations as determined on its combined financial
4 statements issued according to generally accepted accounting
5 standards endorsed by the Financial Accounting Standards Board.

6 For purposes of this subsection, a member of a combined group
7 may sell prior net operating loss conversion carryover to other
8 members of the combined group, if otherwise applicable and
9 allowable under section 2 of P.L.1997, c.334 (C.54:10A-4.2) and
10 this section; provided, however, such sale of prior net operating loss
11 conversion carryover shall be made at arm's length price at the same
12 rate as though the sale was to an unrelated taxpayer.

13 The maximum lifetime value of surrendered tax benefits that a
14 corporation shall be permitted to surrender pursuant to the program
15 is ~~【\$15,000,000】~~ \$20,000,000. Applications must be received on or
16 before June 30 of each State fiscal year.

17 The authority, in consultation with the Division of Taxation,
18 shall establish rules for the recapture of all, or a portion of, the
19 amount of a grant of a corporation business tax benefit certificate
20 from the new or expanding emerging technology and biotechnology
21 company having surrendered tax benefits pursuant to this section in
22 the event the taxpayer fails to use the private financial assistance
23 received for the surrender of tax benefits as required by this section
24 or fails to maintain a headquarters or a base of operation in this
25 State during the five years following receipt of the private financial
26 assistance; except if the failure to maintain a headquarters or a base
27 of operation in this State is due to the liquidation of the new or
28 expanding emerging technology and biotechnology company.

29 c. The authority, in cooperation with the Division of Taxation
30 in the Department of the Treasury, shall review and approve
31 applications by taxpayers under the Corporation Business Tax Act
32 (1945), P.L.1945, c.162 (C.54:10A-1 et seq.), to acquire
33 surrendered tax benefits approved pursuant to subsection b. of this
34 section which shall be issued in the form of corporation business
35 tax benefit transfer certificates, in exchange for private financial
36 assistance to be made by the taxpayer in an amount equal to at least
37 80% of the amount of the surrendered tax benefit of an emerging
38 technology or biotechnology company in the State. A corporation
39 business tax benefit transfer certificate shall not be issued unless the
40 applicant certifies that as of the date of the exchange of the
41 corporation business tax benefit certificate it is operating as a new
42 or expanding emerging technology or biotechnology company and
43 has no current intention to cease operating as a new or expanding
44 emerging technology or biotechnology company.

45 The managerial member of a combined group shall be the
46 member that acquires a corporation business tax benefit certificate
47 on behalf of the combined group for use on the combined return.

1 The private financial assistance shall assist in funding expenses
2 incurred in connection with the operation of the new or expanding
3 emerging technology or biotechnology company in the State,
4 including but not limited to the expenses of fixed assets, such as the
5 construction and acquisition and development of real estate,
6 materials, start-up, tenant fit-out, working capital, salaries, research
7 and development expenditures and any other expenses determined
8 by the authority to be necessary to carry out the purposes of the
9 New Jersey Emerging Technology and Biotechnology Financial
10 Assistance Program.

11 The authority shall require a corporation business taxpayer that
12 acquires a corporation business tax benefit certificate to enter into a
13 written agreement with the new or expanding emerging technology
14 or biotechnology company concerning the terms and conditions of
15 the private financial assistance made in exchange for the certificate.
16 The written agreement may contain terms concerning the
17 maintenance by the new or expanding emerging technology or
18 biotechnology company of a headquarters or a base of operation in
19 this State.

20 d. (Deleted by amendment, P.L.2009, c.90.)¹
21 (cf: P.L.2020, c.118, s.1)

22
23 114. Section 1 of P.L.1999, c.140 (C.34:1B-7.42b) is amended
24 to read as follows:

25 1. As used in P.L.1997, c.334 (C.34:1B-7.42a et al.):

26 “Authority” means the New Jersey Economic Development
27 Authority established pursuant to section 4 of P.L.1974, c.80
28 (C.34:1B-4).

29 “Biotechnology” means the continually expanding body of
30 fundamental knowledge about the functioning of biological systems
31 from the macro level to the molecular and sub-atomic levels, as
32 well as novel products, services, technologies and sub-technologies
33 developed as a result of insights gained from research advances that
34 add to that body of fundamental knowledge. This definition may be
35 modified by regulation to conform to definitions in other programs
36 administered by the authority.

37 “Biotechnology company” means an emerging corporation that
38 has its headquarters or base of operations in this State; that owns,
39 has filed for, or has a valid license to use protected, proprietary
40 intellectual property; and that is engaged in the research,
41 development, production, or provision of biotechnology for the
42 purpose of developing or providing products or processes for
43 specific commercial or public purposes, including but not limited
44 to, medical, pharmaceutical, nutritional, and other health-related
45 purposes, agricultural purposes, and environmental purposes. This
46 definition may be modified by regulation to conform to definitions
47 in other programs administered by the authority.

1 “Full-time employee” means a person employed by a new or
2 expanding emerging technology or biotechnology company for
3 consideration for at least 35 hours a week, or who renders any other
4 standard of service generally accepted by custom or practice as full-
5 time employment and whose wages are subject to withholding as
6 provided in the “New Jersey Gross Income Tax Act,” N.J.S.54A:1-1
7 et seq., or who is a partner of a new or expanding emerging
8 technology or biotechnology company who works for the
9 partnership for at least 35 hours a week, or who renders any other
10 standard of service generally accepted by custom or practice as full-
11 time employment, and whose distributive share of income, gain,
12 loss, or deduction, or whose guaranteed payments, or any
13 combination thereof, is subject to the payment of estimated taxes, as
14 provided in the “New Jersey Gross Income Tax Act,” N.J.S.54A:1-1
15 et seq. To qualify as a “full-time employee,” an employee shall also
16 receive from the new or expanding emerging technology or
17 biotechnology company health benefits under [a group health plan
18 as defined under section 14 of P.L.1997, c.146 (C.17B:27-54), a
19 health benefits plan as defined under section 1 of P.L.1992, c.162
20 (C.17B:27A-17), or a policy or contract of health insurance
21 covering more than one person issued pursuant to Article 2
22 [N.J.S.17B:27-26 et seq.] of chapter 27 of Title 17B of the New
23 Jersey Statutes] a health benefits plan authorized pursuant to State
24 or federal law. “Full-time employee” shall not include any person
25 who works as an independent contractor or on a consulting basis for
26 the new or expanding emerging technology or biotechnology
27 company.

28 “New or expanding” means a technology or biotechnology
29 company that (1) on June 30 of the year in which the company files
30 an application for surrender of unused but otherwise allowable tax
31 benefits under P.L.1997, c.334 (C.34:1B-7.42a et al.) and on the
32 date of the exchange of the corporation business tax benefit
33 certificate, has fewer than 225 employees in the United States of
34 America; (2) on June 30 of the year in which the company files
35 such an application, has at least one full-time employee working in
36 this State if the company has been incorporated for less than three
37 years, has at least five full-time employees working in this State if
38 the company has been incorporated for more than three years but
39 less than five years, and has at least 10 full-time employees working
40 in this State if the company has been incorporated for more than
41 five years; and (3) on the date of the exchange of the corporation
42 business tax benefit certificate, the company has the requisite
43 number of full-time employees in New Jersey that were required on
44 June 30 as set forth in part (2) of this definition.

45 “Technology company” means an emerging corporation that has
46 its headquarters or base of operations in this State; that owns, has
47 filed for, or has a valid license to use protected, proprietary
48 intellectual property; and that employs some combination of the

1 following: highly educated or trained managers and workers, or
2 both, employed in this State who use sophisticated scientific
3 research service or production equipment, processes or knowledge
4 to discover, develop, test, transfer or manufacture a product or
5 service. This definition may be modified by regulation to conform
6 to definitions in other programs administered by the authority.
7 (cf: P.L.2010, c.10, s.2)
8

9 115. Section 5 of P.L.1974, c.80 (C.34:1B-5) is amended to read
10 as follows:

11 5. The authority shall have the following powers:

12 a. To adopt bylaws for the regulation of its affairs and the
13 conduct of its business;

14 b. To adopt and have a seal and to alter the same at pleasure;

15 c. To sue and be sued;

16 d. To acquire in the name of the authority by purchase or
17 otherwise, on such terms and conditions and such manner as it may
18 deem proper, or by the exercise of the power of eminent domain in
19 the manner provided by the "Eminent Domain Act of 1971,"
20 P.L.1971, c.361 (C.20:3-1 et seq.), any lands or interests therein or
21 other property which it may determine is reasonably necessary for
22 any project; provided, however, that the authority in connection
23 with any project shall not take by exercise of the power of eminent
24 domain any real property except upon consent thereto given by
25 resolution of the governing body of the municipality in which such
26 real property is located; and provided further that the authority shall
27 be limited in its exercise of the power of eminent domain in
28 connection with any project in qualifying municipalities as defined
29 under the provisions of P.L.1978, c.14 (C.52:27D-178 et seq.), or to
30 municipalities which had a population, according to the latest
31 federal decennial census, in excess of 10,000;

32 e. To enter into contracts with a person upon such terms and
33 conditions as the authority shall determine to be reasonable,
34 including, but not limited to, reimbursement for the planning,
35 designing, financing, construction, reconstruction, improvement,
36 equipping, furnishing, operation and maintenance of the project and
37 to pay or compromise any claims arising therefrom;

38 f. To establish and maintain reserve and insurance funds with
39 respect to the financing of the project or the school facilities project
40 and any project financed pursuant to the "Municipal Rehabilitation
41 and Economic Recovery Act," P.L.2002, c.43 (C.52:27BBB-1 et
42 al.);

43 g. To sell, convey or lease to any person all or any portion of a
44 project for such consideration and upon such terms as the authority
45 may determine to be reasonable;

46 h. To mortgage, pledge or assign or otherwise encumber all or
47 any portion of a project, or revenues, whenever it shall find such
48 action to be in furtherance of the purposes of this act, P.L.2000,

1 c.72 (C.18A:7G-1 et al.), the "Municipal Rehabilitation and
2 Economic Recovery Act," P.L.2002, c.43 (C.52:27BBB-1 et al.),
3 P.L.2007, c.137 (C.52:18A-235 et al.), and sections 3 through 18 of
4 P.L.2009, c.90 (C.52:27D-489c et al.);

5 i. To grant options to purchase or renew a lease for any of its
6 projects on such terms as the authority may determine to be
7 reasonable;

8 j. To contract for and to accept any gifts or grants or loans of
9 funds or property or financial or other aid in any form from the
10 United States of America or any agency or instrumentality thereof,
11 or from the State or any agency, instrumentality or political
12 subdivision thereof, or from any other source and to comply,
13 subject to the provisions of P.L.1974, c.80 (C.34:1B-1 et seq.),
14 section 6 of P.L.2001, c.401 (C.34:1B-4.1), P.L.2000, c.72
15 (C.18A:7G-1 et al.), the "Municipal Rehabilitation and Economic
16 Recovery Act," P.L.2002, c.43 (C.52:27BBB-1 et al.), and
17 P.L.2007, c.137 (C.52:18A-235 et al.), with the terms and
18 conditions thereof;

19 k. In connection with any action undertaken by the authority in
20 the performance of its duties and any application for assistance or
21 commitments therefor and modifications thereof, to require and
22 collect such fees and charges as the authority shall determine to be
23 reasonable, including but not limited to fees and charges for the
24 authority's administrative, organizational, insurance, operating,
25 legal, and other expenses;

26 l. To adopt, amend and repeal regulations to carry out the
27 provisions of P.L.1974, c.80 (C.34:1B-1 et seq.), section 6 of
28 P.L.2001, c.401 (C.34:1B-4.1), P.L.2000, c.72 (C.18A:7G-1 et al.),
29 the "Municipal Rehabilitation and Economic Recovery Act,"
30 P.L.2002, c.43 (C.52:27BBB-1 et al.), and P.L.2007, c.137
31 (C.52:18A-235 et al.);

32 m. To acquire, purchase, manage and operate, hold and dispose
33 of real and personal property or interests therein, take assignments
34 of rentals and leases and make and enter into all contracts, leases,
35 agreements and arrangements necessary or incidental to the
36 performance of its duties;

37 n. To purchase, acquire and take assignments of notes,
38 mortgages and other forms of security and evidences of
39 indebtedness;

40 o. To purchase, acquire, attach, seize, accept or take title to any
41 project or school facilities project by conveyance or by foreclosure,
42 and sell, lease, manage or operate any project or school facilities
43 project for a use specified in this act, P.L.2000, c.72 (C.18A:7G-1
44 et al.), the "Municipal Rehabilitation and Economic Recovery Act,"
45 P.L.2002, c.43 (C.52:27BBB-1 et al.), P.L.2007, c.137 (C.52:18A-
46 235 et al.), and sections 3 through 18 of P.L.2009, c.90 (C.52:27D-
47 489c et al.);

1 p. To borrow money and to issue bonds of the authority and to
2 provide for the rights of the holders thereof, as provided in
3 P.L.1974, c.80 (C.34:1B-1 et seq.), section 6 of P.L.2001, c.401
4 (C.34:1B-4.1), P.L.2000, c.72 (C.18A:7G-1 et al.), the "Municipal
5 Rehabilitation and Economic Recovery Act," P.L.2002, c.43
6 (C.52:27BBB-1 et al.), P.L.2007, c.137 (C.52:18A-235 et al.), and
7 sections 3 through 18 of P.L.2009, c.90 (C.52:27D-489c et al.);

8 q. To extend credit or make loans to any person for the
9 planning, designing, acquiring, constructing, reconstructing,
10 improving, equipping and furnishing of a project or school facilities
11 project, which credits or loans may be secured by loan and security
12 agreements, mortgages, leases and any other instruments, upon such
13 terms and conditions as the authority shall deem reasonable,
14 including provision for the establishment and maintenance of
15 reserve and insurance funds, and to require the inclusion in any
16 mortgage, lease, contract, loan and security agreement or other
17 instrument, of such provisions for the construction, use, operation
18 and maintenance and financing of a project or school facilities
19 project as the authority may deem necessary or desirable;

20 r. To guarantee up to 90% of the amount of a loan to a person,
21 if the proceeds of the loan are to be applied to the purchase and
22 installation, in a building devoted to industrial or commercial
23 purposes, or in an office building, of an energy improvement
24 system;

25 s. To employ consulting engineers, architects, attorneys, real
26 estate counselors, appraisers, and such other consultants and
27 employees as may be required in the judgment of the redevelopment
28 utility to carry out the purposes of P.L.1974, c.80 (C.34:1B-1 et
29 seq.), section 6 of P.L.2001, c.401 (C.34:1B-4.1), P.L.2000, c.72
30 (C.18A:7G-1 et al.), the "Municipal Rehabilitation and Economic
31 Recovery Act," P.L.2002, c.43 (C.52:27BBB-1 et al.), P.L.2007,
32 c.137 (C.52:18A-235 et al.), and sections 3 through 18 of P.L.2009,
33 c.90 (C.52:27D-489c et al.), and to fix and pay their compensation
34 from funds available to the redevelopment utility therefor, all
35 without regard to the provisions of Title 11A of the New Jersey
36 Statutes;

37 t. To do and perform any acts and things authorized by
38 P.L.1974, c.80 (C.34:1B-1 et seq.), section 6 of P.L.2001, c.401
39 (C.34:1B-4.1), P.L.2000, c.72 (C.18A:7G-1 et al.), the "Municipal
40 Rehabilitation and Economic Recovery Act," P.L.2002, c.43
41 (C.52:27BBB-1 et al.), P.L.2007, c.137 (C.52:18A-235 et al.), and
42 sections 3 through 18 of P.L.2009, c.90 (C.52:27D-489c et al.),
43 under, through or by means of its own officers, agents and
44 employees, or by contract with any person;

45 u. To procure insurance against any losses in connection with
46 its property, operations or assets in such amounts and from such
47 insurers as it deems desirable;

- 1 v. To do any and all things necessary or convenient to carry out
2 its purposes and exercise the powers given and granted in P.L.1974,
3 c.80 (C.34:1B-1 et seq.), section 6 of P.L.2001, c.401 (C.34:1B-
4 4.1), P.L.2000, c.72 (C.18A:7G-1 et al.), the "Municipal
5 Rehabilitation and Economic Recovery Act," P.L.2002, c.43
6 (C.52:27BBB-1 et al.), P.L.2007, c.137 (C.52:18A-235 et al.), and
7 sections 3 through 18 of P.L.2009, c.90 (C.52:27D-489c et al.);
- 8 w. To construct, reconstruct, rehabilitate, improve, alter, equip,
9 maintain or repair or provide for the construction, reconstruction,
10 improvement, alteration, equipping or maintenance or repair of any
11 development property and lot, award and enter into construction
12 contracts, purchase orders and other contracts with respect thereto,
13 upon such terms and conditions as the authority shall determine to
14 be reasonable, including, but not limited to, reimbursement for the
15 planning, designing, financing, construction, reconstruction,
16 improvement, equipping, furnishing, operation and maintenance of
17 any such development property and the settlement of any claims
18 arising therefrom and the establishment and maintenance of reserve
19 funds with respect to the financing of such development property;
- 20 x. When authorized by the governing body of a municipality
21 exercising jurisdiction over an urban growth zone, to construct,
22 cause to be constructed or to provide financial assistance to projects
23 in an urban growth zone which shall be exempt from the terms and
24 requirements of the land use ordinances and regulations, including,
25 but not limited to, the master plan and zoning ordinances, of such
26 municipality;
- 27 y. To enter into business employment incentive agreements as
28 provided in the "Business Employment Incentive Program Act,"
29 P.L.1996, c.26 (C.34:1B-124 et al.);
- 30 z. To enter into agreements or contracts, execute instruments,
31 and do and perform all acts or things necessary, convenient or
32 desirable for the purposes of the redevelopment utility to carry out
33 any power expressly provided pursuant to P.L.1974, c.80 (C.34:1B-
34 1 et seq.), P.L.2000, c.72 (C.18A:7G-1 et al.), and P.L.2007, c.137
35 (C.52:18A-235 et al.), including, but not limited to, entering into
36 contracts with the State Treasurer, the Commissioner of Education,
37 districts, the New Jersey Schools Development Authority, and any
38 other entity which may be required in order to carry out the
39 provisions of P.L.2000, c.72 (C.18A:7G-1 et al.), P.L.2007, c.137
40 (C.52:18A-235 et al.), and sections 3 through 18 of P.L.2009, c.90
41 (C.52:27D-489c et al.);
- 42 aa. (Deleted by amendment, P.L.2007, c.137);
- 43 bb. To make and contract to make loans to local units to finance
44 the cost of school facilities projects and to acquire and contract to
45 acquire bonds, notes or other obligations issued or to be issued by
46 local units to evidence the loans, all in accordance with the
47 provisions of P.L.2000, c.72 (C.18A:7G-1 et al.), and P.L.2007,
48 c.137 (C.52:18A-235 et al.);

1 cc. Subject to any agreement with holders of its bonds issued to
2 finance a project or school facilities project, obtain as security or to
3 provide liquidity for payment of all or any part of the principal of
4 and interest and premium on the bonds of the authority or for the
5 purchase upon tender or otherwise of the bonds, lines of credit,
6 letters of credit, reimbursement agreements, interest rate exchange
7 agreements, currency exchange agreements, interest rate floors or
8 caps, options, puts or calls to hedge payment, currency, rate, spread
9 or similar exposure or similar agreements, float agreements,
10 forward agreements, insurance contract, surety bond, commitment
11 to purchase or sell bonds, purchase or sale agreement, or
12 commitments or other contracts or agreements, and other security
13 agreements or instruments in any amounts and upon any terms as
14 the authority may determine and pay any fees and expenses required
15 in connection therewith;

16 dd. To charge to and collect from local units, the State and any
17 other person, any fees and charges in connection with the
18 authority's actions undertaken with respect to school facilities
19 projects, including, but not limited to, fees and charges for the
20 authority's administrative, organization, insurance, operating and
21 other expenses incident to the financing of school facilities projects;

22 ee. To make loans to refinance solid waste facility bonds
23 through the issuance of bonds or other obligations and the execution
24 of any agreements with counties or public authorities to effect the
25 refunding or rescheduling of solid waste facility bonds, or otherwise
26 provide for the payment of all or a portion of any series of solid
27 waste facility bonds. Any county or public authority refunding or
28 rescheduling its solid waste facility bonds pursuant to this
29 subsection shall provide for the payment of not less than fifty
30 percent of the aggregate debt service for the refunded or
31 rescheduled debt of the particular county or public authority for the
32 duration of the loan; except that, whenever the solid waste facility
33 bonds to be refinanced were issued by a public authority and the
34 county solid waste facility was utilized as a regional county solid
35 waste facility, as designated in the respective adopted district solid
36 waste management plans of the participating counties as approved
37 by the department prior to November 10, 1997, and the utilization
38 of the facility was established pursuant to tonnage obligations set
39 forth in their respective interdistrict agreements, the public
40 authority refunding or rescheduling its solid waste facility bonds
41 pursuant to this subsection shall provide for the payment of a
42 percentage of the aggregate debt service for the refunded or
43 rescheduled debt of the public authority not to exceed the
44 percentage of the specified tonnage obligation of the host county for
45 the duration of the loan. Whenever the solid waste facility bonds
46 are the obligation of a public authority, the relevant county shall
47 execute a deficiency agreement with the authority, which shall
48 provide that the county pledges to cover any shortfall and to pay

1 deficiencies in scheduled repayment obligations of the public
2 authority. All costs associated with the issuance of bonds pursuant
3 to this subsection may be paid by the authority from the proceeds of
4 these bonds. Any county or public authority is hereby authorized to
5 enter into any agreement with the authority necessary, desirable or
6 convenient to effectuate the provisions of this subsection.

7 The authority shall not issue bonds or other obligations to effect
8 the refunding or rescheduling of solid waste facility bonds after
9 December 31, 2002. The authority may refund its own bonds issued
10 for the purposes herein at any time;

11 ff. To pool loans for any local government units that are
12 refunding bonds and do and perform any and all acts or things
13 necessary, convenient or desirable for the purpose of the authority
14 to achieve more favorable interest rates and terms for those local
15 governmental units;

16 gg. To finance projects approved by the board, provide staff
17 support to the board, oversee and monitor progress on the part of
18 the board in carrying out the revitalization, economic development
19 and restoration projects authorized pursuant to the "Municipal
20 Rehabilitation and Economic Recovery Act," P.L.2002, c.43
21 (C.52:27BBB-1 et al.) and otherwise fulfilling its responsibilities
22 pursuant thereto;

23 hh. To offer financial assistance to qualified film production
24 companies as provided in the "New Jersey Film Production
25 Assistance Act," P.L.2003, c.182 (C.34:1B-178 et al.);

26 ii. To finance or develop private or public parking facilities or
27 structures, which may include the use of solar photovoltaic
28 equipment, in municipalities qualified to receive State aid pursuant
29 to the provisions of P.L.1978, c.14 (C.52:27D-178 et seq.) and
30 municipalities that contain areas designated pursuant to P.L.1985,
31 c.398 (C.52:18A-196 et al.) as Planning Area 1 (Metropolitan),
32 Planning Area 2 (Suburban), or a town center, and to provide
33 appropriate assistance, including but not limited to, extensions of
34 credit, loans, and guarantees, to municipalities qualified to receive
35 State aid pursuant to the provisions of P.L.1978, c.14 (C.52:27D-
36 178 et seq.) and municipalities that contain areas designated
37 pursuant to P.L.1985, c.398 (C.52:18A-196 et seq.) as Planning
38 Area 1 (Metropolitan), Planning Area 2 (Suburban), or a town
39 center, and their agencies and instrumentalities or to private entities
40 whose projects are located in those municipalities, in order to
41 facilitate the financing and development of parking facilities or
42 structures in such municipalities. The authority may serve as the
43 issuing agent of bonds to finance the undertaking of a project for
44 the purposes of this subsection; **[and]**

45 jj. To make grants for the planning, designing, acquiring,
46 constructing, reconstructing, improving, equipping, and furnishing
47 of a project, including, but not limited to, grants for working capital
48 and meeting payroll requirements, upon such terms and conditions

1 as the authority shall deem reasonable, during periods of emergency
 2 declared by the Governor and for the duration of economic
 3 disruptions due to the emergency;

4 kk. To purchase and lease real property at a nominal rate when it
 5 would result in a net economic benefit to the State, enhance access
 6 to employment and investment for underserved populations, or
 7 increase investment and employment in high-growth technology
 8 sectors; and

9 (cf: P.L.2020, c.8, s.1)

10

11 116. Section 4 of P.L.1992, c.16 (C.34:1B-7.13) is amended to
 12 read as follows:

13 4. The authority may use the moneys in the fund to pay
 14 principal of, premium, if any, and interest on bonds or notes, which
 15 shall be entitled "Economic Recovery Fund Bonds or Notes," as
 16 appropriate, the proceeds, or net proceeds, of which shall be
 17 deposited into the fund, or used for purposes of the fund, and
 18 moneys in the fund, including money received from the sale of
 19 bonds shall, in such manner as is determined by the authority, and
 20 pursuant to subsections d., e., and f. of this section, be used for the
 21 financing of projects as set forth in section 3 of P.L.1974, c.80
 22 (C.34:1B-3) and to establish:

23 a. an economic growth account for **【business】** programs and
 24 initiatives, which will support and invest in small and medium-size
 25 businesses and other entities engaged in economic, community, and
 26 workforce development that have the greatest potential for creating
 27 jobs and stimulating economic growth through such elements **【as】**
 28 including, but not limited to:

29 (1) a Statewide lending pool and guarantee pool for small
 30 business, whether directly or through a community development
 31 financial institution;

32 (2) a business composite bond guarantee **【.】** ;

33 (3) a fund to further supplement the export finance program of
 34 the authority to provide direct loans and working capital necessary
 35 for New Jersey businesses to compete in the global market, real
 36 estate partnerships **【.】** ;

37 (4) a Statewide composite bond pool to assist municipalities in
 38 acquiring needed financing for capital expenditures **【.】** ;

39 (5) **【community-based】** financial assistance to assist
 40 municipalities **【in establishing local development corporations】** ,
 41 municipal entities, counties, county entities, regional entities, State
 42 instrumentalities, and not-for-profit local economic and community
 43 development entities to execute programs and initiative to stimulate
 44 community and economic development【.】 ;

45 (6) a venture, seed, or angel capital fund for start-up costs for
 46 businesses developing new concepts and inventions **【.】** ;

1 (7) a fund to assist businesses, either directly or through a not-
2 for-profit or for-profit entity with expansion or transition to a new
3 business model in such areas [as] including, but not limited to,
4 manufacturing retooling to improve quality, to reduce production
5 costs and to train employees to apply the latest technology [, and] ;

6 (8) a "Main Street Business Assistance Program" to provide
7 guarantees and loans to small and mid-size businesses and not-for-
8 profit [corporations] entities to stimulate the economy;

9 (9) in consultation with the Department of Labor and Workforce
10 Development and the Office of the Secretary of Higher Education, a
11 fund to support and invest in innovative workforce development
12 approaches and programs, including those that could benefit
13 individuals directly, either undertaken directly by the authority or
14 through a governmental, not-for-profit, or for-profit entity, that
15 align with targeted industries as defined by the authority's board or
16 support a high-demand occupation;

17 (10) a fund to provide grants, financing, or equity to
18 collaborations between large corporations, small-to-medium sized
19 businesses, academic institutions, government entities, or not-for-
20 profit entities, where one of the purposes of the collaboration is to
21 stimulate community or economic development;

22 (11) a fund to provide grants, financing, or equity in innovation
23 centers, research centers, incubators, and accelerators, and other
24 similar innovation-oriented entities, which are focused on the
25 targeted industries as defined by the authority's board or support
26 increasing diversity and inclusion within the state's entrepreneurial
27 economy; the fund may also be used to pay for membership fees, or
28 other similar arrangements, for the authority to join or participate in
29 such innovation-oriented entities;

30 (12) a fund to provide grants or competition prizes to fund
31 initiative-based activities which stimulate growth in targeted
32 industries as defined by the authority's board or supports increasing
33 diversity and inclusion within the ' [state's] State's' entrepreneurial
34 economy; this fund may also support not-for-profit industry, trade,
35 and labor organization initiatives; and

36 (13) a fund to provide grants or competition prizes, either
37 directly or through a not-for-profit entity, that is consistent with
38 economic development priorities as defined by the authority's
39 board, where funds have been specifically allocated to the economic
40 recovery fund for this purpose, including but not limited to an
41 appropriation or transfer from another government entity ' [] '.

42 The authority may promulgate rules and regulations for the
43 effective implementation of the "Main Street Business Assistance
44 Program." Notwithstanding any provision of the "Administrative
45 Procedure Act," P.L.1968, c.410 (C.52:14B-1 et seq.) to the
46 contrary, the authority may adopt, immediately upon filing with the
47 Office of Administrative Law, such regulations as are necessary to

1 implement the provisions of this act, which shall be effective for a
2 period not to exceed 12 months following enactment, and may
3 thereafter be amended, adopted, or readopted by the authority in
4 accordance with the requirements of the "Administrative Procedure
5 Act," P.L.1968, c.410 (C.52:14B-1 et seq.). **During periods of**
6 **emergency declared by the Governor and for the duration of**
7 **economic disruptions due to the emergency, the** The authority may
8 use the economic growth account for the planning, designing,
9 acquiring, constructing, reconstructing, improving, equipping, and
10 furnishing by small and medium-size businesses and not-for-profit
11 corporations of a project as defined in section 3 of P.L.1974, c. 80
12 (C.34:1B-3), including, but not limited to, grants for working
13 capital and meeting payroll requirements, upon such terms and
14 conditions as the authority shall deem reasonable;

15 b. an economic development infrastructure program account,
16 which shall provide for the financing and development of
17 infrastructure and transportation projects, including but not limited
18 to ports, terminal and transit facilities, roads and airports, parking
19 facilities used in connection with transit facilities, and related
20 facilities, including public-private partnerships, that are integral to
21 economic growth;

22 c. an account for a cultural, recreational, fine and performing
23 arts, military and veterans memorial, historic preservation project
24 and tourism facilities and improvements program, which shall
25 provide for the financing and development of cultural, recreational,
26 fine and performing arts, military and veterans memorial, historic
27 preservation and tourism projects, including partnerships with
28 public, private and nonprofit entities;

29 d. an account, into which shall be deposited an amount not less
30 than \$45,000,000, out of the total amounts deposited or credited to
31 the fund from the proceeds of the sale of Economic Recovery Fund
32 Bonds or Notes, for the financing of capital facilities for primary
33 and secondary schools in the State for the purpose of the
34 renovation, repair or alteration of existing school buildings, the
35 construction of new school buildings or the conversion of existing
36 school buildings to other instructional purposes.

37 (1) Of the amount deposited in the account, not less than
38 \$25,000,000 shall be deposited in the "Public School Facilities
39 Code Compliance Loan Fund" established pursuant to section 4 of
40 P.L.1993, c.102 (C.34:1B-7.23).

41 (2) Of the amount deposited in the account, not less than
42 \$20,000,000 shall be deposited in the "Public School Facilities
43 Loan Assistance Fund" established pursuant to section 5 of
44 P.L.1993, c.102 (C.34:1B-7.24);

45 e. an environmental cleanup assistance account, into which
46 shall be deposited an amount not less than \$10,000,000, out of the
47 total amounts deposited or credited to the fund from the proceeds of
48 the sale of Economic Recovery Fund Bonds or Notes, to provide

1 financial assistance to the persons and other entities entitled to
2 apply for financial assistance pursuant to P.L.1993, c.139; and

3 f. an account, into which shall be deposited an amount not less
4 than \$15,000,000, out of the total amounts deposited or credited to
5 the fund from the proceeds of the sale of Economic Recovery Fund
6 Bonds or Notes, for the financing of shore restoration, maintenance,
7 monitoring, protection and preservation projects pursuant to the
8 shore protection master plan prepared by the Department of
9 Environmental Protection pursuant to P.L.1978, c.157.

10 (cf: P.L.2020, c.8, s.2)

11
12 117. Section 2 of P.L.1997, c.349 (C.54:10A-5.29) is amended
13 to read as follows:

14 2. As used in sections 1 through 3 of P.L.1997, c.349
15 (C.54:10A-5.28 through C.54:10A-5.30):

16 “Advanced computing” means a technology used in the
17 designing and developing of computing hardware and software,
18 including innovations in designing the full spectrum of hardware
19 from hand- held calculators to super computers, and peripheral
20 equipment.

21 “Advanced materials” means materials with engineered
22 properties created through the development of specialized
23 processing and synthesis technology, including ceramics, high
24 value-added metals, electronic materials, composites, polymers, and
25 biomaterials.

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

32 “Carbon footprint reduction technology” means a technology
33 using equipment for the commercial, institutional, and industrial
34 sectors that: increases energy efficiency; develops and delivers
35 renewable or non-carbon-emitting energy technologies; develops
36 innovative carbon emissions abatement with significant carbon
37 emissions reduction potential; or promotes measurable electricity
38 end-use energy efficiency.

39 “Control” with respect to a corporation means ownership,
40 directly or indirectly, of stock possessing 80 percent or more of the
41 total combined voting power of all classes of the stock of the
42 corporation entitled to vote; and “control” with respect to a trust
43 means ownership, directly or indirectly, of 80 percent or more of
44 the beneficial interest in the principal or income of the trust. The
45 ownership of stock in a corporation, of a capital or profits interest in
46 a partnership or association or of a beneficial interest in a trust shall
47 be determined in accordance with the rules for constructive
48 ownership of stock provided in subsection (c) of section 267 of the

1 federal Internal Revenue Code of 1986 (26 U.S.C. § 267), other
2 than paragraph (3) of subsection (c) of that section.

3 “Controlled group” means one or more chains of corporations
4 connected through stock ownership with a common parent
5 corporation if stock possessing at least 80 percent of the voting
6 power of all classes of stock of each of the corporations is owned
7 directly or indirectly by one or more of the corporations and the
8 common parent owns directly stock possessing at least 80 percent of
9 the voting power of all classes of stock of at least one of the other
10 corporations.

11 “Director” means the Director of the Division of Taxation in the
12 Department of the Treasury.

13 “Diverse entrepreneur” means a New Jersey based business that
14 meets the criteria for a minority business or female business set
15 forth in section ¹[2] ³ of P.L.1983, c.482 (C.52:32-19).

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

21 “Information technology” means software publishing, motion
22 picture and video production, television production and post-
23 production services, telecommunications, data processing, hosting
24 and related services, custom computer programming services,
25 computer system design, computer facilities management services,
26 other computer related services, and computer training.

27 “Life sciences” means the production of medical equipment,
28 ophthalmic goods, medical or dental instruments, diagnostic
29 substances, biopharmaceutical products, or physical and biological
30 research.

31 “Medical device technology” means a technology involving any
32 medical equipment or product (other than a pharmaceutical product)
33 that has therapeutic value, diagnostic value, or both, and is
34 regulated by the federal Food and Drug Administration.

35 “Mobile communications technology” means a technology
36 involving the functionality and reliability of the transmission of
37 voice and multimedia data using a communication infrastructure via
38 a computer or a mobile device, that shall include, but not be limited
39 to, smartphones, electronic books and tablets, digital audio players,
40 motor vehicle electronics, home entertainment systems, and other
41 wireless appliances, without having connected to any physical or
42 fixed link.

43 “New Jersey based business” means a company with fewer than
44 225 employees, of whom at least 75 percent are filling a position in
45 New Jersey, that is doing business, employing or owning capital or
46 property, or maintaining an office in this State.

47 “New Jersey emerging technology business” means a company
48 with fewer than 225 employees, of whom at least 75 percent are

1 filling a position in New Jersey, that is doing business, employing
2 or owning capital or property, or maintaining an office in this State
3 and: has qualified research expenses paid or incurred for research
4 conducted in this State; conducts pilot scale manufacturing in this
5 State; or conducts technology commercialization in this State in the
6 fields of advanced computing, advanced materials, biotechnology,
7 carbon footprint reduction technology, electronic device
8 technology, information technology, life sciences, medical device
9 technology, mobile communications technology, or renewable
10 energy technology.

11 “New Jersey emerging technology business holding company”
12 means any corporation, association, firm, partnership, trust, or other
13 form of business organization, but not a natural person, which
14 directly or indirectly, owns, has the power or right to control, or has
15 the power to vote, a controlling share of the outstanding voting
16 securities of a corporation or other form of a New Jersey emerging
17 technology business.

18 “Partnership” means a syndicate, group, pool, joint venture, or
19 other unincorporated organization through or by means of which
20 any business, financial operation, or venture is carried on, and
21 which is not a trust or estate, a corporation, or a sole proprietorship.

22 “Pilot scale manufacturing” means the design, construction, and
23 testing of preproduction prototypes and models in the fields of
24 advanced computing, advanced materials, biotechnology, carbon
25 footprint reduction technology electronic device technology,
26 information technology, life sciences, medical device technology,
27 mobile communications technology, and renewable energy
28 technology, other than for commercial sale, excluding sales of
29 prototypes or sales for market testing if the total gross receipts, as
30 calculated in the manner provided in section 6 of P.L.1945, c.162
31 (C.54:10A-6), from the sales of the product, service, or process do
32 not exceed \$1,000,000.

33 “Qualified investment” means the non-refundable transfer of
34 cash to a New Jersey emerging technology business or to a New
35 Jersey emerging technology business holding company by a
36 taxpayer that is not a related person of the New Jersey emerging
37 technology business or the New Jersey emerging technology
38 business holding company, the transfer of which is in connection
39 with either: a transaction between or among the taxpayer and the
40 New Jersey emerging technology business or the New Jersey
41 emerging technology holding company or both in exchange for
42 stock, interests in partnerships or joint ventures, licenses (exclusive
43 or non-exclusive), rights to use technology, marketing rights,
44 warrants, options, or any items similar to those included herein,
45 including, but not limited to, options or rights to acquire any of the
46 items included herein; or a purchase, production, or research
47 agreement between or among the taxpayer and the New Jersey
48 emerging technology business or the New Jersey emerging

1 technology holding company or both. “Qualified investment” also
2 means the non-refundable transfer of cash or irrevocable contractual
3 commitment to ¹【transfer cash to】¹ a qualified venture fund.

4 “Qualified research expenses” means qualified research
5 expenses, as defined in section 41 of the federal Internal Revenue
6 Code of 1986 (26 U.S.C. § 41), as in effect on June 30, 1992, in the
7 fields of advanced computing, advanced materials, biotechnology,
8 carbon footprint reduction technology, electronic device
9 technology, information technology, life sciences, medical device
10 technology, mobile communications technology, or renewable
11 energy technology.

12 “Qualified venture fund” means a venture fund required by
13 contract to invest a minimum of 50 percent of its funds in New
14 Jersey based businesses that the authority, in its sole discretion,
15 based upon the qualified venture fund’s investment history, if any,
16 its private placement memorandum and other relevant information,
17 has determined has the capacity to make the minimum investment.

18 “Related person” means:

19 a corporation, partnership, association or trust controlled by the
20 taxpayer;

21 an individual, corporation, partnership, association or trust that is
22 in the control of the taxpayer;

23 a corporation, partnership, association or trust controlled by an
24 individual, corporation, partnership, association or trust that is in
25 the control of the taxpayer; or

26 a member of the same controlled group as the taxpayer.

27 “Renewable energy technology” means a technology involving
28 the generation of electricity from solar energy; wind energy; wave
29 or tidal action; geothermal energy; the combustion of gas from the
30 anaerobic digestion of food waste and sewage sludge at a biomass
31 generating facility; the combustion of methane gas captured from a
32 landfill; and a fuel cell powered by methanol, ethanol, landfill gas,
33 digester gas, biomass gas, or other renewable fuel but not powered
34 by a fossil fuel.

35 “Tax year” means the fiscal or calendar accounting period of a
36 taxpayer.

37 “Venture fund” means a partnership, corporation, trust, or
38 limited liability company that invests cash in a business during the
39 early or expansion stages of a business in exchange for an equity
40 stake in the business in, ¹【”】¹ which the investment is made.
41 Venture firm may include a venture capital fund, a family office
42 fund, or a corporate investor fund, provided that a professional
43 manager administers the venture firm.

44 “Verified transfer of funds” means a non-refundable transfer of
45 funds equal to 100 percent of the taxpayer’s qualified investment in
46 the New Jersey emerging technology business holding company to a
47 New Jersey emerging technology business by the New Jersey
48 emerging technology business holding company that is

1 accompanied by documentation, as required by the New Jersey
2 Economic Development Authority, which provides proof of a cash
3 transaction originating with a taxpayer and concluding with a New
4 Jersey emerging technology business, provided that the transactions
5 from origin to destination occur within the same tax year.

6 The definitions of “advanced computing,” “advanced materials,”
7 “biotechnology,” ¹“carbon footprint reduction technology,”
8 “electronic device technology,” “information technology,” ¹**["”]**
9 “life sciences,” ¹**["”]** “medical device technology,” ¹“mobile
10 communications technology,” ¹**["”]** “New Jersey emerging
11 technology business,” “pilot scale manufacturing,” and “renewable
12 energy technology”¹ may be modified by regulation to conform to
13 definitions in other programs administered by the authority.
14 (cf: P.L.2017, c.40, s.1)
15

16 ¹**["**118. Section 3 of P.L.1997, c.349 (C.54:10A-5.30) is
17 amended to read as follows:

18 3. a. (1) A taxpayer, upon approval of the taxpayer’s
19 application therefor by the New Jersey Economic Development
20 Authority and in consultation with the director, shall be allowed a
21 credit against the tax imposed pursuant to section 5 of P.L.1945,
22 c.162 (C.54:10A-5), in an amount equal to 20 percent of the
23 qualified investment made by the taxpayer in a New Jersey
24 emerging technology business, **["or]** in a New Jersey emerging
25 technology business holding company that makes a verified transfer
26 of funds to a New Jersey emerging technology business, or in a
27 qualified venture fund; provided, however, a taxpayer may be
28 allowed a tax credit in an amount equal to 25 percent of the
29 qualified investment if the taxpayer satisfies one of the
30 requirements set forth in paragraph (2) of this subsection. The value
31 of tax credits allowed to a taxpayer pursuant to this section shall not
32 exceed \$500,000 for the privilege period for each qualified
33 investment made by the taxpayer.

34 (2) Subject to the limits established in paragraph (1) of this
35 subsection, the New Jersey Economic Development Authority, in
36 consultation with the director, shall increase the amount of a tax
37 credit allowed pursuant to this section by five percent if the
38 taxpayer makes a qualified investment in a New Jersey emerging
39 technology business, or in a New Jersey emerging technology
40 business holding company that makes a verified transfer of funds to
41 a New Jersey emerging technology business, or in a qualified
42 venture fund, if the New Jersey emerging technology business is **["**:

43 (a) **["** either located in a qualified opportunity zone pursuant to 26
44 U.S.C. § 1400Z-1, or a low-income community as defined in
45 subparagraph (e) of 26 U.S.C. § 45D **[";** **["** or

46 **["(b)** certified by the State as a minority business or a women’s
47 business pursuant to P.L.1986, c.195 (C.52:27H-21.17 et seq.) and,

1 in the case of a qualified venture fund, if the qualified venture fund
2 commits by contract to invest 50 percent of its funds in diverse
3 entrepreneurs.

4 b. A credit shall not be allowed pursuant to section 1 of
5 P.L.1993, c.175 (C.54:10A-5.24), for expenses paid from funds for
6 which a credit is allowed, or which are includable in the calculation
7 of a credit allowed, under this section.

8 Notwithstanding any other provision of law, the order of priority in
9 which the credit allowed by this section and any other credits
10 allowed by law may be taken shall be as prescribed by the director.

11 c. Except as provided in subsection d. of this section, the
12 amount of credit otherwise allowable under this section which
13 cannot be applied for the privilege period against tax liability
14 otherwise due for that privilege period may either be carried over, if
15 necessary, to the 15 privilege periods following the privilege period
16 for which the credit was allowed or, at the election of the taxpayer,
17 be claimed as and treated as an overpayment for the purposes of
18 R.S.54:49-15, provided, however, that section 7 of P.L.1992, c.175
19 (C.54:49-15.1) shall not apply.

20 d. A taxpayer may not carry over any amount of credit allowed
21 under subsection a. of this section to a privilege period during
22 which a corporate acquisition with respect to which the taxpayer
23 was a target corporation occurred or during which the taxpayer was
24 a party to a merger or a consolidation, or to any subsequent
25 privilege period, if the credit was allowed for a privilege period
26 prior to the year of acquisition, merger or consolidation, except that
27 if in the case of a corporate merger or corporate consolidation the
28 taxpayer can demonstrate, through the submission of a copy of the
29 plan of merger or consolidation and such other evidence as may be
30 required by the director, the identity of the constituent corporation
31 which was the acquiring person, a credit allowed to the acquiring
32 person may be carried over by the taxpayer. As used in this
33 subsection, "acquiring person" means the constituent corporation
34 the stockholders of which own the largest proportion of the total
35 voting power in the surviving or consolidated corporation after the
36 merger or consolidation.

37 e. The Executive Director of the New Jersey Economic
38 Development Authority, in consultation with the director, shall
39 adopt, pursuant to the "Administrative Procedure Act," P.L.1968,
40 c.410 (C.52:14B-1 et seq.), rules and regulations that are necessary
41 to implement sections 1 through 3 of P.L.1997, c.349 (C.54:10A-
42 5.28 through C.54:10A-5.30) and section 4 of P.L.2013, c.14
43 (C.54A:4-13), including, but not limited to: examples of and the
44 determination of qualified investments of which applicants shall
45 provide documentation with their tax credit application; the
46 promulgation of procedures and forms necessary to apply for a
47 credit; provisions for recapture in the event a taxpayer receives a
48 credit on the basis of its commitment to transfer cash to a qualified

1 venture fund and it does not fund its commitment; and provisions
2 for credit applicants to be charged an initial application fee and
3 ongoing service fees to cover the administrative costs related to the
4 credit.

5 The amount of credits approved by the Executive Director of the
6 New Jersey Economic Development Authority, and in consultation
7 with the director, pursuant to subsection a. of this section and
8 pursuant to section 4 of P.L.2013, c.14 (C.54A:4-13), shall not
9 exceed a cumulative total of **【\$25,000,000】** \$35,000,000 in any
10 calendar year to apply against the tax imposed pursuant to section 5
11 of P.L.1945, c.162 (C.54:10A-5) and the tax imposed pursuant to
12 the “New Jersey Gross Income Tax Act,” N.J.S.54A:1-1 et seq. If
13 the cumulative amount of credits allowed to taxpayers in a calendar
14 year exceeds the amount of credits available in that year, then
15 taxpayers who have first applied for and have not been allowed a
16 credit amount for that reason shall be allowed, in the order in which
17 they have submitted an application, the amount of the tax credit on
18 the first day of the next succeeding calendar year in which tax
19 credits under this section and section 4 of P.L.2013, c.14 (C.54A:4-
20 13) are not in excess of the amount of credits available.
21 (cf: P.L.2017, c.40, s.2)】¹

22

23 ¹118. Section 3 of P.L.1997, c.349 (C.54:10A-5.30) is amended
24 to read as follows:

25 3. a. (1) A taxpayer, upon approval of the taxpayer’s
26 application therefor by the New Jersey Economic Development
27 Authority and in consultation with the director, shall be allowed a
28 credit against the tax imposed pursuant to section 5 of P.L.1945,
29 c.162 (C.54:10A-5), in an amount equal to 20 percent of the
30 qualified investment made by the taxpayer in a New Jersey
31 emerging technology business, **【or】** in a New Jersey emerging
32 technology business holding company that makes a verified transfer
33 of funds to a New Jersey emerging technology business, or in a
34 qualified venture fund; provided, however, a taxpayer may be
35 allowed a tax credit in an amount equal to 25 percent of the
36 qualified investment if the taxpayer satisfies one of the
37 requirements set forth in paragraph (2) of this subsection. The value
38 of tax credits allowed to a taxpayer pursuant to this section shall not
39 exceed \$500,000 for the privilege period for each qualified
40 investment made by the taxpayer.

41 (2) Subject to the limits established in paragraph (1) of this
42 subsection, the New Jersey Economic Development Authority, in
43 consultation with the director, shall increase the amount of a tax
44 credit allowed pursuant to this section by five percent if the
45 taxpayer makes a qualified investment in a New Jersey emerging
46 technology business, or in a New Jersey emerging technology
47 business holding company that makes a verified transfer of funds to

1 a New Jersey emerging technology business, or in a qualified
2 venture fund, if the New Jersey emerging technology business is **【**:

3 (a) **】** either located in a qualified opportunity zone pursuant to 26
4 U.S.C. § 1400Z-1, or a low-income community as defined in
5 subparagraph (e) of 26 U.S.C. § 45D **【;】** or

6 **【(b)】** certified by the State as a minority business or a women's
7 business pursuant to P.L.1986, c.195 (C.52:27H-21.17 et seq.) and,
8 in the case of a qualified venture fund, if the qualified venture fund
9 commits by contract to invest 50 percent of its funds in diverse
10 entrepreneurs.

11 b. A credit shall not be allowed pursuant to section 1 of
12 P.L.1993, c.175 (C.54:10A-5.24), for expenses paid from funds for
13 which a credit is allowed, or which are includable in the calculation
14 of a credit allowed, under this section.

15 Notwithstanding any other provision of law, the order of priority in
16 which the credit allowed by this section and any other credits
17 allowed by law may be taken shall be as prescribed by the director.

18 c. Except as provided in subsection d. of this section, the
19 amount of credit otherwise allowable under this section which
20 cannot be applied for the privilege period against tax liability
21 otherwise due for that privilege period may either be carried over, if
22 necessary, to the 15 privilege periods following the privilege period
23 for which the credit was allowed or, at the election of the taxpayer,
24 be claimed as and treated as an overpayment for the purposes of
25 R.S.54:49-15, provided, however, that section 7 of P.L.1992, c.175
26 (C.54:49-15.1) shall not apply.

27 d. A taxpayer may not carry over any amount of credit allowed
28 under subsection a. of this section to a privilege period during
29 which a corporate acquisition with respect to which the taxpayer
30 was a target corporation occurred or during which the taxpayer was
31 a party to a merger or a consolidation, or to any subsequent
32 privilege period, if the credit was allowed for a privilege period
33 prior to the year of acquisition, merger or consolidation, except that
34 if in the case of a corporate merger or corporate consolidation the
35 taxpayer can demonstrate, through the submission of a copy of the
36 plan of merger or consolidation and such other evidence as may be
37 required by the director, the identity of the constituent corporation
38 which was the acquiring person, a credit allowed to the acquiring
39 person may be carried over by the taxpayer. As used in this
40 subsection, "acquiring person" means the constituent corporation
41 the stockholders of which own the largest proportion of the total
42 voting power in the surviving or consolidated corporation after the
43 merger or consolidation.

44 e. The Executive Director of the New Jersey Economic
45 Development Authority, in consultation with the director, shall
46 adopt, pursuant to the "Administrative Procedure Act," P.L.1968,
47 c.410 (C.52:14B-1 et seq.), rules and regulations that are necessary

1 to implement sections 1 through 3 of P.L.1997, c.349 (C.54:10A-
2 5.28 through C.54:10A-5.30) and section 4 of P.L.2013, c.14
3 (C.54A:4-13), including, but not limited to: examples of and the
4 determination of qualified investments of which applicants shall
5 provide documentation with their tax credit application; the
6 promulgation of procedures and forms necessary to apply for a
7 credit; provisions for recapture in the event a taxpayer receives a
8 credit on the basis of its commitment to transfer cash to a qualified
9 venture fund and it does not fund its commitment; and provisions
10 for credit applicants to be charged an initial application fee and
11 ongoing service fees to cover the administrative costs related to the
12 credit.

13 The amount of credits approved by the Executive Director of the
14 New Jersey Economic Development Authority, and in consultation
15 with the director, pursuant to subsection a. of this section and
16 pursuant to section 4 of P.L.2013, c.14 (C.54A:4-13), shall not
17 exceed a cumulative total of ~~【\$25,000,000】~~ \$35,000,000 in any
18 calendar year to apply against the tax imposed pursuant to section 5
19 of P.L.1945, c.162 (C.54:10A-5) and the tax imposed pursuant to
20 the “New Jersey Gross Income Tax Act,” N.J.S.54A:1-1 et seq. If
21 the cumulative amount of credits allowed to taxpayers in a calendar
22 year exceeds the amount of credits available in that year, then
23 taxpayers who have first applied for and have not been allowed a
24 credit amount for that reason shall be allowed, in the order in which
25 they have submitted an application, the amount of the tax credit on
26 the first day of the next succeeding calendar year in which tax
27 credits under this section and section 4 of P.L.2013, c.14 (C.54A:4-
28 13) are not in excess of the amount of credits available.¹
29 (cf: P.L.2019, c.145, s.2)

30
31 119. Section 4 of P.L.2013, c.14 (C.54A:4-13) is amended to
32 read as follows:

33 4. a. (1) A taxpayer, upon approval of the taxpayer's
34 application therefor by the New Jersey Economic Development
35 Authority, and in consultation with the director, shall be allowed a
36 credit against the tax otherwise due for the taxable year under the
37 "New Jersey Gross Income Tax Act," N.J.S.54A:1-1 et seq., in an
38 amount equal to 20 percent of the qualified investment made by the
39 taxpayer in a New Jersey emerging technology business, **【or】** in a
40 New Jersey emerging technology business holding company that
41 makes a verified transfer of funds to a New Jersey emerging
42 technology business, or in a qualified venture fund; provided,
43 however, a taxpayer may be allowed a tax credit in an amount equal
44 to 25 percent of the qualified investment if the taxpayer satisfies
45 one of the requirements set forth in paragraph (2) of this subsection.
46 The value of tax credits allowed to a taxpayer pursuant to this
47 section shall not exceed \$500,000 for the taxable year for each
48 qualified investment made by the taxpayer.

1 (2) Subject to the limits established in paragraph (1) of this
2 subsection, the New Jersey Economic Development Authority, in
3 consultation with the director, shall increase the amount of a tax
4 credit allowed pursuant to this section by five percent if the
5 taxpayer makes a qualified investment in a New Jersey emerging
6 technology business, **[or]** in a New Jersey emerging technology
7 business holding company that makes a verified transfer of funds to
8 a New Jersey emerging technology business, or in a qualified
9 venture fund, if the New Jersey emerging technology business is **[**:

10 (a) **]** either located in a qualified opportunity zone pursuant to 26
11 U.S.C. § 1400Z-1, or a low-income community as defined in
12 subparagraph (e) of 26 U.S.C. § 45D **[;]** or

13 **[(b)]** certified by the State as a minority business or a women's
14 business pursuant to P.L.1986, c.195 (C.52:27H-21.17 et seq.) and,
15 in the case of a qualified venture fund, if the qualified venture fund
16 commits by contract to invest 50 percent of its funds in diverse
17 entrepreneurs.

18 b. The amount of the credit allowed pursuant to this section
19 shall be applied against the tax otherwise due under the "New
20 Jersey Gross Income Tax Act," N.J.S.54A:1-1 et seq., after all other
21 credits and payments. If the credit exceeds the amount of tax
22 liability otherwise due, that amount of excess shall be an
23 overpayment for the purposes of N.J.S.54A:9-7, provided, however,
24 that subsection (f) of N.J.S.54A:9-7 shall not apply.

25 c. (1) A partnership shall not be allowed a credit under this
26 section directly, but the amount of credit of a taxpayer in respect of
27 a distributive share of partnership income under the "New Jersey
28 Gross Income Tax Act," N.J.S.54A:1-1 et seq., shall be determined
29 by allocating to the taxpayer that proportion of the credit acquired
30 by the partnership that is equal to the taxpayer's share, whether or
31 not distributed, of the total distributive income or gain of the
32 partnership for its taxable year ending within or with the taxpayer's
33 taxable year. For the purposes of subsection b. of this section, the
34 amount of tax liability that would be otherwise due of a taxpayer is
35 that proportion of the total liability of the taxpayer that the
36 taxpayer's share of the partnership income or gain included in gross
37 income bears to the total gross income of the taxpayer.

38 (2) The credit for a corporation that has made a valid election as
39 a New Jersey S corporation pursuant to section 3 of P.L.1993, c.173
40 (C.54:10A-5.22) may be applied by the shareholders of the S
41 corporation against the tax liability otherwise due under the "New
42 Jersey Gross Income Tax Act," N.J.S.54A:1-1 et seq., provided that
43 the amount of credit that may be used by a shareholder of the S
44 corporation shall be determined by allocating to each shareholder of
45 the S corporation that proportion of the tax credit of the S
46 corporation that is equal to the shareholder's proportionate share of
47 the S corporation, whether or not distributed, of the total

1 distributive income or gain of the S corporation for its tax period
2 ending with or within the shareholder's tax period, and the credit
3 may be applied by the shareholders against the tax liability
4 otherwise due pursuant to the "New Jersey Gross Income Tax Act,"
5 N.J.S.54A:1-1 et seq.

6 d. The Executive Director of the New Jersey Economic
7 Development Authority, in consultation with the director, shall
8 adopt, pursuant to the "Administrative Procedure Act," P.L.1968,
9 c.410 (C.52:14B-1 et seq.), rules and regulations that are necessary
10 to implement sections 1 through 3 of P.L.1997, c.349 (C.54:10A-
11 5.28 through C.54:10A-5.30) and this section, including, but not
12 limited to: examples of and the determination of qualified
13 investments of which applicants shall provide documentation with
14 their tax credit application; the promulgation of procedures and
15 forms necessary to apply for a credit; provisions for recapture in the
16 event a taxpayer receives a credit on the basis of its commitment to
17 transfer cash to a qualified venture fund and it does not fund its
18 commitment; and provisions for credit applicants to be charged an
19 initial application fee and ongoing service fees to cover the
20 administrative costs related to the credit.

21 The amount of credits approved by the Executive Director of the
22 New Jersey Economic Development Authority and the Director of
23 the Division of Taxation in the Department of the Treasury,
24 pursuant to subsection a. of this section and pursuant to section 3 of
25 P.L.1997, c.349 (C.54:10A-5.30), shall not exceed a cumulative
26 total of ~~【\$25,000,000】~~ \$35,000,000 in any calendar year to apply
27 against the tax imposed pursuant to section 5 of P.L.1945, c.162
28 (C.54:10A-5), and the tax imposed pursuant to the "New Jersey
29 Gross Income Tax Act," N.J.S.54A:1-1 et seq. If the cumulative
30 amount of credits allowed to taxpayers in a calendar year exceeds
31 the amount of credits available in that year, then taxpayers who
32 have first applied for and have not been allowed a credit amount for
33 that reason shall be allowed, in the order in which they have
34 submitted an application, the amount of the tax credit on the first
35 day of the next succeeding calendar year in which tax credits under
36 this section and section 3 of P.L.1997, c.349 (C.54:10A-5.30) are
37 not in excess of the amount of credits available.

38 e. As used in this section:

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

44 "Advanced materials" means materials with engineered
45 properties created through the development of specialized
46 processing and synthesis technology, including ceramics, high
47 value-added metals, electronic materials, composites, polymers, and
48 biomaterials.

1 "Biotechnology" means the continually expanding body of
2 fundamental knowledge about the functioning of biological systems
3 from the macro level to the molecular and sub-atomic levels, as
4 well as novel products, services, technologies, and sub-technologies
5 developed as a result of insights gained from research advances
6 which add to that body of fundamental knowledge.

7 "Carbon footprint reduction technology" means a technology
8 using equipment for the commercial, institutional, and industrial
9 sectors that: increases energy efficiency; develops and delivers
10 renewable or non-carbon-emitting energy technologies; develops
11 innovative carbon emissions abatement with significant carbon
12 emissions reduction potential; or promotes measurable electricity
13 end-use energy efficiency.

14 "Control" with respect to a corporation, means ownership,
15 directly or indirectly, of stock possessing 80 percent or more of the
16 total combined voting power of all classes of the stock of the
17 corporation entitled to vote; and "control," with respect to a trust,
18 means ownership, directly or indirectly, of 80 percent or more of
19 the beneficial interest in the principal or income of the trust. The
20 ownership of stock in a corporation, of a capital or profits interest in
21 a partnership or association or of a beneficial interest in a trust shall
22 be determined in accordance with the rules for constructive
23 ownership of stock provided in subsection (c) of section 267 of the
24 federal Internal Revenue Code of 1986 (26 U.S.C. s.267), other than
25 paragraph (3) of subsection (c) of that section.

26 "Controlled group" means one or more chains of corporations
27 connected through stock ownership with a common parent
28 corporation if stock possessing at least 80 percent of the voting
29 power of all classes of stock of each of the corporations is owned
30 directly or indirectly by one or more of the corporations and the
31 common parent owns directly stock possessing at least 80 percent of
32 the voting power of all classes of stock of at least one of the other
33 corporations.

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

36 "Diverse entrepreneur" means a New Jersey based business that
37 meets the criteria for a minority business or female business set
38 forth in section ¹[2] ³ of P.L.1983, c.482 (C.52:32-19).

39 "Electronic device technology" means a technology involving
40 microelectronics, semiconductors, electronic equipment and
41 instrumentation, radio frequency, microwave and millimeter
42 electronics, and optical and optic-electrical devices, or data and
43 digital communications and imaging devices.

44 "Information technology" means software publishing, motion
45 picture and video production, television production and post-
46 production services, telecommunications, data processing, hosting
47 and related services, custom computer programming services,

1 computer system design, computer facilities management services,
2 other computer related services, and computer training.

3 "Life sciences" means the production of medical equipment,
4 ophthalmic goods, medical or dental instruments, diagnostic
5 substances, biopharmaceutical products, or physical and biological
6 research.

7 "Medical device technology" means a technology involving any
8 medical equipment or product (other than a pharmaceutical product)
9 that has therapeutic value, diagnostic value, or both, and is
10 regulated by the federal Food and Drug Administration.

11 "Mobile communications technology" means a technology
12 involving the functionality and reliability of the transmission of
13 voice and multimedia data using a communication infrastructure via
14 a computer or a mobile device, that shall include, but not be limited
15 to, smartphones, electronic books and tablets, digital audio players,
16 motor vehicle electronics, home entertainment systems, and other
17 wireless appliances, without having connected to any physical or
18 fixed link.

19 "New Jersey based business" means a company with fewer than
20 225 employees, of whom at least 75 percent are filling a position in
21 New Jersey, that is doing business, employing or owning capital or
22 property, or maintaining an office in this State.

23 "New Jersey emerging technology business" means a company
24 with fewer than 225 employees, of whom at least 75 percent are
25 filling a position in New Jersey, that is doing business, employing
26 or owning capital or property, or maintaining an office in this State
27 and: has qualified research expenses paid or incurred for research
28 conducted in this State; conducts pilot scale manufacturing in this
29 State; or conducts technology commercialization in this State in the
30 fields of advanced computing, advanced materials, biotechnology,
31 carbon footprint reduction technology, electronic device
32 technology, information technology, life sciences, medical device
33 technology, mobile communications technology, or renewable
34 energy technology.

35 "New Jersey emerging technology business holding company"
36 means any corporation, association, firm, partnership, trust or other
37 form of business organization, but not a natural person, which
38 directly or indirectly, owns, has the power or right to control, or has
39 the power to vote, a controlling share of the outstanding voting
40 securities of a corporation or other form of a New Jersey emerging
41 technology business.

42 "Partnership" means a syndicate, group, pool, joint venture, or
43 other unincorporated organization through or by means of which
44 any business, financial operation, or venture is carried on, and
45 which is not a trust or estate, a corporation, or a sole proprietorship.

46 "Pilot scale manufacturing" means design, construction, and
47 testing of preproduction prototypes and models in the fields of
48 advanced computing, advanced materials, biotechnology, carbon

1 footprint reduction technology electronic device technology,
2 information technology, life sciences, medical device technology,
3 mobile communications technology, or renewable energy
4 technology, other than for commercial sale, excluding sales of
5 prototypes or sales for market testing if the total gross receipts, as
6 calculated in the manner provided in section 6 of P.L.1945, c.162
7 (C.54:10A-6), from the sales of the product, service, or process do
8 not exceed \$1,000,000.

9 "Qualified investment" means the non-refundable transfer of
10 cash to a New Jersey emerging technology business or to a New
11 Jersey emerging technology business holding company by a
12 taxpayer that is not a related person of the New Jersey emerging
13 technology business or the New Jersey emerging technology
14 business holding company, the transfer of which is in connection
15 with either: a transaction between or among the taxpayer and the
16 New Jersey emerging technology business or the New Jersey
17 emerging technology holding company or both in exchange for
18 stock, interests in partnerships or joint ventures, licenses (exclusive
19 or non-exclusive), rights to use technology, marketing rights,
20 warrants, options, or any items similar to those included herein,
21 including, but not limited to, options or rights to acquire any of the
22 items included herein; or a purchase, production, or research
23 agreement between or among the taxpayer and the New Jersey
24 emerging technology business or the New Jersey emerging
25 technology holding company or both. "Qualified investment" also
26 means the non-refundable transfer of cash or irrevocable contractual
27 commitment to transfer cash to a qualified venture fund.

28 "Qualified research expenses" means qualified research
29 expenses, as defined in section 41 of the federal Internal Revenue
30 Code of 1986 (26 U.S.C. s.41), as in effect on June 30, 1992, in the
31 fields of advanced computing, advanced materials, biotechnology,
32 electronic device technology, information technology, life sciences,
33 medical device technology, mobile communications technology, or
34 renewable energy technology.

35 "Qualified venture fund" means a venture fund required by
36 contract to invest a minimum of 50 percent of its funds in New
37 Jersey based businesses that the authority, in its sole discretion,
38 based upon the qualified venture fund's investment history, if any,
39 its private placement memorandum and other relevant information,
40 has determined has the capacity to make the minimum investment.

41 "Related person" means:

42 a corporation, partnership, association or trust controlled by the
43 taxpayer;

44 an individual, corporation, partnership, association or trust that is
45 in the control of the taxpayer;

46 a corporation, partnership, association or trust controlled by an
47 individual, corporation, partnership, association or trust that is in
48 the control of the taxpayer; or

1 a member of the same controlled group as the taxpayer.

2 "Renewable energy technology" means a technology involving
3 the generation of electricity from solar energy; wind energy; wave
4 or tidal action; geothermal energy; the combustion of gas from the
5 anaerobic digestion of food waste and sewage sludge at a biomass
6 generating facility; the combustion of methane gas captured from a
7 landfill; and a fuel cell powered by methanol, ethanol, landfill gas,
8 digester gas, biomass gas, or other renewable fuel but not powered
9 by a fossil fuel.

10 "Venture fund" means a partnership, corporation, trust, or
11 limited liability company that invests cash in a business during the
12 early or expansion stages of a business in exchange for an equity
13 stake in the business in, ¹[""] ¹ which the investment is made.
14 Venture firm may include a venture capital fund, a family office
15 fund, or a corporate investor fund, provided that a professional
16 manager administers the venture firm.

17 "Verified transfer of funds" means a non-refundable transfer of
18 funds equal to 100 percent of the taxpayer's qualified investment in
19 the New Jersey emerging technology business holding company to a
20 New Jersey emerging technology business by the New Jersey
21 emerging technology business holding company that is
22 accompanied by documentation, as required by the New Jersey
23 Economic Development Authority, which provides proof of a cash
24 transaction originating with a taxpayer and concluding with a New
25 Jersey emerging technology business, provided that the transactions
26 from origin to destination occur within the same taxable year.

27 The definitions of "advanced computing," "advanced materials,"
28 "biotechnology," ¹"carbon footprint reduction technology,"
29 "electronic device technology," "information technology," ¹[""]
30 "life sciences,"¹[""] "¹medical device technology," ¹"mobile
31 communications technology," ¹[""]¹ "New Jersey emerging
32 technology business," "pilot scale manufacturing," and "renewable
33 energy technology"¹¹ may be modified by regulation to conform to
34 definitions in other programs administered by the authority.

35 (cf: P.L.2019, c.145, s.3)

36

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

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

40 "Affiliate" means an entity that directly or indirectly controls, is
41 under common control with, or is controlled by the business.
42 Control exists in all cases in which the entity is a member of a
43 controlled group of corporations as defined pursuant to section 1563
44 of the Internal Revenue Code of 1986 (26 U.S.C. s.1563) or the
45 entity is an organization in a group of organizations under common
46 control as defined pursuant to subsection (b) or (c) of section 414 of
47 the Internal Revenue Code of 1986 (26 U.S.C. s.414). A taxpayer

1 may establish by clear and convincing evidence, as determined by
2 the Director of the Division of Taxation in the Department of the
3 Treasury, that control exists in situations involving lesser
4 percentages of ownership than required by those statutes. An
5 affiliate of a business may contribute to meeting either the qualified
6 investment or full-time employee requirements of a business that
7 applies for a credit under section 3 of P.L.2007, c.346 (C.34:1B-
8 209).

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

11 "Aviation district" means all areas within the boundaries of the
12 "Atlantic City International Airport," established pursuant to section
13 24 of P.L.1991, c.252 (C.27:25A-24), and the Federal Aviation
14 Administration William J. Hughes Technical Center and the area
15 within a one-mile radius of the outermost boundary of the "Atlantic
16 City International Airport" and the Federal Aviation Administration
17 William J. Hughes Technical Center.

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

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

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

25 a partnership;

26 an S corporation;

27 a limited liability company; or

28 a non-profit corporation.

29 If the business or tenant is a cooperative or part of a cooperative,
30 then the cooperative may qualify for credits by counting the full-
31 time employees and capital investments of its member
32 organizations, and the cooperative may distribute credits to its
33 member organizations. If the business or tenant is a cooperative
34 that leases to its member organizations, the lease shall be treated as
35 a lease to an affiliate or affiliates.

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

39 "Capital investment" in a qualified business facility means
40 expenses by a business or any affiliate of the business incurred after
41 application for:

42 a. site preparation and construction, repair, renovation,
43 improvement, equipping, or furnishing on real property or of a
44 building, structure, facility, or improvement to real property;

45 b. obtaining and installing furnishings and machinery,
46 apparatus, or equipment, including but not limited to material goods
47 subject to bonus depreciation under sections 168 and 179 of the
48 federal Internal Revenue Code (26 U.S.C. s.168 and s.179), for the

1 operation of a business on real property or in a building, structure,
2 facility, or improvement to real property;

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

6 d. any of the foregoing.

7 In addition to the foregoing, in a Garden State Growth Zone, the
8 following qualify as a capital investment: any development,
9 redevelopment, and relocation costs, including, but not limited to,
10 site acquisition if made within 24 months of application to the
11 authority, engineering, legal, accounting, and other professional
12 services required; and relocation, environmental remediation, and
13 infrastructure improvements for the project area, including, but not
14 limited to, on- and off-site utility, road, pier, wharf, bulkhead, or
15 sidewalk construction or repair.

16 In addition to the foregoing, if a business acquires or leases a
17 qualified business facility, the capital investment made or acquired
18 by the seller or owner, as the case may be, if pertaining primarily to
19 the premises of the qualified business facility, shall be considered a
20 capital investment by the business and, if pertaining generally to the
21 qualified business facility being acquired or leased, shall be
22 allocated to the premises of the qualified business facility on the
23 basis of the gross leasable area of the premises in relation to the
24 total gross leasable area in the qualified business facility. The
25 capital investment described herein may include any capital
26 investment made or acquired within 24 months prior to the date of
27 application so long as the amount of capital investment made or
28 acquired by the business, any affiliate of the business, or any owner
29 after the date of application equals at least 50 percent of the amount
30 of capital investment, allocated to the premises of the qualified
31 business facility being acquired or leased on the basis of the gross
32 leasable area of the premises in relation to the total gross leasable
33 area in the qualified business facility made or acquired prior to the
34 date of application.

35 "College or university" means a county college, an independent
36 institution of higher education, a public research university, or a
37 State college.

38 "Commitment period" means the period of time that is 1.5 times
39 the eligibility period.

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

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

1 "Disaster recovery project" means a project located on property
2 that has been wholly or substantially damaged or destroyed as a
3 result of a federally-declared disaster which, after utilizing all
4 disaster funds available from federal, State, county, and local
5 funding sources, demonstrates to the satisfaction of the authority
6 that access to additional funding authorized pursuant to the "New
7 Jersey Economic Opportunity Act of 2013," P.L.2013, c.161
8 (C.52:27D-489p et al.), is necessary to complete the redevelopment
9 project, and which is located within the qualified incentive area and
10 has been determined by the authority to be in an area appropriate
11 for development and in need of economic development incentive
12 assistance.

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

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

26 "Eligibility period" means the period in which a business may
27 claim a tax credit under the Grow New Jersey Assistance Program,
28 beginning with the tax period in which the authority accepts
29 certification of the business that it has met the capital investment
30 and employment requirements of the Grow New Jersey Assistance
31 Program and extending thereafter for a term of not more than 10
32 years, with the term to be determined solely at the discretion of the
33 applicant.

34 "Eligible position" or "full-time job" means a full-time position
35 in a business in this State which the business has filled with a full-
36 time employee.

37 "Full-time employee" means a person:

38 a. who is employed by a business for consideration for at least
39 35 hours a week, or who renders any other standard of service
40 generally accepted by custom or practice as full-time employment;
41 or

42 b. who is employed by a professional employer organization
43 pursuant to an employee leasing agreement between the business
44 and the professional employer organization, in accordance with
45 P.L.2001, c.260 (C.34:8-67 et seq.) for at least 35 hours a week, or
46 who renders any other standard of service generally accepted by
47 custom or practice as full-time employment, and whose wages are

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

3 c. who is a resident of another State but whose income is not
4 subject to the "New Jersey Gross Income Tax Act," N.J.S.54A:1-1
5 et seq. or who is a partner of a business who works for the
6 partnership for at least 35 hours a week, or who renders any other
7 standard of service generally accepted by custom or practice as full-
8 time employment, and whose distributive share of income, gain,
9 loss, or deduction, or whose guaranteed payments, or any
10 combination thereof, is subject to the payment of estimated taxes, as
11 provided in the "New Jersey Gross Income Tax Act," N.J.S.54A:1-1
12 et seq.; and

13 d. who, except for purposes of the Statewide workforce, is
14 provided, by the business, with employee health benefits under a
15 health benefits plan authorized pursuant to State or federal law.

16 With respect to a logistics, manufacturing, energy, defense,
17 aviation, or maritime business, excluding primarily warehouse or
18 distribution operations, located in a port district having a container
19 terminal:

20 the requirement that employee health benefits are to be provided
21 shall be deemed to be satisfied if the benefits are provided in
22 accordance with industry practice by a third party obligated to
23 provide such benefits pursuant to a collective bargaining agreement;

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

27 35 hours of employment per week at a qualified business facility
28 shall constitute one "full-time employee," regardless of whether or
29 not the hours of work were performed by one or more persons.

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

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

46 Full-time employee shall also not include any person who at the
47 time of project application works in New Jersey for consideration
48 for at least 35 hours per week, or who renders any other standard of

1 service generally accepted by custom or practice as full-time
2 employment but who prior to project application was not provided,
3 by the business, with employee health benefits under a health
4 benefits plan authorized pursuant to State or federal law.

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

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

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

24 "Incentive agreement" means the contract between the business
25 and the authority, which sets forth the terms and conditions under
26 which the business shall be eligible to receive the incentives
27 authorized pursuant to the program.

28 "Incentive effective date" means the date **【the authority issues a**
29 **tax credit based on】** a business submits the documentation
30 **【submitted by a business】** required pursuant to paragraph (1) of
31 subsection b. of section 6 of P.L.2011, c.149 (C.34:1B-247) in a
32 form satisfactory to the authority.

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

46 "Major rail station" means a railroad station located within a
47 qualified incentive area which provides access to the public to a

1 minimum of six rail passenger service lines operated by the New
2 Jersey Transit Corporation.

3 "Mega project" means:

4 a. a qualified business facility located in a port district housing
5 a business in the logistics, manufacturing, energy, defense, or
6 maritime industries, either:

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

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

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

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

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

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

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

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

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

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

44 "Minimum environmental and sustainability standards" means
45 standards established by the authority in accordance with the green
46 building manual prepared by the Commissioner of Community
47 Affairs pursuant to section 1 of P.L.2007, c.132 (C.52:27D-130.6),
48 regarding the use of renewable energy, energy-efficient technology,

1 and non-renewable resources in order to reduce environmental
2 degradation and encourage long-term cost reduction.

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

11 "Municipal Revitalization Index" means the 2007 index by the
12 Office for Planning Advocacy within the Department of State
13 measuring or ranking municipal distress.

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

19 "Other eligible area" means the portions of the qualified
20 incentive area that are not located within a distressed municipality,
21 or the priority area.

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

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

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

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

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

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

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

47 c. are the proposed site of a disaster recovery project, a
48 qualified incubator facility, a highlands development credit

1 receiving area or redevelopment area, a tourism destination project,
2 or transit oriented development; or

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

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

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

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

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

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

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

31 "Qualified incentive area" means:

32 a. an aviation district;

33 b. a port district;

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

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

37 (a) Planning Area 1 (Metropolitan);

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

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

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

46 (3) located within any land owned by the New Jersey Sports and
47 Exposition Authority, established pursuant to P.L.1971, c.137
48 (C.5:10-1 et seq.), within the boundaries of the Hackensack

1 Meadowlands District as delineated in section 4 of P.L.1968, c.404
2 (C.13:17-4);

3 (4) located within a regional growth area, rural development
4 area zoned for industrial use as of the effective date of P.L.2016,
5 c.75, town, village, or a military and federal installation area
6 designated in the comprehensive management plan prepared and
7 adopted by the Pinelands Commission pursuant to the "Pinelands
8 Protection Act," P.L.1979, c.111 (C.13:18A-1 et seq.);

9 (5) located within the planning area of the Highlands Region as
10 defined in section 3 of P.L.2004, c.120 (C.13:20-3) or a highlands
11 development credit receiving area or redevelopment area;

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

13 (7) located within land approved for closure under any federal
14 Commission on Base Realignment and Closure action; or

15 (8) located only within the following portions of the areas
16 designated pursuant to the "State Planning Act," P.L.1985, c.398
17 (C.52:18A-196 et seq.), as Planning Area 4A (Rural Planning
18 Area), Planning Area 4B (Rural/Environmentally Sensitive) or
19 Planning Area 5 (Environmentally Sensitive) if Planning Area 4A
20 (Rural Planning Area), Planning Area 4B (Rural/Environmentally
21 Sensitive) or Planning Area 5 (Environmentally Sensitive) is
22 located within:

23 (a) a designated center under the State Development and
24 Redevelopment Plan;

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

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

33 (d) any area on which a structure exists or previously existed
34 including any desired expansion of the footprint of the existing or
35 previously existing structure provided the expansion otherwise
36 complies with all applicable federal, State, county, and local
37 permits and approvals;

38 (e) the planning area of the Highlands Region as defined in
39 section 3 of P.L.2004, c.120 (C.13:20-3) or a highlands
40 development credit receiving area or redevelopment area; or

41 (f) any area on which an existing tourism destination project is
42 located.

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

46 "Qualified incubator facility" means a commercial building
47 located within a qualified incentive area: which contains 50,000 or
48 more square feet of office, laboratory, or industrial space; which is

1 located near, and presents opportunities for collaboration with, a
2 research institution, teaching hospital, college, or university; and
3 within which, at least 50 percent of the gross leasable area is
4 restricted for use by one or more technology startup companies
5 during the commitment period.

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

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

29 "SDA municipality" means a municipality in which an SDA
30 district is situate.

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

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

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

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

10 "Transit oriented development" means a qualified business
11 facility located within a 1/2-mile radius, or one-mile radius for
12 projects located in a Garden State Growth Zone, surrounding the
13 mid-point of a New Jersey Transit Corporation, Port Authority
14 Transit Corporation, or Port Authority Trans-Hudson Corporation
15 rail, bus, or ferry station platform area, including all light rail
16 stations.

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

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

30 (cf: P.L.2018, c.120, s.1)]¹

31

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

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

35 "Affiliate" means an entity that directly or indirectly controls, is
36 under common control with, or is controlled by the business.
37 Control exists in all cases in which the entity is a member of a
38 controlled group of corporations as defined pursuant to section 1563
39 of the Internal Revenue Code of 1986 (26 U.S.C. s.1563) or the
40 entity is an organization in a group of organizations under common
41 control as defined pursuant to subsection (b) or (c) of section 414 of
42 the Internal Revenue Code of 1986 (26 U.S.C. s.414). A taxpayer
43 may establish by clear and convincing evidence, as determined by
44 the Director of the Division of Taxation in the Department of the
45 Treasury, that control exists in situations involving lesser
46 percentages of ownership than required by those statutes. An
47 affiliate of a business may contribute to meeting either the qualified
48 investment or full-time employee requirements of a business that

1 applies for a credit under section 3 of P.L.2007, c.346 (C.34:1B-
2 209).

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

5 "Aviation district" means all areas within the boundaries of the
6 "Atlantic City International Airport," established pursuant to section
7 24 of P.L.1991, c.252 (C.27:25A-24), and the Federal Aviation
8 Administration William J. Hughes Technical Center and the area
9 within a one-mile radius of the outermost boundary of the "Atlantic
10 City International Airport" and the Federal Aviation Administration
11 William J. Hughes Technical Center.

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

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

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

19 a partnership;

20 an S corporation;

21 a limited liability company; or

22 a non-profit corporation.

23 If the business or tenant is a cooperative or part of a cooperative,
24 then the cooperative may qualify for credits by counting the full-
25 time employees and capital investments of its member
26 organizations, and the cooperative may distribute credits to its
27 member organizations. If the business or tenant is a cooperative
28 that leases to its member organizations, the lease shall be treated as
29 a lease to an affiliate or affiliates.

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

33 "Capital investment" in a qualified business facility means
34 expenses by a business or any affiliate of the business incurred after
35 application for:

36 a. site preparation and construction, repair, renovation,
37 improvement, equipping, or furnishing on real property or of a
38 building, structure, facility, or improvement to real property;

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

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

48 d. any of the foregoing.

1 In addition to the foregoing, in a Garden State Growth Zone, the
2 following qualify as a capital investment: any development,
3 redevelopment, and relocation costs, including, but not limited to,
4 site acquisition if made within 24 months of application to the
5 authority, engineering, legal, accounting, and other professional
6 services required; and relocation, environmental remediation, and
7 infrastructure improvements for the project area, including, but not
8 limited to, on- and off-site utility, road, pier, wharf, bulkhead, or
9 sidewalk construction or repair.

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

29 "College or university" means a county college, an independent
30 institution of higher education, a public research university, or a
31 State college.

32 "Commitment period" means the period of time that is 1.5 times
33 the eligibility period.

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

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

42 "Disaster recovery project" means a project located on property
43 that has been wholly or substantially damaged or destroyed as a
44 result of a federally-declared disaster which, after utilizing all
45 disaster funds available from federal, State, county, and local
46 funding sources, demonstrates to the satisfaction of the authority
47 that access to additional funding authorized pursuant to the "New
48 Jersey Economic Opportunity Act of 2013," P.L.2013, c.161

1 (C.52:27D-489p et al.), is necessary to complete the redevelopment
2 project, and which is located within the qualified incentive area and
3 has been determined by the authority to be in an area appropriate
4 for development and in need of economic development incentive
5 assistance.

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

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

19 "Eligibility period" means the period in which a business may
20 claim a tax credit under the Grow New Jersey Assistance Program,
21 beginning with the tax period in which the authority accepts
22 certification of the business that it has met the capital investment
23 and employment requirements of the Grow New Jersey Assistance
24 Program and extending thereafter for a term of not more than 10
25 years, with the term to be determined solely at the discretion of the
26 applicant.

27 "Eligible position" or "full-time job" means a full-time position
28 in a business in this State which the business has filled with a full-
29 time employee.

30 "Full-time employee" means a person:

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

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

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

1 loss, or deduction, or whose guaranteed payments, or any
2 combination thereof, is subject to the payment of estimated taxes, as
3 provided in the "New Jersey Gross Income Tax Act," N.J.S.54A:1-1
4 et seq.; and

5 d. who, except for purposes of the Statewide workforce, is
6 provided, by the business, with employee health benefits under a
7 health benefits plan authorized pursuant to State or federal law.

8 With respect to a logistics, manufacturing, energy, defense,
9 aviation, or maritime business, excluding primarily warehouse or
10 distribution operations, located in a port district having a container
11 terminal:

12 the requirement that employee health benefits are to be provided
13 shall be deemed to be satisfied if the benefits are provided in
14 accordance with industry practice by a third party obligated to
15 provide such benefits pursuant to a collective bargaining agreement;

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

19 35 hours of employment per week at a qualified business facility
20 shall constitute one "full-time employee," regardless of whether or
21 not the hours of work were performed by one or more persons.

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

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

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

45 "Garden State Create Zone" means the campus of a doctoral
46 university, and the area within a three-mile radius of the outermost
47 boundary of the campus of a doctoral university, according to a map

1 appearing in the doctoral university's official catalog or other
2 official publication on the effective date of P.L.2017, c.221.

3 "Garden State Growth Zone" or "growth zone" means the four
4 New Jersey cities with the lowest median family income based on
5 the 2009 American Community Survey from the US Census, (Table
6 708. Household, Family, and Per Capita Income and Individuals,
7 and Families Below Poverty Level by City: 2009); a municipality
8 which contains a Tourism District as established pursuant to section
9 5 of P.L.2011, c.18 (C.5:12-219) and regulated by the Casino
10 Reinvestment Development Authority; or an aviation district.

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

17 "Incentive agreement" means the contract between the business
18 and the authority, which sets forth the terms and conditions under
19 which the business shall be eligible to receive the incentives
20 authorized pursuant to the program.

21 "Incentive effective date" means the date [the authority issues a
22 tax credit based on] a business submits the documentation
23 [submitted by a business] required pursuant to paragraph (1) of
24 subsection b. of section 6 of P.L.2011, c.149 (C.34:1B-247) in a
25 form satisfactory to the authority.

26 "Independent institution of higher education" means a college or
27 university incorporated and located in New Jersey, which by virtue
28 of law or character or license is a nonprofit educational institution
29 authorized to grant academic degrees and which provides a level of
30 education which is equivalent to the education provided by the
31 State's public institutions of higher education, as attested by the
32 receipt of and continuation of regional accreditation by the Middle
33 States Association of Colleges and Schools, and which is eligible to
34 receive State aid under the provisions of the Constitution of the
35 United States and the Constitution of the State of New Jersey, but
36 does not include any educational institution dedicated primarily to
37 the education or training of ministers, priests, rabbis or other
38 professional persons in the field of religion.

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

43 "Mega project" means:

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

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

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

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

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

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

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

20 d. a project located in an area designated in need of
21 redevelopment, pursuant to P.L.1992, c.79 (C.40A:12A-1 et al.)
22 prior to the enactment of P.L.2014, c.63 (C.34:1B-251 et al.) within
23 Atlantic, Burlington, Camden, Cape May, Cumberland, Gloucester,
24 Ocean, or Salem counties having a capital investment in excess of
25 \$20,000,000, and at which more than 150 full-time employees of
26 the business are created or retained; or

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

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

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

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

45 "Moderate-income housing" means housing affordable,
46 according to United States Department of Housing and Urban
47 Development or other recognized standards for home ownership
48 and rental costs, and occupied or reserved for occupancy by

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

5 "Municipal Revitalization Index" means the 2007 index by the
6 Office for Planning Advocacy within the Department of State
7 measuring or ranking municipal distress.

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

13 "Other eligible area" means the portions of the qualified
14 incentive area that are not located within a distressed municipality,
15 or the priority area.

16 "Partnership" means an entity classified as a partnership for
17 federal income tax purposes.

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

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

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

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

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

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

41 c. are the proposed site of a disaster recovery project, a
42 qualified incubator facility, a highlands development credit
43 receiving area or redevelopment area, a tourism destination project,
44 or transit oriented development; or

45 d. contain: a vacant commercial building having over 400,000
46 square feet of office, laboratory, or industrial space available for
47 occupancy for a period of over one year; or a site that has been
48 negatively impacted by the approval of a "qualified business

1 facility," as defined pursuant to section 2 of P.L.2007, c.346
2 (C.34:1B-208).

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

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

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

10 "Qualified business facility" means any building, complex of
11 buildings or structural components of buildings, and all machinery
12 and equipment located within a qualified incentive area, used in
13 connection with the operation of a business that is not engaged in
14 final point of sale retail business at that location unless the building,
15 complex of buildings or structural components of buildings, and all
16 machinery and equipment located within a qualified incentive area,
17 are used in connection with the operation of:

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

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

25 "Qualified incentive area" means:

26 a. an aviation district;

27 b. a port district;

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

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

31 (a) Planning Area 1 (Metropolitan);

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

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

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

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

45 (4) located within a regional growth area, rural development
46 area zoned for industrial use as of the effective date of P.L.2016,
47 c.75, town, village, or a military and federal installation area
48 designated in the comprehensive management plan prepared and

- 1 adopted by the Pinelands Commission pursuant to the "Pinelands
2 Protection Act," P.L.1979, c.111 (C.13:18A-1 et seq.);
- 3 (5) located within the planning area of the Highlands Region as
4 defined in section 3 of P.L.2004, c.120 (C.13:20-3) or a highlands
5 development credit receiving area or redevelopment area;
- 6 (6) located within a Garden State Growth Zone;
- 7 (7) located within land approved for closure under any federal
8 Commission on Base Realignment and Closure action; or
- 9 (8) located only within the following portions of the areas
10 designated pursuant to the "State Planning Act," P.L.1985, c.398
11 (C.52:18A-196 et seq.), as Planning Area 4A (Rural Planning
12 Area), Planning Area 4B (Rural/Environmentally Sensitive) or
13 Planning Area 5 (Environmentally Sensitive) if Planning Area 4A
14 (Rural Planning Area), Planning Area 4B (Rural/Environmentally
15 Sensitive) or Planning Area 5 (Environmentally Sensitive) is
16 located within:
- 17 (a) a designated center under the State Development and
18 Redevelopment Plan;
- 19 (b) a designated growth center in an endorsed plan until the
20 State Planning Commission revises and readopts New Jersey's State
21 Strategic Plan and adopts regulations to revise this definition as it
22 pertains to Statewide planning areas;
- 23 (c) any area determined to be in need of redevelopment pursuant
24 to sections 5 and 6 of P.L.1992, c.79 (C.40A:12A-5 and
25 C.40A:12A-6) or in need of rehabilitation pursuant to section 14 of
26 P.L.1992, c.79 (C.40A:12A-14);
- 27 (d) any area on which a structure exists or previously existed
28 including any desired expansion of the footprint of the existing or
29 previously existing structure provided the expansion otherwise
30 complies with all applicable federal, State, county, and local
31 permits and approvals;
- 32 (e) the planning area of the Highlands Region as defined in
33 section 3 of P.L.2004, c.120 (C.13:20-3) or a highlands
34 development credit receiving area or redevelopment area; or
- 35 (f) any area on which an existing tourism destination project is
36 located.
- 37 "Qualified incentive area" shall not include any property located
38 within the preservation area of the Highlands Region as defined in
39 section 3 of P.L.2004, c.120 (C.13:20-3).
- 40 "Qualified incubator facility" means a commercial building
41 located within a qualified incentive area: which contains 50,000 or
42 more square feet of office, laboratory, or industrial space; which is
43 located near, and presents opportunities for collaboration with, a
44 research institution, teaching hospital, college, or university; and
45 within which, at least 50 percent of the gross leasable area is
46 restricted for use by one or more technology startup companies
47 during the commitment period.

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

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

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

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

28 "Targeted industry" means any industry identified from time to
29 time by the authority **[including]** which shall initially [, a] include
30 advanced transportation and logistics, advanced manufacturing,
31 **[defense, energy, logistics]** aviation, autonomous vehicle and zero-
32 emission vehicle research or development, clean energy, life
33 sciences, hemp processing, information and high technology,
34 **[health, and]** finance [business, but excluding a primarily
35 warehouse or distribution business] and insurance, professional
36 services, film and digital media, [and] non-retail food and beverage
37 businesses [.] including food innovation, and other innovative
38 industries that disrupt current technologies or business models.

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

44 "Tourism destination project" means a qualified non-gaming
45 business facility that will be among the most visited privately
46 owned or operated tourism or recreation sites in the State, and
47 which is located within the qualified incentive area and has been

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

6 "Transit oriented development" means a qualified business
7 facility located within a 1/2-mile radius, or one-mile radius for
8 projects located in a Garden State Growth Zone, surrounding the
9 mid-point of a New Jersey Transit Corporation, Port Authority
10 Transit Corporation, or Port Authority Trans-Hudson Corporation
11 rail, bus, or ferry station platform area, including all light rail
12 stations.

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

17 "Urban transit hub municipality" means a municipality: a. which
18 qualifies for State aid pursuant to P.L.1978, c.14 (C.52:27D-178 et
19 seq.), or which has continued to be a qualified municipality
20 thereunder pursuant to P.L.2007, c.111; and b. in which 30 percent
21 or more of the value of real property was exempt from local
22 property taxation during tax year 2006. The percentage of exempt
23 property shall be calculated by dividing the total exempt value by
24 the sum of the net valuation which is taxable and that which is tax
25 exempt.¹

26 (cf: P.L.2018, c.120, s.1)

27

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

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

34 a. A detailed description of the proposed project which will
35 result in job creation or retention, and the number of new or
36 retained full-time jobs that are approved for tax credits.

37 b. The eligibility period of the tax credits, including the first
38 year for which the tax credits may be claimed.

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

41 d. A requirement that the applicant maintain the project at a
42 location in New Jersey for the commitment period, with at least the
43 minimum number of full-time employees as required by this
44 program, except as otherwise agreed to pursuant to subsection h. of
45 section 6 of P.L.2011, c.159 (C.34:1B-247) and a provision to
46 permit the authority to recapture all or part of any tax credits
47 awarded, at its discretion, if the business does not remain in
48 compliance with this provision for the required term, and in the

1 instance of the business terminating an existing incentive agreement
2 in order to participate in an incentive agreement authorized pursuant
3 to the "New Jersey Economic Opportunity Act of 2013," P.L.2013,
4 c.161 (C.52:27D-489p et al.), such permitted recapture may be
5 calculated to recognize the period of time that the business was in
6 compliance prior to termination.

7 e. A method for the business to certify that it has met the
8 capital investment and employment requirements of the program
9 pursuant to paragraph (1) of subsection a. of section 3 of P.L.2011,
10 c.149 (C.34:1B-244) and to report annually to the authority the
11 number of full-time employees for which the tax credits are to be
12 made.

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

15 g. A provision which permits the authority to amend the
16 agreement.

17 h. A provision establishing the conditions under which the
18 agreement may be terminated.

19 (cf: P.L.2013, c.161, s.9)

20

21 122. Section 5 of P.L.2009, c.90 (C.52:27D-489e) is amended to
22 read as follows:

23 5. a. The New Jersey Economic Development Authority, in
24 consultation with the State Treasurer, shall establish an Economic
25 Redevelopment and Growth Grant program for the purpose of
26 encouraging redevelopment projects in qualifying economic
27 redevelopment and growth grant incentive areas that do not qualify
28 as such areas solely by virtue of being a transit village, through the
29 provision of incentive grants to reimburse developers for certain
30 project financing gap costs.

31 b. (1) A developer shall submit an application for a State
32 incentive grant prior to July 1, 2019, except: (a) a developer of a
33 qualified residential project or a mixed use parking project seeking
34 an award of credits toward the funding of its incentive grant for a
35 project restricted under category (viii) of subparagraph (b) of
36 paragraph (3) of subsection b. of section 6 of P.L.2009, c.90
37 (C.52:27D-489f) shall submit an incentive grant application prior to
38 December 31, 2021 and (b) a developer seeking an award of credits
39 toward the funding of its incentive grant under subparagraphs (f)
40 and (g) of paragraph (3) of subsection b. of section 6 of P.L.2009,
41 c.90 (C.52:27D-489f) shall submit an incentive grant application
42 prior to December 31, 2021. A developer that submits an
43 application for a State incentive grant shall indicate on the
44 application whether it is also applying for a local incentive grant.
45 Tax credits awarded to developers who apply after the effective
46 date of P.L. , c. (C.)(pending before the Legislature as this
47 bill) under subparagraphs (f) and (g) of paragraph (3) of subsection
48 b. of section 6 of P.L.2009, c.90 (C.52:27D-489f) shall not exceed

1 \$200,000,000 subject to the limitations of subparagraphs (f) and (g)
2 of that paragraph.

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

7 c. An application for a State incentive grant shall be reviewed
8 and approved by the authority. The authority shall not approve an
9 application for a State incentive grant unless the application was
10 submitted prior to July 1, 2019, except: (1) the authority shall not
11 approve an application for a State incentive grant by a developer of
12 a qualified residential project or a mixed use parking project
13 seeking an award of credits toward the funding of its incentive grant
14 for a project restricted under category (viii) of subparagraph (b) of
15 paragraph (3) of subsection b. of section 6 of P.L.2009, c.90
16 (C.52:27D-489f) unless the application was submitted prior to
17 December 31, 2021 and (2) the authority shall not approve an
18 application for a State incentive grant by a developer under
19 subparagraphs (f) and (g) of paragraph (3) of subsection b. of
20 section 6 of P.L.2009, c.90 (C.52:27D-489f) unless the application
21 was submitted prior to December 31, 2021.

22 d. A developer shall not be required to purchase pinelands
23 development credits under the "Pinelands Protection Act,"
24 P.L.1979, c.111 (C.13:18A-1 et seq.), the pinelands comprehensive
25 management plan, or any other rule or regulation adopted pursuant
26 to that act in connection with any approval or relief obtained related
27 to a redevelopment project located in an aviation district on or after
28 the effective date of P.L.2018, c.120, except if seeking to develop in
29 permanently protected open space pursuant to the Pinelands
30 Protection Act. The provisions of this subsection shall not apply to
31 a developer of a qualified residential project.

32 (cf: P.L.2018, c.120, s.6)

33

34 123. Section 6 of P.L.2009, c.90 (C.52:27D-489f) is amended to
35 read as follows:

36 6. a. Up to the limits established in subsection b. of this
37 section and in accordance with a redevelopment incentive grant
38 agreement, beginning upon the receipt of occupancy permits for any
39 portion of the redevelopment project, or upon any other event
40 evidencing project completion as set forth in the incentive grant
41 agreement, the State Treasurer shall pay to the developer
42 incremental State revenues directly realized from businesses
43 operating at the site of the redevelopment project from the
44 following taxes: the Corporation Business Tax Act (1945),
45 P.L.1945, c.162 (C.54:10A-1 et seq.), the tax imposed on marine
46 insurance companies pursuant to R.S.54:16-1 et seq., the tax
47 imposed on insurers generally, pursuant to P.L.1945, c.132
48 (C.54:18A-1 et seq.), the public utility franchise tax, public utilities

1 gross receipts tax and public utility excise tax imposed on sewerage
2 and water corporations pursuant to P.L.1940, c.5 (C.54:30A-49 et
3 seq.), those tariffs and charges imposed by electric, natural gas,
4 telecommunications, water and sewage utilities, and cable television
5 companies under the jurisdiction of the New Jersey Board of Public
6 Utilities, or comparable entity, except for those tariffs, fees, or taxes
7 related to societal benefits charges assessed pursuant to section 12
8 of P.L.1999, c.23 (C.48:3-60), any charges paid for compliance
9 with the "Global Warming Response Act," P.L.2007, c.112
10 (C.26:2C-37 et seq.), transitional energy facility assessment unit
11 taxes paid pursuant to section 67 of P.L.1997, c.162 (C.48:2-21.34),
12 and the sales and use taxes on public utility and cable television
13 services and commodities, the tax derived from net profits from
14 business, a distributive share of partnership income, or a pro rata
15 share of S corporation income under the "New Jersey Gross Income
16 Tax Act," N.J.S.54A:1-1 et seq., the tax derived from a business at
17 the site of a redevelopment project that is required to collect the tax
18 pursuant to the "Sales and Use Tax Act," P.L.1966, c.30 (C.54:32B-
19 1 et seq.), the tax imposed pursuant to P.L.1966, c.30 (C.54:32B-1
20 et seq.) from the purchase of furniture, fixtures and equipment, or
21 materials for the remediation, the construction of new structures at
22 the site of a redevelopment project, the hotel and motel occupancy
23 fee imposed pursuant to section 1 of P.L.2003, c.114 (C.54:32D-1),
24 or the portion of the fee imposed pursuant to section 3 of P.L.1968,
25 c.49 (C.46:15-7) derived from the sale of real property at the site of
26 the redevelopment project and paid to the State Treasurer for use by
27 the State, that is not credited to the "Shore Protection Fund" or the
28 "Neighborhood Preservation Nonlapsing Revolving Fund" ("New
29 Jersey Affordable Housing Trust Fund") pursuant to section 4 of
30 P.L.1968, c.49 (C.46:15-8). Any developer shall be allowed to
31 assign their ability to apply for the tax credit under this subsection
32 to a non-profit organization with a mission dedicated to attracting
33 investment and completing development and redevelopment
34 projects in a Garden State Growth Zone. The non-profit
35 organization may make an application on behalf of a developer
36 which meets the requirements for the tax credit, or a group of non-
37 qualifying developers, such that these will be considered a unified
38 project for the purposes of the incentives provided under this
39 section.

40 b. (1) Up to an average of 75 percent of the projected annual
41 incremental revenues or 85 percent of the projected annual
42 incremental revenues in a Garden State Growth Zone may be
43 pledged towards the State portion of an incentive grant.

44 (2) In the case of a qualified residential project or a project
45 involving university infrastructure, if the authority determines that
46 the estimated amount of incremental revenues pledged towards the
47 State portion of an incentive grant is inadequate to fully fund the
48 amount of the State portion of the incentive grant, then in lieu of an

1 incentive grant based on the incremental revenues, the developer
2 shall be awarded tax credits equal to the full amount of the
3 incentive grant.

4 (3) In the case of a mixed use parking project, if the authority
5 determines that the estimated amount of incremental revenues
6 pledged towards the State portion of an incentive grant is
7 inadequate to fully fund the amount of the State portion of the
8 incentive grant, then, in lieu of an incentive grant based on the
9 incremental revenues, the developer shall be awarded tax credits
10 equal to the full amount of the incentive grant.

11 The value of all credits approved by the authority pursuant to
12 paragraphs (2) and (3) of this subsection shall not exceed
13 ~~【\$823,000,000】~~ \$1,043,000,000, of which:

14 (a) \$250,000,000 shall be restricted to qualified residential
15 projects within Atlantic, Burlington, Camden, Cape May,
16 Cumberland, Gloucester, Ocean, and Salem counties, of which
17 \$175,000,000 of the credits shall be restricted to the following
18 categories of projects: (i) qualified residential projects located in a
19 Garden State Growth Zone located within the aforementioned
20 counties; and (ii) mixed use parking projects located in a Garden
21 State Growth Zone or urban transit hub located within the
22 aforementioned counties; (iii) and \$75,000,000 of the credits shall
23 be restricted to qualified residential projects in municipalities with a
24 2007 Municipal Revitalization Index of 400 or higher as of the date
25 of enactment of the "New Jersey Economic Opportunity Act of
26 2013," P.L.2013, c.161 (C.52:27D-489p et al.) and located within
27 the aforementioned counties;

28 (b) \$395,000,000 shall be restricted to the following categories
29 of projects: (i) qualified residential projects located in urban transit
30 hubs that are commuter rail in nature that otherwise do not qualify
31 under subparagraph (a) of this paragraph; (ii) qualified residential
32 projects located in Garden State Growth Zones that do not qualify
33 under subparagraph (a) of this paragraph; (iii) mixed use parking
34 projects located in urban transit hubs or Garden State Growth Zones
35 that do not qualify under subparagraph (a) of this paragraph,
36 provided however, an urban transit hub shall be allocated no more
37 than \$25,000,000 for mixed use parking projects; (iv) qualified
38 residential projects which are disaster recovery projects that
39 otherwise do not qualify under subparagraph (a) of this paragraph;
40 (v) qualified residential projects in SDA municipalities located in
41 Hudson County that were awarded State Aid in State Fiscal Year
42 2013 through the Transitional Aid to Localities program and
43 otherwise do not qualify under subparagraph (a) of this paragraph;
44 (vi) \$25,000,000 of credits shall be restricted to mixed use parking
45 projects in Garden State Growth Zones which have a population in
46 excess of 125,000 and do not qualify under subparagraph (a) of this
47 paragraph; (vii) \$40,000,000 of credits shall be restricted to
48 qualified residential projects that include a theater venue for the

1 performing arts and do not qualify under subparagraph (a) of this
2 paragraph, which projects are located in a municipality with a
3 population of less than 100,000 according to the latest federal
4 decennial census, and within which municipality is located an urban
5 transit hub and a campus of a public research university, as defined
6 in section 1 of P.L.2009, c.308 (C.18A:3B-46); and (viii)
7 **[\$105,000,000]** \$125,000,000 of credits shall be restricted to
8 qualified residential projects and mixed use parking projects in
9 Garden State Growth Zones having a population in excess of
10 125,000 and do not qualify under subparagraph (a) of this
11 paragraph;

12 (c) \$87,000,000 shall be restricted to the following categories of
13 projects: (i) qualified residential projects located in distressed
14 municipalities, deep poverty pockets, highlands development credit
15 receiving areas or redevelopment areas, otherwise not qualifying
16 pursuant to subparagraph (a) or (b) of this paragraph; and (ii) mixed
17 use parking projects that do not qualify under subparagraph (a) or
18 (b) of this paragraph, and which are used by an independent
19 institution of higher education, a school of medicine, a nonprofit
20 hospital system, or any combination thereof; provided, however,
21 that \$20,000,000 of the \$87,000,000 shall be allocated to mixed use
22 parking projects that do not qualify under subparagraph (a) or (b) of
23 this paragraph;

24 (d) (i) \$16,000,000 shall be restricted to qualified residential
25 projects that are located within a qualifying economic
26 redevelopment and growth grant incentive area otherwise not
27 qualifying under subparagraph (a), (b), or (c) of this paragraph; and

28 (ii) an additional \$50,000,000 shall be restricted to qualified
29 residential projects which, as of the effective date of P.L.2016, c.51,
30 are located in a city of the first class with a population in excess of
31 270,000, are subject to a Renewal Contract for a Section 8 Mark-
32 Up-To-Market Project from the United States Department of
33 Housing and Urban Development, and for which an application for
34 the award of tax credits under this subsection was submitted prior to
35 January 1, 2016; **[and]**

36 (e) \$25,000,000 shall be restricted to projects involving
37 university infrastructure;

38 (f) \$150,000,000 shall be restricted to applications submitted
39 after the effective date of P.L. , c. (C.)(pending before the
40 Legislature as this bill) for projects which are predominantly
41 commercial and contain 100,000 or more square feet of office and
42 retail space, or industrial space for purchase or lease and may
43 include a parking component; and

44 (g) \$50,000,000 shall be restricted to applications submitted after
45 the effective date of P.L. , c. (C.)(pending before the
46 Legislature as this bill) for residential projects in any county of the
47 State.

1 **[(f)] (h)** For subparagraphs (a) through (d) of this paragraph,
2 not more than \$40,000,000 of credits shall be awarded to any
3 qualified residential project in a deep poverty pocket or distressed
4 municipality and not more than \$20,000,000 of credits shall be
5 awarded to any other qualified residential project. The developer of
6 a qualified residential project seeking an award of credits towards
7 the funding of its incentive grant shall submit an incentive grant
8 application prior to July 1, 2016 and if approved after September
9 18, 2013, the effective date of P.L.2013, c.161 (C.52:27D-489p et
10 al.) shall submit a temporary certificate of occupancy for the project
11 no later than **[July 28, 2021]** December 31, 2023. The developer of
12 a mixed use parking project seeking an award of credits towards the
13 funding of its incentive grant pursuant to subparagraph (c) of this
14 paragraph and if approved after the effective date of P.L.2015,
15 c.217, shall submit a temporary certificate of occupancy for the
16 project no later than **[July 28, 2021]** December 31, 2023. The
17 developer of a qualified residential project or a mixed use parking
18 project seeking an award of credits toward the funding of its
19 incentive grant for a project restricted under categories (vi) and
20 (viii) of subparagraph (b) of this paragraph shall submit an
21 incentive grant application prior to July 1, 2019 or, in the case of a
22 project restricted under category (viii) of subparagraph (b) of this
23 paragraph, December 31, 2021, and if approved after the effective
24 date of P.L.2017, c.59, shall submit a temporary certificate of
25 occupancy for the project no later than **[July 28, 2022]** December
26 31, 2023 provided that the municipality in which the project is
27 located shall have submitted to the chief executive officer of the
28 authority a letter of support identifying up to six projects prior to
29 July 1, 2018. The letter of support is to contain a project scope for
30 each of the projects and may be supplemented or amended from
31 time to time until July 1, 2019 or, in the case of a project restricted
32 under category (viii) of subparagraph (b) of this paragraph,
33 December 31, 2021. Applications for tax credits pursuant to this
34 subsection relating to an ancillary infrastructure project or
35 infrastructure improvement in the public right-of-way, or both, shall
36 be accompanied with a letter of support relating to the project or
37 improvement by the governing body or agency in which the project
38 is located. Credits awarded to a developer pursuant to this
39 subsection shall be subject to the same financial and related analysis
40 by the authority, the same term of the grant, and the same
41 mechanism for administering the credits, and shall be utilized or
42 transferred by the developer as if the credits had been awarded to
43 the developer pursuant to section 35 of P.L.2009, c.90 (C.34:1B-
44 209.3) for qualified residential projects thereunder. No portion of
45 the revenues pledged pursuant to the "New Jersey Economic
46 Opportunity Act of 2013," P.L.2013, c.161 (C.52:27D-489p et al.)
47 shall be subject to withholding or retainage for adjustment, in the

1 event the developer or taxpayer waives its rights to claim a refund
2 thereof.

3 (i) The developer of a project seeking an award of credits for a
4 project restricted under subparagraphs (f) and (g) of this paragraph
5 shall submit an incentive grant application prior to December 31,
6 2021, and if approved after the effective date of P.L. _____,
7 c. (C. _____)(pending before the Legislature as this bill), shall
8 submit a temporary certificate of occupancy for the project no later
9 than December 31, 2024. In addition to the requirements for an
10 award of credits set forth in P.L.2009, c.90 (C.52:27D-489a et al.),
11 a developer shall be eligible to receive an award of credits for a
12 project restricted under subparagraphs (f) and (g) of this paragraph
13 only if the developer demonstrates to the authority at that time of
14 application that: (i) the project shall comply with minimum
15 environmental and sustainability standards; (ii) the project shall
16 comply with the authority's affirmative action requirements,
17 adopted pursuant to section 4 of P.L.1979, c.303 (C.34:1B-5.4); (iii)
18 each worker employed by the developer or subcontractor of a
19 developer working at the project shall be paid not less than \$15 per
20 hour or 120 percent of the minimum wage fixed under subsection a.
21 of section 5 of P.L.1966, c.113 (C.34:11-56a4), whichever is
22 higher; and (iv) during the eligibility period, each worker employed
23 to perform construction work or building services work at the
24 project shall be paid not less than the prevailing wage rate for the
25 worker's craft or trade, as determined by the Commissioner of
26 Labor and Workforce Development pursuant to P.L.1963, c.150
27 (C.34:11-56.25 et seq.) and P.L.2005, c.379 (C.34:11-56.58 et seq.).

28 Prior to the board considering an application submitted by a
29 developer for a project restricted under subparagraphs (f) and (g) of
30 this paragraph, the Department of Labor and Workforce
31 Development, the Department of Environmental Protection, and the
32 Department of the Treasury shall each report to the chief executive
33 officer of the authority whether the developer is in substantial good
34 standing with the respective department, or has entered into an
35 agreement with the respective department that includes a practical
36 corrective action plan for the developer. The developer, or an
37 authorized agent of the developer, shall certify to the authority that
38 all factual assertions made in the developer's application are true
39 under the penalty of perjury. If at any time the authority determines
40 that the developer made a material misrepresentation on the
41 developer's application, the developer shall forfeit the award of
42 credits and the authority shall recapture any tax credits awarded to
43 the developer.

44 (4) A developer may apply to the Director of the Division of
45 Taxation in the Department of the Treasury and the chief executive
46 officer of the authority for a tax credit transfer certificate, if the
47 developer is awarded a tax credit pursuant to paragraph (2) or
48 paragraph (3) of this subsection, covering one or more years, in lieu

1 of the developer being allowed any amount of the credit against the
2 tax liability of the developer. The tax credit transfer certificate,
3 upon receipt thereof by the developer from the director and the
4 chief executive officer of the authority, may be sold or assigned, in
5 full or in part, to any other person who may have a tax liability
6 pursuant to section 5 of P.L.1945, c.162 (C.54:10A-5), sections 2
7 and 3 of P.L.1945, c.132 (C.54:18A-2 and C.54:18A-3), section 1
8 of P.L.1950, c.231 (C.17:32-15), or N.J.S.17B:23-5. The certificate
9 provided to the developer shall include a statement waiving the
10 developer's right to claim that amount of the credit against the taxes
11 that the developer has elected to sell or assign. The sale or
12 assignment of any amount of a tax credit transfer certificate allowed
13 under this paragraph shall not be exchanged for consideration
14 received by the developer of less than 75 percent of the transferred
15 credit amount before considering any further discounting to present
16 value that may be permitted. Any amount of a tax credit transfer
17 certificate used by a purchaser or assignee against a tax liability
18 shall be subject to the same limitations and conditions that apply to
19 the use of the credit by the developer who originally applied for and
20 was allowed the credit.

21 c. All administrative costs associated with the incentive grant
22 shall be assessed to the applicant and be retained by the State
23 Treasurer from the annual incentive grant payments.

24 d. The incremental revenue for the revenues listed in subsection
25 a. of this section shall be calculated as the difference between the
26 amount collected in any fiscal year from any eligible revenue
27 source included in the State redevelopment incentive grant
28 agreement, less the revenue increment base for that eligible
29 revenue.

30 e. The municipality is authorized to collect any information
31 necessary to facilitate grants under this program and remit that
32 information in order to assist in the calculation of incremental
33 revenue.

34 (cf: P.L.2018, c.44, s.2)

35

36 124. Section 8 of P.L.2009, c.90 (C.52:27D-489h) is amended to
37 read as follows:

38 8. a. (1) The authority, in consultation with the State
39 Treasurer, shall promulgate an incentive grant application form and
40 procedure for the Economic Redevelopment and Growth Grant
41 program.

42 (2) (a) The Local Finance Board, in consultation with the
43 authority, shall develop a minimum standard incentive grant
44 application form for municipal Economic Redevelopment and
45 Growth Grant programs.

46 (b) Through regulation, the authority shall establish standards
47 for redevelopment projects seeking State or local incentive grants
48 based on the green building manual prepared by the Commissioner

1 of Community Affairs pursuant to section 1 of P.L.2007, c.132
2 (C.52:27D-130.6), regarding the use of renewable energy, energy-
3 efficient technology, and non-renewable resources in order to
4 reduce environmental degradation and encourage long-term cost
5 reduction.

6 b. Within each incentive grant application, a developer shall
7 certify information concerning:

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

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

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

45 (3) The authority, State Treasurer, and Local Finance Board
46 may act cooperatively to administer and review applications, and
47 shall consult with the Office of State Planning on matters

1 concerning State, regional, and local development and planning
2 strategies.

3 (4) The costs of the aforementioned reviews shall be assessed to
4 the applicant as an application fee, except for applications
5 submitted on or after January 1, 2018, but before June 30, 2018,
6 which are amended after the effective date of P.L. , c. (C.)
7 (pending before the Legislature as this bill), the authority may
8 waive fees.

9 (5) A developer who has already applied for an incentive grant
10 award prior to the effective date of the "New Jersey Economic
11 Opportunity Act of 2013," P.L.2013, c.161 (C.52:27D-489p et al.),
12 but who has not yet been approved for the grant, or has not
13 executed an agreement with the authority, may proceed under that
14 application or seek to amend the application or reapply for an
15 incentive grant award for the same project or any part thereof for
16 the purpose of availing himself or herself of any more favorable
17 provisions of the Economic Redevelopment and Growth Grant
18 program established pursuant to the "New Jersey Economic
19 Opportunity Act of 2013," P.L.2013, c.161 (C.52:27D-489p et al.),
20 except that projects with costs exceeding \$200,000,000 shall not be
21 eligible for revised percentage caps under subsection d. of section
22 19 of P.L.2013, c.161 (C.52:27D-489i).
23 (cf: P.L.2015, c.242, s.3)

24

25 125. R.S.54:50-8 is amended to read as follows:

26 54:50-8. a. The records and files of the director respecting the
27 administration of the State Uniform Tax Procedure Law or of any
28 State tax law shall be considered confidential and privileged and
29 neither the director nor any employee engaged in the administration
30 thereof or charged with the custody of any such records or files, nor
31 any former officer or employee, nor any person who may have
32 secured information therefrom under subsection d., e., f., g., p.,
33 **[or]** q., or r. of R.S.54:50-9 or any other provision of State law,
34 shall divulge, disclose, use for their own personal advantage, or
35 examine for any reason other than a reason necessitated by the
36 performance of official duties any information obtained from the
37 said records or files or from any examination or inspection of the
38 premises or property of any person. Neither the director nor any
39 employee engaged in such administration or charged with the
40 custody of any such records or files shall be required to produce any
41 of them for the inspection of any person or for use in any action or
42 proceeding except when the records or files or the facts shown
43 thereby are directly involved in an action or proceeding under the
44 provisions of the State Uniform Tax Procedure Law or of the State
45 tax law affected, or where the determination of the action or
46 proceeding will affect the validity or amount of the claim of the
47 State under some State tax law, or in any lawful proceeding for the
48 investigation and prosecution of any violation of the criminal

1 provisions of the State Uniform Tax Procedure Law or of any State
2 tax law.

3 b. The prohibitions of this section, against unauthorized
4 disclosure, use or examination by any present or former officer or
5 employee of this State or any other individual having custody of
6 such information obtained pursuant to the explicit authority of State
7 law, shall specifically include, without limitation, violations
8 involving the divulgence or examination of any information from or
9 any copy of a federal return or federal return information required
10 by New Jersey law to be attached to or included in any New Jersey
11 return. Any person violating this section by divulging, disclosing or
12 using information shall be guilty of a crime of the fourth degree.
13 Any person violating this section by examining records or files for
14 any reason other than a reason necessitated by the performance of
15 official duties shall be guilty of a disorderly persons offense.

16 c. Whenever records and files are used in connection with the
17 prosecution of any person for violating the provisions of this section
18 by divulging, disclosing or using records or files or examining
19 records and files for any reason other than a reason necessitated by
20 the performance of official duties, the defendant shall be given
21 access to those records and files. The court shall review such
22 records and files in camera, and that portion of the court record
23 containing the records and files shall be sealed by the court.

24 (cf: P.L.2019, c.367, s.1)

25

26 126. R.S.54:50-9 is amended to read as follows:

27 54:50-9. Nothing herein contained shall be construed to prevent:

28 a. The delivery to a taxpayer or the taxpayer's duly authorized
29 representative of a copy of any report or any other paper filed by
30 the taxpayer pursuant to the provisions of this subtitle or of any
31 such State tax law;

32 b. The publication of statistics so classified as to prevent the
33 identification of a particular report and the items thereof;

34 c. The director, in the director's discretion and subject to
35 reasonable conditions imposed by the director, from disclosing the
36 name and address of any licensee under any State tax law, unless
37 expressly prohibited by such State tax law;

38 d. The inspection by the Attorney General or other legal
39 representative of this State of the reports or files relating to the
40 claim of any taxpayer who shall bring an action to review or set
41 aside any tax imposed under any State tax law or against whom an
42 action or proceeding has been instituted in accordance with the
43 provisions thereof;

44 e. The examination of said records and files by the
45 Comptroller, State Auditor or State Commissioner of Finance, or by
46 their respective duly authorized agents;

47 f. The furnishing, at the discretion of the director, of any
48 information contained in tax reports or returns or any audit thereof

1 or the report of any investigation made with respect thereto, filed
2 pursuant to the tax laws, to the taxing officials of any other state,
3 the District of Columbia, the United States and the territories
4 thereof, providing said jurisdictions grant like privileges to this
5 State and providing such information is to be used for tax purposes
6 only;

7 g. The furnishing, at the discretion of the director, of any
8 material information disclosed by the records or files to any law
9 enforcing authority of this State who shall be charged with the
10 investigation or prosecution of any violation of the criminal
11 provisions of this subtitle or of any State tax law;

12 h. The furnishing by the director to the State agency
13 responsible for administering the Child Support Enforcement
14 program pursuant to Title IV-D of the federal Social Security Act,
15 Pub.L.93-647 (42 U.S.C. s.651 et seq.), with the names, home
16 addresses, social security numbers and sources of income and assets
17 of all absent parents who are certified by that agency as being
18 required to pay child support, upon request by the State agency and
19 pursuant to procedures and in a form prescribed by the director;

20 i. The furnishing by the director to the Board of Public
21 Utilities any information contained in tax information statements,
22 reports or returns or any audit thereof or a report of any
23 investigation made with respect thereto, as may be necessary for the
24 administration of P.L.1991, c.184 (C.54:30A-18.6 et al.) and
25 P.L.1997, c.162 (C.54:10A-5.25 et al.);

26 j. The furnishing by the director to the Director of the Division
27 of Alcoholic Beverage Control in the Department of Law and
28 Public Safety any information contained in tax information
29 statements, reports or returns or any audit thereof or a report of any
30 investigation made with respect thereto, as may be relevant, in the
31 discretion of the director, in any proceeding conducted for the
32 issuance, suspension or revocation of any license authorized
33 pursuant to Title 33 of the Revised Statutes;

34 k. The inspection by the Attorney General or other legal
35 representative of this State of the reports or files of any tobacco
36 product manufacturer, as defined in section 2 of P.L.1999, c.148
37 (C.52:4D-2), for any period in which that tobacco product
38 manufacturer was not or is not in compliance with subsection a. of
39 section 3 of P.L.1999, c.148 (C.52:4D-3), or of any licensed
40 distributor as defined in section 102 of P.L.1948, c.65 (C.54:40A-
41 2), for the purpose of facilitating the administration of the
42 provisions of P.L.1999, c.148 (C.52:4D-1 et seq.);

43 l. The furnishing, at the discretion of the director, of
44 information as to whether a contractor or subcontractor holds a
45 valid business registration as defined in section 1 of P.L.2001, c.134
46 (C.52:32-44);

47 m. The furnishing by the director to a State agency as defined in
48 section 1 of P.L.1995, c.158 (C.54:50-24) the names of licensees

1 subject to suspension for non-payment of State tax indebtedness
2 pursuant to P.L.2004, c.58 (C.54:50-26.1 et al.);

3 n. The release to the United States Department of the Treasury,
4 Bureau of Financial Management Service, or its successor of
5 relevant taxpayer information for purposes of implementing a
6 reciprocal collection and offset of indebtedness agreement entered
7 into between the State of New Jersey and the federal government
8 pursuant to section 1 of P.L.2006, c.32 (C.54:49-12.7);

9 o. The examination of said records and files by the
10 Commissioner of Health and Senior Services, the Commissioner of
11 Human Services, the Medicaid Inspector General, or their
12 respective duly authorized agents, pursuant to section 5 of
13 P.L.2007, c.217 (C.26:2H-18.60e), section 3 of P.L.1968, c.413
14 (C.30:4D-3), or section 5 of P.L.2005, c.156 (C.30:4J-12);

15 p. The furnishing at the discretion of the director of employer
16 provided wage and tax withholding information contained in tax
17 reports or returns filed pursuant to N.J.S.54A:7-2, 54A:7-4 and
18 54A:7-7, to the designated municipal officer of a municipality
19 authorized to impose an employer payroll tax pursuant to the
20 provisions of Article 5 (Employer Payroll Tax) of the "Local Tax
21 Authorization Act," P.L.1970, c.326 (C.40:48C-14 et seq.), for the
22 limited purpose of verifying the payroll information reported by
23 employers subject to the employer payroll tax;

24 q. The furnishing by the director to the Commissioner of Labor
25 and Workforce Development of any information, including, but not
26 limited to, tax information statements, reports, audit files, returns,
27 or reports of any investigation for the purpose of labor market
28 research or assisting in investigations pursuant to any State wage,
29 benefit or tax law as enumerated in section 1 of P.L.2009, c.194
30 (C.34:1A-1.11); or pursuant to P.L.1940, c.153 (C.34:2-21.1 et
31 seq.).

32 r. The furnishing by the director to the New Jersey Economic
33 Development Authority any information contained in tax
34 information statements, reports or returns, or any audit thereof or a
35 report of any investigation made with respect thereto, as may be
36 relevant to assist the authority in the implementation of programs
37 through which grants, loans, tax credits, or other forms of financial
38 assistance are provided. The director shall provide to the New
39 Jersey Economic Development Authority, upon request, such
40 information.

41

42 127. There is appropriated from the General Fund:

43 a. to the Main Street Recovery Fund, the sum of \$50,000,000 to
44 implement the provisions of sections 82 through 88 of P.L. ,
45 c. (C.) (pending before the Legislature as this bill)

46 b. to the ¹Office of the Economic Development Inspector
47 General in the¹ Economic Development Authority, the sum of

1 \$250,000 to implement the provisions of sections 99 through 105 of
2 P.L. , c. (C.) (pending before the Legislature as this bill);
3 c. to the Economic Development Authority, the sum of \$250,000
4 to implement the provisions of sections 92 through 97 of P.L. ,
5 c. (C.) (pending before the Legislature as this bill); and
6 d. to the Economic Development Authority, the sum of
7 \$5,000,000 to be used to award competitive grants for zoning and
8 economic planning services in government-restricted municipalities
9 or economic redevelopment plans for distressed assets in other
10 municipalities.

11

12 128. This act shall take effect immediately.

13

14

15

16

17 "New Jersey Economic Recovery Act of 2020"; provides for
18 administration of programs and policies related to jobs, property
19 development, food deserts, community partnerships, small and early
20 stage businesses, State procurement, wind energy, and film
21 production, and makes an appropriation.

ASSEMBLY, No. 4

STATE OF NEW JERSEY

219th LEGISLATURE

INTRODUCED DECEMBER 16, 2020

Sponsored by:

Assemblywoman ELIANA PINTOR MARIN

District 29 (Essex)

Assemblyman CRAIG J. COUGHLIN

District 19 (Middlesex)

Assemblyman LOUIS D. GREENWALD

District 6 (Burlington and Camden)

Assemblyman GORDON M. JOHNSON

District 37 (Bergen)

Assemblyman BENJIE E. WIMBERLY

District 35 (Bergen and Passaic)

Assemblyman NICHOLAS CHIARAVALLOTI

District 31 (Hudson)

Assemblywoman ANNETTE CHAPARRO

District 33 (Hudson)

Assemblyman ANTHONY S. VERRELLI

District 15 (Hunterdon and Mercer)

Assemblyman VINCENT MAZZEO

District 2 (Atlantic)

Assemblywoman LINDA S. CARTER

District 22 (Middlesex, Somerset and Union)

Assemblyman ERIC HOUGHTALING

District 11 (Monmouth)

Assemblyman ANDREW ZWICKER

District 16 (Hunterdon, Mercer, Middlesex and Somerset)

SYNOPSIS

"New Jersey Economic Recovery Act of 2020"; provides for administration of programs and policies related to jobs, property development, food deserts, community partnerships, small and early stage businesses, State procurement, wind energy, and film production, and makes an appropriation.

CURRENT VERSION OF TEXT

As introduced.

1 AN ACT concerning State economic development policy, and
2 amending and supplementing various parts of the statutory law,
3 and making an appropriation.
4

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

7
8 1. (New section) P.L. , c. (C.) (pending before the
9 Legislature as this bill) shall be known and may be cited as the "New
10 Jersey Economic Recovery Act of 2020."
11

12 2. (New section) Sections 2 through 8 of P.L. , c. (C.)
13 (pending before the Legislature as this bill) shall be known and may
14 be cited as the "Historic Property Reinvestment Act."
15

16 3. (New section) As used in sections 2 through 8 of P.L. ,
17 c. (C.) (pending before the Legislature as this bill):

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

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

24 "Cost of rehabilitation" means the consideration given, valued in
25 money, whether given in money or otherwise, for the materials and
26 services which constitute the rehabilitation.

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

29 "Income producing property" means a structure or site that is used
30 in a trade or business or to produce rental income.

31 "New Jersey S corporation" means the same as the term is defined
32 in section 12 of P.L.1993, c.173 (C.54A:5-10).

33 "Officer" means the State Historic Preservation Officer or the
34 official within the State designated by the Governor or by statute in
35 accordance with the provisions of chapter 3023 of Title 54, United
36 States Code (54 U.S.C. s.302301 et seq), to act as liaison for the
37 purpose of administering historic preservation programs in the State.

38 "Partnership" means an entity classified as a partnership for
39 federal income tax purposes.

40 "Project financing gap" means the part of the total cost of
41 rehabilitation, including reasonable and appropriate return on
42 investment, that remains to be financed after all other sources of
43 capital have been accounted for, including, but not limited to,
44 developer contributed capital, which shall not be less than 20 percent
45 of the total cost of rehabilitation, and investor or financial entity

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

Matter underlined thus is new matter.

1 capital or loans for which the developer, after making all good faith
2 efforts to raise additional capital, certifies that additional capital
3 cannot be raised from other sources.

4 "Property" means a structure, including its site improvements and
5 landscape features, assessed as real property, and used for: a
6 commercial purpose; a residential rental purpose, provided the
7 structure contains at least four dwelling units; or any combination
8 thereof.

9 "Qualified property" means a property located in the State of New
10 Jersey that is an income producing property, and that is:

11 (a) (i) individually listed, or located in a district listed on the
12 National Register of Historic Places in accordance with the with the
13 provisions of chapter 3021 of Title 54, United States Code (54 U.S.C.
14 s.302101 et seq), or on the New Jersey Register of Historic Places
15 pursuant to P.L.1970, c.268 (C.13:1B-15.128 et seq.), or individually
16 designated, or located in a district designated, by the Pinelands
17 Commission as a historic resource of significance to the Pinelands in
18 accordance with the Pinelands comprehensive management plan
19 adopted pursuant to the "Pinelands Protection Act," P.L.1979, c.111
20 (C.13:18A-1 et seq.), and

21 (ii) if located within a district, certified by either the officer or the
22 Pinelands Commission, as appropriate, as contributing to the historic
23 significance of the district; or

24 (b) (i) individually identified or registered, or located in a
25 district composed of properties identified or registered, for protection
26 as significant historic resources in accordance with criteria
27 established by a municipality in which the property or district is
28 located if the criteria for identification or registration has been
29 approved by the officer as suitable for substantially achieving the
30 purpose of preserving and rehabilitating buildings of historic
31 significance within the jurisdiction of the municipality, and

32 (ii) if located within a district, certified by the officer as
33 contributing to the historic significance of the district.

34 "Rehabilitation" means the repair or reconstruction of the exterior
35 or interior of a qualified property or transformative project to make
36 an efficient contemporary use possible while preserving the portions
37 or features of the property that have significant historical,
38 architectural, and cultural values.

39 "Rehabilitation of the interior of the qualified property or
40 transformative project" means the repair or reconstruction of the
41 structural or substrate components and electrical, plumbing, and
42 heating components within the interior of a qualified property or
43 transformative project.

44 "Selected rehabilitation period" means a period of 24 months if
45 the beginning of such period is chosen by the business entity during
46 which, or parts of which, a rehabilitation is occurring, or a period of
47 60 months if a rehabilitation is reasonably expected to be completed
48 in distinct phases set forth in written architectural plans and

1 specifications completed before or during the physical work on the
2 rehabilitation.

3 “Transformative project” means a property that is:

4 (a) an income producing property, not including a residential
5 property, whose rehabilitation the authority determines will generate
6 substantial increases in State revenues through the creation of
7 increased business activity within the surrounding area;

8 (b) individually listed on the New Jersey Register of Historic
9 Places pursuant to P.L.1970, c.268 (C.13:1B-15.128 et seq.) and
10 which, before the enactment of P.L. , c. (C.) (pending before
11 the Legislature as this bill), received a Determination of Eligibility
12 from the Keeper of the National Register of Historic Places in
13 accordance with the provisions of Part 60 of Title 36 of the Code of
14 Federal Regulations;

15 (c) located within a one-half mile radius of the center point of a
16 transit village, as designated by the New Jersey Department of
17 Transportation; and

18 (d) located within a city of the first class, as classified under
19 N.J.S.40A:6-4.

20

21 4. (New section) a. (1) A business entity, upon successful
22 application to the New Jersey Economic Development Authority, and
23 commitment to the authority to pay each worker employed to perform
24 construction work at the qualified property or transformative project
25 a wage not less than the prevailing wage rate for the worker’s craft
26 or trade, as determined by the Commissioner of Labor and Workforce
27 Development pursuant to P.L.1963, c.150 (C.34:11-56.25 et seq.),
28 shall be allowed a credit against the tax otherwise due pursuant to
29 section 5 of P.L.1945, c.162 (C.54:10A-5), the tax imposed on
30 insurers generally pursuant to P.L.1945, c.132 (C.54:18A-1 et. seq.),
31 or the tax imposed on marine insurance companies pursuant to
32 R.S.54:16-1 et. seq., for 40 percent of the cost of rehabilitation paid
33 by the business entity for the rehabilitation of a qualified property or
34 transformative project, if the cost of rehabilitation during a business
35 entity’s selected rehabilitation period is not less than the greater of
36 (1) the adjusted basis of the structure of the qualified property or
37 transformative project used for federal income tax purposes as of the
38 beginning of the business entity’s selected rehabilitation period, or
39 (2) \$5,000. The amount of the credit claimed in any accounting or
40 privilege period shall not reduce the amount of the tax liability to less
41 than the statutory minimum provided in subsection (e) of section 5 of
42 P.L.1945, c.162 (C.54:10A-5).

43 (2) The prevailing wage requirements shall apply to projects that
44 are allowed a tax credit in excess of \$500,000, and shall apply at a
45 qualified property or transformative project during the selected
46 rehabilitation period. In the event a qualified property or
47 transformative project, or the aggregate of all qualified properties and
48 transformative projects approved for awards under the program,

1 constitute a lease of more than 55 percent of a facility, the prevailing
2 wage requirements shall apply to the entire facility.

3 (3) Prior to approval of an application by the authority, the
4 Department of Labor and Workforce Development, the Department
5 of Environmental Protection, and the Department of the Treasury
6 shall each report to the authority whether the business entity is in
7 substantial good standing with the respective department, or has
8 entered into an agreement with the respective department that
9 includes a practical corrective action plan for the business entity. The
10 authority may also contract with an independent third party to
11 perform a background check on the business entity. Following
12 approval of an application by the authority, but prior to the start of
13 any construction or rehabilitation at the qualified property or
14 transformative project, the authority shall enter into a rehabilitation
15 agreement with the business entity. The authority shall negotiate the
16 terms and conditions of the rehabilitation agreement on behalf of the
17 State, but the terms shall require the business entity to consent to the
18 disclosure of tax expenditure information as described in paragraph
19 (8) of subsection b. of section 1 of P.L.2009, c.189 (C.52:27B-20a).

20 (4) A rehabilitation project shall be eligible for a tax credit only
21 if the business entity demonstrates to the authority at the time of
22 application that:

23 (a) without the tax credit, the rehabilitation project is not
24 economically feasible; and

25 (b) a project financing gap exists.

26 b. A business entity may claim a credit under this section during
27 the accounting or privilege period: (1) in which it makes the final
28 payment for the cost of the rehabilitation if the business entity has
29 chosen a selected rehabilitation period of 24 months; or (2) in which
30 a distinct project phase of the rehabilitation is completed if the
31 business entity has chosen a selected rehabilitation period of 60
32 months. The credit may be claimed against any State tax, listed in
33 paragraph (1) of subsection a. of this section, liability otherwise due
34 after any other credits permitted pursuant to law have been applied.
35 The amount of credit claimed in an accounting or privilege period
36 that cannot be applied for that accounting or privilege period due to
37 limitations in this section may be transferred pursuant to section 5 of
38 P.L. , c. (C.) (pending before the Legislature as this bill) or
39 carried over, if necessary, to the nine accounting or privilege periods
40 following the accounting or privilege period for which the credit was
41 allowed.

42 c. A business entity shall submit to the authority satisfactory
43 evidence of the actual cost of rehabilitation, as certified by a certified
44 public accountant, evidence of completion of the rehabilitation or
45 phase, and a certification that all information provided by the
46 business entity to the authority is true, including information
47 contained in the application, the rehabilitation agreement, any
48 amendment to the rehabilitation agreement, and any other

1 information submitted by the business entity to the authority pursuant
2 to sections 2 through 8 of P.L. , c. (C.) (pending before the
3 Legislature as this bill). The business entity, or an authorized agent
4 of the business entity, shall certify under the penalty of perjury that
5 the information provided pursuant to this subsection is true.

6
7 5. (New section) a. The authority shall, in cooperation with the
8 director, establish and administer a corporation business tax credit
9 transfer certificate program and an insurance premiums tax credit
10 transfer certificate program to enable business entities with unused,
11 otherwise allowable amounts of tax credits issued pursuant to
12 sections 2 through 8 of P.L. , c. (C.) (pending before the
13 Legislature as this bill) to exchange these credits, in whole or in part,
14 for private financial assistance prior to the expiration of the tax
15 credit.

16 A certificate issued by the director shall include a statement
17 waiving the rights of the business entity to which the tax credit has
18 been granted to claim any amount of remaining credit against any tax
19 liability.

20 b. A business entity holding an unused, otherwise allowable tax
21 credit issued pursuant to sections 2 through 8 of P.L. , c. (C.)
22 (pending before the Legislature as this bill) may apply to the director
23 for a tax credit transfer certificate pursuant to subsection a. of this
24 section. Upon receipt thereof, the business entity may sell or assign,
25 in full or in part, the tax credit transfer certificate to another taxpayer
26 in exchange for private financial assistance to be provided by the
27 purchaser or assignee of the tax credit transfer certificate to the seller
28 thereof. The developer shall not sell a tax credit transfer certificate
29 allowed under this section for consideration received by the
30 developer of less than 85 percent of the transferred credit amount
31 before considering any further discounting to present value which
32 shall be permitted, except a developer of a residential project
33 consisting of newly-constructed residential units that has received
34 federal low income housing tax credits under 26 U.S.C.
35 s.42(b)(2)(B)(i) may assign a tax credit transfer certificate for
36 consideration of no less than 75 percent subject to the submission of
37 a plan to the authority and the New Jersey Housing and Mortgage
38 Finance Agency to use the proceeds derived from the assignment of
39 tax credits to complete the residential project. The purchaser or
40 assignee of the tax credit transfer certificate may apply the face value
41 of the tax credit transfer certificate acquired against the purchaser's
42 or assignee's applicable tax liability by claiming the tax credit on the
43 purchaser's or assignee's corporation business tax or insurance
44 premiums tax return with the corresponding tax credit transfer
45 certificate accompanying the tax return. A purchaser or assignee of
46 a tax credit transfer certificate pursuant to this section shall not make
47 any subsequent transfers, assignments, or sales of the tax credit
48 transfer certificate.

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

- 4 (1) the name of the transferor;
- 5 (2) the name of the transferee;
- 6 (3) the value of the tax credit transfer certificate;
- 7 (4) the State tax against which the transferee may apply the tax
8 credit; and
- 9 (5) the consideration received by the transferor.

10
11 6. (New section) a. The authority shall, in consultation with the
12 officer and the director, promulgate rules and regulations in
13 accordance with the "Administrative Procedure Act," P.L.1968,
14 c.410 (C.52:14B-1 et seq.), as the officer deems necessary to
15 administer the provisions of sections 2 through 8 of P.L. ,
16 c. (C.) (pending before the Legislature as this bill), including
17 but not limited to rules establishing administrative fees to implement
18 the provisions of sections 2 through 8 of P.L. , c. (C.)
19 (pending before the Legislature as this bill), setting of an annual
20 application submission date, requiring annual reporting by each
21 business entity that receive a tax credit pursuant to sections 2 through
22 8 of P.L. , c. (C.) (pending before the Legislature as this
23 bill), and requiring those reports to include certifications by the
24 Department of Labor and Workforce Development, the Department
25 of Environmental Protection, and the Department of the Treasury that
26 the business entity, and any contractors or subcontractors performing
27 work at the qualified property or transformative project, are in
28 substantial good standing with the respective department, or has
29 entered into an agreement with the respective department that
30 includes a practical corrective action plan for the business entity. The
31 rules and regulations adopted pursuant to this section shall also
32 include a provision to require that business entities forfeit all tax
33 credits awarded in any year in which any such report is not received,
34 and to allow the authority to extend, in individual cases, the deadline
35 for any annual reporting or certification requirement established
36 pursuant to this section.

37 b. For every tax credit allowed pursuant to section 4 of P.L. ,
38 c. (C.) (pending before the Legislature as this bill), the
39 authority, in consultation with the officer, shall certify to the director:
40 the total cost of rehabilitation; that the property meets the definition
41 of qualified property or transformative project, as applicable; and that
42 the rehabilitation has been completed in substantial compliance with
43 the requirements of the Secretary of the Interior's Standards for
44 Rehabilitation pursuant to section 67.7 of Title 36, Code of Federal
45 Regulations. The business entity shall attach the certification to the
46 tax return on which the business entity claims the credit.

47 c. (1) The total amount of credits approved by the authority
48 pursuant to sections 2 through 8 of P.L. , c. (C.) (pending

1 before the Legislature as this bill) shall not exceed the limitations set
2 forth in section 98 of P.L. , c. (C.) (pending before the
3 legislature as this bill).. If the authority approves less than the total
4 amount of tax credits authorized pursuant to this subsection in a fiscal
5 year, the remaining amount, plus any amounts remaining from
6 previous fiscal years, shall be added to the limit of subsequent fiscal
7 years until that amount of tax credits are claimed or allowed. Any
8 unapproved, uncertified, or recaptured portion of tax credits during
9 any fiscal year may be carried over and reallocated in succeeding
10 years.

11 (2) Notwithstanding the provisions of paragraph (1) of this
12 subsection and section 98 of P.L. , c. (C.) (pending before
13 the legislature as this bill) to the contrary, the authority may approve
14 tax credits, pursuant to sections 2 through 8 of P.L. , c. (C.)
15 (pending before the Legislature as this bill), for the rehabilitation of
16 a transformative project in an amount that causes the total amount of
17 credits approved during the fiscal year to exceed the limitations set
18 forth in section 98 of P.L. , c. (C.) (pending before the
19 legislature as this bill), provided that the amount of the excess shall
20 be subtracted from the total amount of credits that may be approved
21 by the authority in the subsequent fiscal year, and the amount of the
22 excess shall not exceed 50 percent of the total tax credits otherwise
23 authorized for the fiscal year.

24 The authority, in consultation with the officer, shall devise criteria
25 for allocating tax credit amounts if the approved amounts combined
26 exceed the total amount in each fiscal year, including rules that
27 allocate over multiple fiscal years a single credit amount granted in
28 excess of \$2,000,000. The criteria shall include a project's historic
29 importance, positive impact on the surrounding neighborhood,
30 economic sustainability, geographic diversity, and consistency with
31 Statewide growth and development policies and plans.

32

33 7. (New section) a. The authority, in collaboration with the
34 director, shall adopt rules for the recapture of an entire or partial tax
35 credit amount allowed under sections 2 through 8 of P.L. ,
36 c. (C.) (pending before the Legislature as this bill). The rules
37 shall require the authority to notify the director of the recapture of an
38 entire or partial tax credit amount. The recapture of funds shall be
39 subject to the State Uniform Tax Procedure Law, R.S.54:48-1 et seq.
40 and recaptured funds shall be deposited in the General Fund of the
41 State.

42 b. If, before the end of five full years after the completion of the
43 rehabilitation of the qualified property or transformative project, a
44 developer that has received a tax credit pursuant to section 4 of
45 P.L. , c. (C.) (pending before the Legislature as this bill)
46 modifies the qualified property or transformative project so that it
47 ceases to meet the requirements for the rehabilitation of a qualified
48 property or transformative project as defined under the program or

1 ceases to meet the requirement of the rehabilitation agreement then
2 the tax credit allowed under the program shall be recaptured in
3 accordance with the rules adopted pursuant to subsection a. of this
4 section.

5 c. In the case of a business entity that has chosen a selected
6 rehabilitation period of 60 months, if the architectural plans change
7 in the course of the phased rehabilitation project so that the
8 rehabilitation of the qualified property or transformative project
9 would, upon the rehabilitation's completion, no longer qualify for a
10 tax credit pursuant to the requirements of sections 2 through 8 of
11 P.L. , c. (C.) (pending before the Legislature as this bill),
12 then the business entity's tax liability for that accounting or privilege
13 period shall be increased by the full amount of the tax credit that the
14 authority had previously granted upon the completion of a distinct
15 prior project phase that the business entity has applied against its tax
16 liability in a prior accounting or privilege period. Any portion of the
17 tax credit that the business entity has not yet used at the time of the
18 disallowance by the officer shall be deemed void.

19

20 8. (New section) On or before December 31 of the fourth year
21 following the effective date of sections 2 through 8 of P.L. ,
22 c. (C.) (pending before the Legislature as this bill), the
23 authority, in consultation with the officer and the director, shall
24 prepare and submit a written report regarding the number and total
25 monetary amount of tax credits granted for the rehabilitation of
26 qualified properties or transformative projects pursuant to section 4
27 of P.L. , c. (C.) (pending before the Legislature as this bill),
28 the geographical distribution of the credits granted, a summary of the
29 tax credit transfer program established pursuant to section 5 of
30 P.L. , c. (C.) (pending before the Legislature as this bill), an
31 evaluation of the effectiveness of the tax credits provided pursuant to
32 sections 2 through 8 of P.L. , c. (C.) (pending before the
33 Legislature as this bill) in promoting the rehabilitation of historic
34 properties, recommendations for administrative or legislative
35 changes to increase the effectiveness of the program, and any other
36 information that the authority, the officer, or the director may deem
37 useful or appropriate. This report shall be submitted to the Governor
38 and, pursuant to section 2 of P.L.1991, c.164 (C.52:14-19.1), to the
39 Legislature.

40

41 9. (New section) Sections 9 through 19 of P.L. , c. (C.)
42 (pending before the Legislature as this bill) shall be known and may
43 be cited as the "Brownfields Redevelopment Incentive Program Act."
44

45 10. (New section) As used in sections 9 through 19 of P.L. ,
46 c. (C.) (pending before the Legislature as this bill):

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

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

4 "Brownfield site" means any former or current commercial or
5 industrial site that is currently vacant or underutilized and on which
6 there has been, or there is suspected to have been, a discharge of a
7 contaminant or on which there is a contaminated building.

8 "Contaminated building" means a structure upon which abatement
9 or removal of asbestos, polychlorinated biphenyls, contaminated
10 wood or paint, or other infrastructure remedial activities is necessary.

11 "Contamination" or "contaminant" means any discharged
12 hazardous substance as defined pursuant to section 3 of P.L.1976,
13 c.141 (C.58:10-23.11b), hazardous waste as defined pursuant to
14 section 1 of P.L.1976, c.99 (C.13:1E-38), pollutant as defined
15 pursuant to section 3 of P.L.1977, c.74 (C.58:10A-3), or hazardous
16 building material, including, but not limited to, asbestos, lead paint,
17 and polychlorinated biphenyl.

18 "Department" means the Department of Environmental
19 Protection.

20 "Developer" means any person that enters or proposes to enter into
21 a redevelopment agreement with the authority pursuant to the
22 provisions of section 13 of P.L. , c. (C.) (pending before the
23 Legislature as this bill).

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

26 "Licensed site remediation professional" means an individual who
27 is licensed by the Site Remediation Professional Licensing Board
28 pursuant to section 7 of P.L.2009, c.60 (C.58:10C-7) or the
29 department pursuant to section 12 of P.L.2009, c.60 (C.58:10C-12).

30 "Program" means the Brownfields Redevelopment Incentive
31 Program established by section 11 of P.L. , c. (C.) (pending
32 before the Legislature as this bill).

33 "Project financing gap" means the part of the total remediation
34 cost, including reasonable and appropriate return on investment, that
35 remains to be financed after all other sources of capital have been
36 accounted for, including, but not limited to, developer contributed
37 capital, which shall not be less than 20 percent of the total
38 remediation cost, and investor or financial entity capital or loans for
39 which the developer, after making all good faith efforts to raise
40 additional capital, certifies that additional capital cannot be raised
41 from other sources.

42 "Redevelopment agreement" means an agreement between the
43 authority and a developer under which the developer agrees to
44 perform any work or undertaking necessary for the remediation of a
45 contaminated site located at the site of the redevelopment project,
46 and for the clearance, development or redevelopment, construction,
47 or rehabilitation of any structure or improvement of commercial,

1 industrial, or public structures or improvements within an area of
2 land whereon a brownfield site is located.

3 "Redevelopment project" means a specific construction project or
4 improvement undertaken, pursuant to the terms of a redevelopment
5 agreement, by a developer within an area of land whereon a
6 brownfield site is located. A redevelopment project may involve
7 construction or improvement upon lands, buildings, improvements,
8 or real and personal property, or any interest therein, including lands
9 under water, riparian rights, space rights, and air rights, acquired,
10 owned, developed or redeveloped, constructed, reconstructed,
11 rehabilitated, or improved.

12 "Remediation" or "remediate" means all necessary actions to
13 investigate and clean up or respond to any known, suspected, or
14 threatened discharge of contaminants, including, as necessary, the
15 preliminary assessment, site investigation, remedial investigation,
16 and remedial action, as those terms are defined in section 23 of
17 P.L.1993, c.139 (C.58:10B-1); provided, however, "remediation" or
18 "remediate" shall not include the payment of compensation for
19 damage to, or loss of, natural resources.

20 "Remediation costs" means all reasonable costs associated with
21 the remediation of a contaminated site, except any costs incurred in
22 financing the remediation.

23

24 11. (New section) The Brownfields Redevelopment Incentive
25 Program is established as a program under the jurisdiction of the New
26 Jersey Economic Development Authority. The purpose of the
27 program is to compensate developers of redevelopment projects
28 located on brownfield sites for remediation costs. To implement this
29 purpose, the authority shall issue tax credits. The total value of tax
30 credits approved by the authority shall not exceed the limitations set
31 forth in section 98 of P.L. , c. (C.) (pending before the
32 legislature as this bill).; For the purpose of determining the
33 aggregate value of tax credits approved in a fiscal year, a tax credit
34 shall be deemed to have been approved at the time the authority
35 approves an application for an award of a tax credit. If the authority
36 approves less than the total amount of tax credits authorized pursuant
37 to this section in a fiscal year, the remaining amount, plus any
38 amounts remaining from previous fiscal years, shall be added to the
39 limit of subsequent fiscal years until that amount of tax credits are
40 claimed or allowed. Any unapproved, uncertified, or recaptured
41 portion of tax credits during any fiscal year may be carried over and
42 reallocated in succeeding years.

43

44 12. (New section) a. A developer seeking a tax credit for a
45 redevelopment project shall submit an application to the authority
46 and the department in a form and manner prescribed in regulations
47 adopted by the authority, in consultation with the department,

1 pursuant to the provisions of the "Administrative Procedure Act,"
2 P.L.1968, c.410 (C.52:14B-1 et seq.).

3 b. A redevelopment project shall be eligible for a tax credit only
4 if the developer demonstrates to the authority and the department at
5 the time of application that:

6 (1) except as provided in subsection j. of this section, the
7 developer has not commenced any remediation or clean up at the site
8 of the redevelopment project, except for preliminary assessments and
9 investigations, prior to applying for a tax credit pursuant to this
10 section, but intends to remediate and redevelop the site immediately
11 upon approval of the tax credit;

12 (2) the redevelopment project is located on a brownfield site;

13 (3) without the tax credit, the redevelopment project is not
14 economically feasible;

15 (4) a project financing gap exists;

16 (5) the developer has obtained and submitted to the authority a
17 letter evidencing support for the redevelopment project from the
18 governing body of the municipality in which the redevelopment
19 project is located; and

20 (6) each worker employed to perform remediation, or
21 construction at the redevelopment project shall be paid not less than
22 the prevailing wage rate for the worker's craft or trade, as determined
23 by the Commissioner of Labor and Workforce Development pursuant
24 to P.L.1963, c.150 (C.34:11-56.25 et seq.). The prevailing wage
25 requirements shall apply to redevelopment projects that are allowed
26 a tax credit in excess of \$500,000 for construction work through the
27 completion of the redevelopment project. In the event a
28 redevelopment project, or the aggregate of all redevelopment project
29 approved for an award under the program, constitute a lease of more
30 than 55 percent of a facility, the prevailing wage requirements shall
31 apply to the entire facility.

32 c. A redevelopment project that received a reimbursement
33 pursuant to sections 34 through 39 of P.L.1997, c.278 (C.58:10B-26
34 through 58:10B-31) shall not be eligible to apply for a tax credit
35 under the program. If the authority receives an application and
36 supporting documentation for approval of a reimbursement pursuant
37 to sections 34 through 39 of P.L.1997, c.278 (C.58:10B-26 through
38 58:10B-31) prior to the effective date of sections 9 through 19 of
39 P.L. , c. (C.) (pending before the Legislature as this bill),
40 then the authority may consider the application and award a tax credit
41 to a developer, provided that the authority shall take final action on
42 all applications for approval of a reimbursement pursuant to sections
43 34 through 39 of P.L.1997, c.278 (C.58:10B-26 through 58:10B-31)
44 no later than July 1, 2019. No applications shall be submitted
45 pursuant to sections 34 through 39 of P.L.1997, c.278 (C.58:10B-26
46 through 58:10B-31) after the effective date sections 9 through 19 of
47 P.L. , c. (C.) (pending before the Legislature as this bill).

1 d. (1) Prior to approval of an application, the Department of
2 Labor and Workforce Development, the Department of
3 Environmental Protection, and the Department of the Treasury shall
4 each report to the chief executive officer of the authority whether the
5 developer is in substantial good standing with the respective
6 department, or has entered into an agreement with the respective
7 department that includes a practical corrective action plan for the
8 developer. The authority may also contract with an independent third
9 party to perform a background check on the developer. Provided that
10 the developer is in substantial good standing, or has entered into such
11 an agreement, and following approval of an application by the board,
12 the authority shall enter into a redevelopment agreement with the
13 developer, as provided for in section 13 of P.L. , c. (C.)
14 (pending before the Legislature as this bill).

15 (2) The authority, in consultation with the department, may
16 impose additional requirements upon an applicant through rule or
17 regulation adopted pursuant to the provisions of the "Administrative
18 Procedure Act," P.L.1968, c.410 (C.52:14B-1 et seq.), if the authority
19 or the department determines the additional requirements to be
20 necessary and appropriate to effectuate the purposes of sections 9
21 through 19 of P.L. , c. (C.) (pending before the Legislature
22 as this bill).

23 e. The authority, in consultation with the department, shall
24 conduct a review of the applications through a competitive
25 application process whereby the authority and the department shall
26 evaluate all applications submitted by a date certain, as if all received
27 applications were submitted on that date. In addition to the eligibility
28 criteria set forth in subsection b. of this section, the authority may
29 consider additional factors that may include, but shall not be limited
30 to: the economic feasibility of the remediation project; the benefit of
31 the remediation project to the community in which the remediation
32 project is located; the degree to which the remediation project
33 enhances and promotes job creation and economic development and
34 addresses environmental concerns of communities that have been
35 historically and disproportionately impacted by environmental
36 hazards; and, if the developer has a board of directors, the extent to
37 which that board of directors is diverse and representative of the
38 community in which the remediation project is located. The
39 authority, in consultation with the department, shall submit
40 applications that comply with the eligibility criteria set forth in this
41 section, fulfill the additional factors considered by the authority
42 pursuant to this subsection, satisfy the submission requirements, and
43 provide adequate information for the subject application, to the board
44 for final approval.

45 f. The authority shall award tax credits to redevelopment
46 projects until either the available tax credits are exhausted or all
47 redevelopment projects that are eligible for a tax credit pursuant to
48 the provisions of sections 9 through 19 of P.L. , c. (C.)

1 (pending before the Legislature as this bill) receive a tax credit,
2 whichever occurs first. If insufficient funding exists to allow a tax
3 credit to a developer in accordance with the provisions of subsection
4 a. of section 16 of P.L. , c. (C.) (pending before the Legislature
5 as this bill), the authority may offer the developer a value of the tax
6 credit below the amount provided for in subsection a. of section 16
7 of P.L. , c. (C.) (pending before the Legislature as this bill).

8 g. A developer shall pay to the authority or to the department, as
9 appropriate, the full amount of the direct costs of an analysis
10 concerning the developer's application for a tax credit, which a third
11 party retained by the authority or department performs, if the
12 authority or department deems such retention to be necessary.

13 h. If the authority determines that a developer made a material
14 misrepresentation on the developer's application, the developer shall
15 forfeit all tax credits awarded under the program.

16 i. If circumstances require a developer to amend its application
17 to the authority, then the developer, or an authorized agent of the
18 developer, shall certify to the authority that the information provided
19 in its amended application is true, under the penalty of perjury.

20 j. A developer that has commenced remediation or clean up at
21 the site of a redevelopment project prior to application may still apply
22 for a tax credit under the program, if the developer certifies to the
23 authority, under the penalty of perjury, that the developer was
24 unaware of the extent of the site contamination when the developer
25 commenced the redevelopment project.

26
27 13. (New section) a. Following approval of an application by the
28 board, but prior to the start of any remediation or clean up at the site
29 of the redevelopment project, the authority shall enter into a
30 redevelopment agreement with the developer. The chief executive
31 officer of the authority shall negotiate the terms and conditions of the
32 redevelopment agreement on behalf of the State.

33 b. The redevelopment agreement shall specify the amount of the
34 tax credit to be awarded to the developer, the date on which the
35 developer shall complete the remediation, and the projected project
36 remediation cost. The redevelopment agreement shall require the
37 developer to submit progress reports to the authority and to the
38 department every six months pursuant to section 15 of P.L. ,
39 c. (C.) (pending before the Legislature as this bill). The
40 redevelopment agreement shall also require the developer to consent
41 to the disclosure of tax expenditure information as described in
42 paragraph (8) of subsection b. of section 1 of P.L.2009, c.189
43 (C.52:27B-20a).

44 c. The authority shall not enter into a redevelopment agreement
45 with a developer unless:

46 (1) the redevelopment project complies with standards
47 established by the authority in accordance with the green building
48 manual prepared by the Commissioner of Community Affairs

1 pursuant to section 1 of P.L.2007, c.132 (C.52:27D-130.6), regarding
2 the use of renewable energy, energy-efficient technology, and non-
3 renewable resources to reduce environmental degradation and
4 encourage long-term cost reduction;

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

8 (3) the developer pays each worker employed to perform
9 remediation work or construction work at the redevelopment project
10 not less than the prevailing wage rate in accordance with the
11 requirements of paragraph (6) of subsection b. of section 12 of
12 P.L. , c. (C.)(pending before the Legislature as this bill) for
13 the worker's craft or trade, as determined by the Commissioner of
14 Labor and Workforce Development pursuant to P.L.1963, c.150
15 (C.34:11-56.25 et seq.).

16 d. The authority shall not enter into a redevelopment agreement
17 with a developer who is liable, pursuant to paragraph (1) of
18 subsection c. of section 8 of P.L.1976, c.141(C.58:10-23.11g), for
19 the contamination at the brownfield site proposed to be in the
20 redevelopment agreement.

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

31 (2) A labor harmony agreement shall be required only if the State
32 has a proprietary interest in the redevelopment project and shall
33 remain in effect for as long as the State acts as a market participant
34 in the redevelopment project. The authority may enter into a
35 redevelopment agreement with a developer without the labor
36 harmony agreement required under paragraph (1) of this subsection
37 only if the authority determines that the redevelopment project would
38 not be feasible if a labor harmony agreement is required. The
39 authority shall support the determination by a written finding, which
40 provides the specific basis for the determination.

41 (3) As used in this subsection, "labor harmony agreement" means
42 an agreement between a business that serves as the owner or operator
43 of a retail establishment or distribution center and one or more labor
44 organizations, which requires, for the duration of the agreement: that
45 any participating labor organization and its members agree to refrain
46 from picketing, work stoppages, boycotts, or other economic
47 interference against the business; and that the business agrees to
48 maintain a neutral posture with respect to efforts of any participating

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

17 f. The redevelopment agreement shall provide that issuance of
18 a tax credit under the program shall be conditioned upon the
19 subrogation to the department of all rights of the developer to recover
20 remediation costs from any other person who discharges a hazardous
21 substance or is in any way responsible, pursuant to section 8 of
22 P.L.1976, c.141 (C.58:10-23.11g), for a hazardous substance that
23 was discharged at the brownfield site.

24 g. A developer may seek a revision to the redevelopment
25 agreement if the developer cannot complete the remediation on or
26 before the date set forth in the redevelopment agreement. A
27 developer's ability to change the date on which the developer shall
28 complete the remediation shall be subject to the availability of tax
29 credits in the year of the revised date of completion.

30 h. A developer shall submit to the authority satisfactory
31 evidence of the actual remediation costs, as certified by a certified
32 public accountant, evidence of completion of the remediation, and a
33 certification that all information provided by the developer to the
34 authority is true, including information contained in the application,
35 the redevelopment agreement, any amendment to the redevelopment
36 agreement, and any other information submitted by the developer to
37 the authority pursuant to sections 9 through 19 of P.L. ,
38 c. (C.) (pending before the Legislature as this bill). The
39 developer, or an authorized agent of the developer, shall certify under
40 the penalty of perjury that the information provided pursuant to this
41 subsection is true.

42 i. The redevelopment agreement shall include a requirement
43 that the chief executive officer of the authority receive annual reports
44 from the Department of Environmental Protection, the Department of
45 Labor and Workforce Development, and the Department of the
46 Treasury that demonstrating the developer, and each contractors and
47 subcontractor performing work on the redevelopment project, is in
48 substantial good standing with the respective department, or has

1 entered into an agreement with the respective department that
2 includes a practical corrective action plan for the developer. The
3 redevelopment agreement shall also include a provision allowing
4 authority to recapture the tax credits for any year in which any such
5 report is not received. The redevelopment agreement shall also
6 require a developer to engage in on-site consultations with the
7 Division of Workplace Safety and Health in the Department of
8 Health.

9
10 14. (New section) To qualify for a tax credit under the program,
11 a developer shall:

12 a. enter into a memorandum of agreement or other oversight
13 document with the Commissioner of Environmental Protection in
14 accordance with the provisions of section 37 of P.L.1997, c.278
15 (C.58:10B-29); or

16 b. comply with the requirements set forth in subsection b. of
17 section 30 of P.L.2009, c.60 (C.58:10B-1.3) for the remediation of
18 the site of the redevelopment project.

19
20 15. (New section) Commencing with the date six months
21 following the date the authority and a developer execute a
22 redevelopment agreement and every six months thereafter until
23 completion of the project, the developer shall submit an update of the
24 status of the redevelopment project to the authority and to the
25 department, including the remediation costs incurred by the
26 developer for the remediation of the contaminated property located
27 at the site of the redevelopment project. Unless the authority
28 determines that extenuating circumstances exist, the authority's
29 approval of a tax credit shall expire if the authority, the department,
30 or both, do not timely receive the status update required under this
31 section. The authority may rescind an award of tax credits under the
32 program if a redevelopment project fails to advance in accordance
33 with the redevelopment agreement.

34
35 16. (New section) a. Upon completion of the redevelopment
36 project, the developer shall seek certification from the department
37 that:

38 (1) the redevelopment project is complete;

39 (2) the developer complied with the requirements of section 15 of
40 P.L. , c. (C.) (pending before the Legislature as this bill),
41 including the requirements of any memorandum of agreement or
42 other oversight document that the developer may have executed with
43 the Commissioner of Environmental Protection pursuant to that
44 section; and

45 (3) the remediation costs were actually and reasonably incurred.
46 Upon receipt of certification, and confirmation by the authority that
47 the developer's obligations under the redevelopment agreement have
48 been met, a developer shall be awarded a credit against the tax

1 imposed pursuant to section 5 of P.L.1945, c.162 (C.54:10A-5) in an
2 amount not to exceed 40 percent of the actual remediation costs, or
3 40 percent of the projected remediation costs as set forth in the
4 redevelopment agreement, or \$4,000,000, whichever is least. The
5 developer, or an authorized agent of the developer, shall certify that
6 the information provided to the department and the authority
7 pursuant to this subsection is true under the penalty of perjury.

8 b. When filing an application for certification pursuant to
9 subsection a. of this section, the developer shall submit to the director
10 the total remediation costs incurred by the developer for the
11 remediation of the subject property located at the site of the
12 redevelopment project as provided in the redevelopment agreement
13 and certified by a certified public accountant, information concerning
14 the occupancy rate of the buildings or other work areas located on
15 the property subject to the redevelopment agreement, and such other
16 information as the director deems necessary in order to make the
17 certifications and findings pursuant to this section.

18 c. A developer shall apply the credit awarded against the
19 developer's liability for the tax imposed pursuant to section 5 of
20 P.L.1945, c.162 (C.54:10A-5) for the privilege period during which
21 the director awards the developer a tax credit pursuant to subsection
22 a. of this section. A developer shall not carry forward any unused
23 credit. Credits awarded to a partnership shall be passed through to
24 the partners, members, or owners, respectively, pro-rata, or pursuant
25 to an executed agreement among the partners, members, or owners
26 documenting an alternate distribution method provided to the director
27 accompanied by any additional information as the director may
28 prescribe.

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

38
39 17. (New section) a. A developer may apply to the director and
40 the chief executive officer of the authority for a tax credit transfer
41 certificate, during the privilege period in which the director awards
42 the developer a tax credit pursuant to section 16 of P.L. ,
43 c. (C.) (pending before the Legislature as this bill), in lieu of
44 the developer being allowed to apply any amount of the tax credit
45 against the developer's State tax liability. The tax credit transfer
46 certificate, upon receipt thereof by the developer from the director
47 and the chief executive officer of the authority, may be sold or
48 assigned, in the privilege period during which the developer receives

1 the tax credit transfer certificate from the director, to another person,
2 who may apply the credit against a tax liability pursuant to section 5
3 of P.L.1945, c.162 (C.54:10A-5), sections 2 and 3 of P.L.1945, c.132
4 (C.54:18A-2 and C.54:18A-3), section 1 of P.L.1950, c.231
5 (C.17:32-15), or N.J.S.17B:23-5. The tax credit transfer certificate
6 provided to the developer shall include a statement waiving the
7 developer's right to claim the credit that the developer has elected to
8 sell or assign.

9 b. The developer shall not sell or assign a tax credit transfer
10 certificate allowed under this section for consideration received by
11 the developer of less than 85 percent of the transferred credit amount
12 before considering any further discounting to present value which
13 shall be permitted, except a developer of a residential project
14 consisting of newly-constructed residential units that has received
15 federal low income housing tax credits under 26 U.S.C.
16 s.42(b)(2)(B)(i) may assign a tax credit transfer certificate for
17 consideration of no less than 75 percent subject to the submission of
18 a plan to the authority and the New Jersey Housing and Mortgage
19 Finance Agency to use the proceeds derived from the assignment of
20 tax credits to complete the residential project.. The tax credit transfer
21 certificate issued to a developer by the director shall be subject to any
22 limitations and conditions imposed on the application of State tax
23 credits pursuant to section 16 of P.L. , c. (C.) (pending before
24 the Legislature as this bill) and any other terms and conditions that
25 the director may prescribe.

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

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

- 32 (1) the name of the transferor;
- 33 (2) the name of the transferee;
- 34 (3) the value of the tax credit transfer certificate;
- 35 (4) the State tax against which the transferee may apply the tax
36 credit; and
- 37 (5) the consideration received by the transferor.

38
39 18. (New section) Beginning the year next following the year in
40 which sections 9 through 19 of P.L. , c. (C.) (pending before
41 the Legislature as this bill) take effect and every two years thereafter,
42 a State college or university established pursuant to chapter 64 of
43 Title 18A of the New Jersey Statutes shall, pursuant to an agreement
44 executed between the State college or university and the authority,
45 prepare a report on the implementation of the program, and submit
46 the report to the authority, the Governor, and, pursuant to section 2
47 of P.L.1991, c.164 (C.52:14-19.1), to the Legislature. Each biennial
48 report required under this section shall include a description of each

1 redevelopment project receiving a tax credit under the program, a
2 detailed analysis of the consideration given in each project to the
3 factors set forth in sections 12 and 13 of P.L. , c. (C.)
4 (pending before the Legislature as this bill), the return on investment
5 for incentives awarded, the redevelopment project's impact on the
6 State's economy, and any other metrics the State college or university
7 determines are relevant based upon national best practices. The
8 authority shall prepare a written response to the report, which the
9 authority shall submit to the Governor and, pursuant to section 2 of
10 P.L.1991, c.164 (C.52:14-19.1), to the Legislature.

11
12 19. (New section) Notwithstanding the provisions of the
13 "Administrative Procedure Act," P.L.1968, c.410 (C.52:14B-1 et
14 seq.), to the contrary, the chief executive officer of the authority, in
15 consultation with the Commissioner of Environmental Protection,
16 may adopt, immediately upon filing with the Office of
17 Administrative Law, regulations that the chief executive officer and
18 commissioner deem necessary to implement the provisions of
19 sections 9 through 19 of P.L. , c. (C.) (pending before the
20 Legislature as this bill), which regulations shall be effective for a
21 period not to exceed 180 days from the date of the filing. The chief
22 executive officer, in consultation with the Commissioner of
23 Environmental Protection, shall thereafter amend, adopt, or readopt
24 the regulations in accordance with the requirements of P.L.1968,
25 c.410 (C.52:14B-1 et seq.). The rules shall require annual reporting
26 by developers that receive tax credits pursuant to the program, in
27 addition to the regular progress updates and .Developers shall obtain
28 certifications by the Department of Labor and Workforce
29 Development, the Department of Environmental Protection, and the
30 Department of the Treasury stating that the developer, and each
31 contractor and subcontractor performing work on the redevelopment
32 project, is in substantial good standing with the respective
33 department, or has entered into an agreement with the respective
34 department that includes a practical corrective action plan. The rules
35 and regulations adopted pursuant to this section shall also include a
36 provision to require that developers forfeit all tax credits awarded in
37 any year in which any such report is not received, and to allow the
38 authority to extend, in individual cases, the deadline for any annual
39 reporting or certification requirement established pursuant to this
40 section.

41
42 20. (New section) Sections 20 through 34 of P.L. , c. (C.)
43 (pending before the Legislature as this bill) shall be known and may
44 be cited as the "New Jersey Innovation Evergreen Act."
45

46 21. (New section) As used in sections 20 through 34 of P.L. ,
47 c. (C.) (pending before the Legislature as this bill):

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

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

5 "Follow-on investment" means a subsequent investment made by
6 an investor who has a previous investment in a New Jersey high-
7 growth business.

8 "Fund" means the "New Jersey Innovation Evergreen Fund"
9 established by section 23 of P.L. , c. (C.) (pending before
10 the Legislature as this bill).

11 "High-growth business" means a business that is growing
12 significantly faster than the average growth rate of the economy or is
13 a start-up company that is investing in developing a product or new
14 business model that will allow it to grow significantly faster than the
15 average growth rate of the economy within the next three to five
16 years.

17 "Incentive area" means an area in this State: (1) designated
18 pursuant to the "State Planning Act," P.L.1985, c.398 (C.52:18A-196
19 et seq.), as Planning Area 1 (Metropolitan); or (2) that has been
20 designated as a qualified opportunity zone pursuant to 26 U.S.C.
21 s.1400Z-1.

22 "Innovation ecosystem" means funding, programs, and events that
23 support the establishment and expansion of high-growth companies
24 in targeted sectors. Examples of such funding, programs, and events
25 include: mentoring programs for start-ups, meet-up or networking
26 events, funding for locating a business in a collaborative workspace,
27 programs that provide businesses services, and entrepreneurial
28 education to companies.

29 "Opportunity zone" means a federal population census tract in this
30 State that was eligible to be designated as a qualified opportunity
31 zone pursuant to 26 U.S.C. s.1400Z-1 as may be amended.

32 "Principal business operations" means at least 50 percent of the
33 business's employees, who are not primarily engaged in retail sales,
34 reside in the State, or at least 50 percent of the business's payroll for
35 employees not primarily engaged in retail sales is paid to individuals
36 living in this State.

37 "Program" means the New Jersey Innovation Evergreen Program
38 established by section 22 of P.L. , c. (C.) (pending before
39 the Legislature as this bill).

40 "Purchaser" means an entity registered to do business in this State
41 with the Director of the Division of Revenue and Enterprise Services
42 in the Department of the Treasury that purchases an allocation of tax
43 credits under the program.

44 "Qualified business" means a business that, at the time of the first
45 qualified investment in the business and throughout the period of the
46 qualified investment under the program, is registered to do business
47 in this State with the Director of the Division of Revenue and
48 Enterprise Services in the Department of the Treasury; has its

1 principal business operations located in the State and intends to
2 maintain its principal business operations in the State after receiving
3 a qualified investment under the program; is engaged in a targeted
4 industry; and employs fewer than 250 persons at the time of the
5 qualified investment

6 "Qualified investment" means the direct investment of money by
7 the fund in a qualified business for the purchase of shares of stock,
8 with an additional investment in an option or warrant or a follow-on
9 investment, in the discretion of the authority, all of which is matched
10 by an investment by a qualified venture firm.

11 "Qualified venture firm" means a venture firm that is approved by
12 the authority as a qualified venture firm pursuant to section 29 of
13 P.L. , c. (C.) (pending before the Legislature as this bill).

14 "Special purpose vehicle" means an entity controlled by or under
15 common control with a venture firm that is formed solely for the
16 purpose of investing in a New Jersey high-growth business alongside
17 the venture firm.

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

27 "Venture firm" means a partnership, corporation, trust, or limited
28 liability company that invests cash in a business during the early or
29 expansion stages of a business in exchange for an equity stake in the
30 business in which the investment is made. Venture firm may include
31 a venture capital fund, a family office fund, or a corporate investor
32 fund, provided that a professional manager administers the venture
33 firm.

34
35 22. (New section) The New Jersey Innovation Evergreen
36 Program is established as a program under the jurisdiction of the New
37 Jersey Economic Development Authority. The purpose of the
38 program is to invest in innovation as a catalyst for economic growth
39 and to advance the competitiveness of the State's businesses in the
40 global economy. Beginning on the effective date of sections 20
41 through 34 of P.L. , c. (C.) (pending before the Legislature
42 as this bill), the authority shall auction up to \$300,000,000 in tax
43 credits in annual amounts not to exceed the limitations set forth in
44 section 98 of P.L. , c. (C.) (pending before the legislature as
45 this bill). The authority shall not undertake an auction if, exclusive
46 of reserves, including the reserve set aside for follow-on investments
47 pursuant to subsection d. of section 23 of P.L. , c. (C.)
48 (pending before the Legislature as this bill), more than \$15,000,000

1 is available to the authority, from moneys received from any prior
2 auction of tax credits pursuant to the program, to allocate to qualified
3 venture firms.

4
5 23. (New section) a. The authority shall establish and maintain
6 a dedicated fund to be known as the "New Jersey Innovation
7 Evergreen Fund." The authority shall use the money in the fund to
8 carry out the purposes enumerated in subsections b. and c. of this
9 section. The authority shall credit the fund with money paid by
10 purchasers; distributions from payments or repayments made to the
11 authority in accordance with subsection c. of section 31 of P.L. ,
12 c. (C.) (pending before the Legislature as this bill); earnings
13 received, if any, from the investment or reinvestment of money
14 credited to the fund; and any money which, from time to time, may
15 otherwise become available for the purposes of the fund.

16 b. The authority shall allocate the money in the fund to qualified
17 venture firms to make qualified investments of capital in qualified
18 businesses through a special purpose vehicle in accordance with
19 section 30 of P.L. , c. (C.) (pending before the Legislature
20 as this bill) and to pay the administrative, legal, and auditing
21 expenses of the authority incurred in the administration of the
22 program. In addition, the authority shall use 75 basis points of the
23 total amounts deposited in the fund, calculated on an annual basis,
24 for programs administered by the authority that create an innovation
25 ecosystem that supports and promotes high-growth businesses in the
26 State.

27 c. The authority shall deposit into the fund dividends and returns
28 on investments paid to the authority by or on behalf of a qualified
29 business. Upon the fund holding total deposits of \$500,000,000 and
30 thereafter upon a qualified investment in a qualified business
31 achieving a return on investment of twice the original and follow-on
32 investment, 50 percent of any return on investment in excess of twice
33 the original and follow-on investment shall be paid to the General
34 Fund of the State.

35 d. The authority shall account for and calculate reserves for
36 follow-on investments, programs that support the State's innovation
37 ecosystem, and administrative, legal, and auditing expenses of the
38 authority in administering the program. The authority shall not
39 include these reserves when calculating the amount in the fund
40 available for new qualified investments.

41
42 24. (New section) a. The authority shall sell the tax credits
43 authorized pursuant to section 22 of P.L. , c. (C.) (pending
44 before the Legislature as this bill) to purchasers through a
45 competitive auction process.

46 b. The authority shall determine the form and manner in which
47 potential purchasers may bid for tax credits available under the

1 program. To be awarded a tax credit under the program, a potential
2 purchaser shall:

3 (1) specify the requested amount of tax credits, which shall not
4 be less than \$1,000,000;

5 (2) specify the amount the potential purchaser will pay in
6 exchange for the requested amount of tax credits, which shall not be
7 less than 85 percent of the requested dollar amount of tax credits;

8 (3) commit to serve on the New Jersey Innovation Evergreen
9 Advisory Board, established pursuant to section 32 of P.L. ,
10 c. (C.) (pending before the Legislature as this bill), and to
11 otherwise provide mentorship, networking, and collaboration
12 opportunities to qualified businesses that receive funding under the
13 program; and

14 (4) provide any other information that the chief executive officer
15 of the authority determines is necessary.

16 c. Prior to an auction, the authority shall establish and disclose
17 to bidders the weighted criteria the authority will utilize, which the
18 authority shall base on the price offered to purchase the tax credits
19 and the quality of the mentorship and networking opportunities and
20 other support of the State's innovation ecosystem offered by a
21 purchaser in its bid. The authority may pro rate the amount of tax
22 credits allocated to each purchaser. A potential purchaser that
23 submits a bid for tax credits under this section shall receive a written
24 notice from the authority indicating whether the authority has
25 approved it as a purchaser of tax credits and, if so, the amount of tax
26 credits approved.

27 d. Except as provided in section 22 of P.L. , c. (C.)
28 (pending before the Legislature as this bill), the authority shall hold
29 one competitive auction per calendar year.

30 e. The authority may contract with an independent third party to
31 conduct the competitive bidding process through which State tax
32 credits issued by the authority may be sold.

33

34 25. (New section) a. A purchaser that submits a successful bid
35 for the purchase of tax credits pursuant to section 24 of P.L. ,
36 c. (C.) (pending before the Legislature as this bill) shall enter
37 into a contract with the authority that includes payment information
38 and the commitments made by the purchaser in its auction bid. A
39 purchaser that submits a successful bid for the purchase of tax credits
40 pursuant to section 24 of P.L. , c. (C.) (pending before the
41 Legislature as this bill) shall pay by wire transfer the amount
42 specified in its auction bid to the authority for deposit into the fund.
43 Upon receipt thereof, the chief executive officer shall notify the
44 director to issue tax credits in the amount approved. Failure by the
45 purchaser to pay the amount agreed upon on time may disqualify the
46 purchaser from purchasing the tax credits and the authority may
47 reassign the right to purchase the credits to another bidder. Failure
48 by the purchaser to adhere to the commitments made in its auction

1 bid may disqualify the purchaser from participating in future auctions
2 and may result in the recapture of a portion of the tax credits.

3 b. The authority shall credit to the fund any money paid to the
4 authority by a purchaser for an allocation of tax credits under the
5 program.

6 c. The authority shall ensure that no undue financial advantage
7 shall inure to a purchaser that also is: managing a qualified venture
8 firm; beneficially owning, through rights, options, convertible
9 interests, or otherwise, more than 15 percent of the voting securities
10 or other voting ownership interests of a qualified venture firm; or
11 controlling the direction of investments for a qualified venture firm.
12 The chief executive officer of the authority shall certify that the
13 authority is monitoring the activities of such purchasers and has taken
14 appropriate steps to ensure no undue financial advantage inures to the
15 purchasers.

16

17 26. (New section) a. A purchaser shall apply a credit awarded
18 pursuant to sections 20 through 34 of P.L. , c. (C.) (pending
19 before the Legislature as this bill) against the State tax liability due
20 pursuant to section 5 of P.L.1945, c.162 (C.54:10A-5) of the
21 purchaser for the current privilege period as of the date of the credit's
22 approval. A purchaser may carry forward an unused credit resulting
23 from the limitations of subsection b. of this section, if necessary, for
24 use in the seven privilege periods next following the privilege period
25 for which the credit is awarded.

26 b. The director shall prescribe the order of priority of the
27 application of the credits awarded under sections 20 through 34 of
28 P.L. , c. (C.) (pending before the Legislature as this bill) and
29 any other credits allowed by law. The amount of a credit applied
30 under sections 20 through 34 of P.L. , c. (C.) (pending before
31 the Legislature as this bill) against the tax imposed pursuant to
32 section 5 of P.L.1945, c.162 (C.54:10A-5) for a privilege period,
33 together with any other credits allowed by law, shall not reduce the
34 tax liability of the purchaser to an amount less than the statutory
35 minimum provided in subsection (e) of section 5 of P.L.1945, c.162
36 (C.54:10A-5).

37

38 27. (New section) a. A purchaser may apply to the authority and
39 the director for a tax credit transfer certificate, in the privilege period
40 during which the director allows the purchaser a tax credit pursuant
41 to sections 20 through 34 of P.L. , c. (C.) (pending before
42 the Legislature as this bill), in lieu of the purchaser being allowed to
43 apply any amount of the tax credit against the purchaser's State tax
44 liability. A tax credit may be sold or assigned, in full or in part, to
45 another person that may have a tax liability pursuant to section 5 of
46 P.L.1945, c.162 (C.54:10A-5). The tax credit transfer certificate
47 provided to the purchaser shall include a statement waiving the

1 purchaser's right to claim the credit that the purchaser has elected to
2 sell or assign.

3 b. The purchaser shall not sell or assign a tax credit transfer
4 certificate allowed under this section for consideration received by
5 the purchaser of less than 85 percent of the transferred credit amount
6 before considering any further discounting to present value which
7 shall be permitted. The tax credit transfer certificate issued to a
8 purchaser by the director shall be subject to any limitations and
9 conditions imposed on the application of State tax credits pursuant to
10 section 26 of P.L. , c. (C.) (pending before the Legislature
11 as this bill) and any other terms and conditions that the director may
12 prescribe.

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

16 d. Ten percent of the consideration received by a purchaser from
17 the sale or assignment of a tax credit transfer certificate pursuant to
18 this section shall be remitted to the director and deposited in the
19 General Fund of the State.

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

- 23 (1) the name of the transferor;
24 (2) the name of the transferee;
25 (3) the value of the tax credit transfer certificate;
26 (4) the State tax against which the transferee may apply the tax
27 credit; and
28 (5) the consideration received by the transferor.
29

30 28. (New section) a. The authority shall establish an application
31 process and determine the form and manner through which a venture
32 firm may make and file an application for certification as a qualified
33 venture firm. The authority may accept applications on a rolling
34 basis or on a date set by the authority.

35 b. In evaluating applicants for certification as a qualified venture
36 firm, the authority shall establish weighted criteria by which the
37 authority will evaluate all venture firms applying in the same
38 calendar year and shall establish a minimum acceptable score. The
39 criteria shall include, but not be limited to:

- 40 (1) the management structure of the applicant, including:
41 (a) quality of the leadership, including willingness to work with
42 the authority to support targeted industries and the innovation
43 ecosystem in the State, and to locate in the State;
44 (b) the investment experience of the principals with qualified
45 businesses;
46 (c) the knowledge, experience, and capabilities of the applicant
47 in subject areas relevant to high-growth businesses in the State;

- 1 (d) the tenure and turnover history of principals and senior
2 investment professionals of the applicant;
- 3 (e) whether the State's investment with the applicant under this
4 program would exceed 15 percent of the total invested in the
5 applicant by all investors, including investments in any special
6 purpose vehicles;
- 7 (f) the applicant's stage of fundraising; and
- 8 (g) whether fees, expenses, and the remuneration of the general
9 partner or manager are similar to those of peer investors;
- 10 (2) the applicant's investment strategy, including:
- 11 (a) the applicant's track record of investing in high-growth
12 businesses;
- 13 (b) whether the investment strategy of the applicant is focused on
14 high-growth businesses, including the percentage of the investment
15 identified to be invested in New Jersey or surrounding geographic
16 areas; and
- 17 (c) the performance history of the general partner or fund
18 manager based on a review of investment returns on individual funds
19 on an absolute basis and relative to peers; and
- 20 (3) The location of the applicant's venture firm and the proposed
21 structure of the applicant venture firm's investments in qualified
22 businesses, with preference given to applicant venture firms that are
23 located in incentive areas and to applicant venture firms that agree to
24 dedicate a greater portion of qualified investments into qualified
25 businesses located within incentive areas.
- 26
- 27 29. (New section) a. The authority shall certify or refuse to
28 certify a venture firm as a qualified venture firm based on the criteria
29 for certification set forth in section 28 of P.L. , c. (C.)
30 (pending before the Legislature as this bill), and subsections b. and
31 c. of this section.
- 32 b. The authority shall not certify a venture firm as a qualified
33 venture firm if the venture firm has: (1) an equity capitalization, net
34 assets, or written commitments of less than \$10,000,000 in the form
35 of cash or cash equivalents on the date the determination for
36 certification is made; or (2) fewer than two principals or persons
37 employed to direct the qualified investment of capital with at least
38 five years of money management experience in the venture capital or
39 private equity sectors on the date the determination for certification
40 is made. The authority may adopt, pursuant to the provisions of the
41 "Administrative Procedure Act," P.L.1968, c.410 (C.52:14B-1 et
42 seq.), rules setting forth additional disqualifying criteria and
43 adjusting the minimum equity capitalization, net assets, or written
44 commitments of a qualified venture firm.
- 45 c. Prior to certifying a venture firm as a qualified venture firm,
46 the Department of Labor and Workforce Development, the
47 Department of Environmental Protection, and the Department of the
48 Treasury shall each report to the chief executive officer of the

1 authority whether the venture firm is in substantial good standing
2 with the respective department, or has entered into an agreement with
3 the respective department that includes a practical corrective action
4 plan for the venture firm. The authority may also contract with an
5 independent third party to perform a background check on the
6 venture firm.

7 d. The authority shall provide written notification to each
8 venture firm that is certified as a qualified venture firm by the
9 authority and shall provide written notification to each venture firm
10 that the authority refuses to certify as a qualified venture firm,
11 communicating in detail the grounds for the authority's refusal. The
12 authority shall review each qualified venture firm annually for the
13 disqualifying criteria set forth in subsection b. of this section or other
14 reasonable industry-accepted standards as determined by the
15 authority. The authority may decertify a qualified venture firm at any
16 time pursuant to the disqualifying criteria set forth in subsection b.
17 of this section. Decertification shall not affect any previously made
18 qualified investment or the fund's commitment to make a follow-on
19 investment in a qualified business.

20

21 30. (New section) a. (1) The authority is authorized to allocate
22 money credited to the fund to one or more qualified venture firms for
23 qualified investments at the times, in the amounts, and subject to the
24 terms and conditions that the authority shall determine to be
25 necessary and appropriate to effectuate the purposes of sections 20
26 through 34 of P.L. , c. (C.) (pending before the Legislature
27 as this bill); provided that no more than two qualified investments
28 shall be made with each qualified venture firm in a calendar year.

29 (2) Each qualified investment shall not exceed \$5,000,000 in
30 initial investment, exclusive of follow-on investments; provided,
31 however, if a qualified investment is in a business: (a) which utilizes
32 intellectual property that is core to the its business model and was
33 developed at a New Jersey-based college or university; (b) is
34 considered a university spin-off business as determined by the
35 authority; or (c) is certified by the State as a "minority business" or a
36 "women's business" pursuant to P.L.1986, c.195 (C.52:27H-21.17 et
37 seq.), then the qualified investment shall not exceed \$6,250,000 in
38 initial investment, exclusive of follow-on investments.

39 (3) The fund shall not invest in a qualified venture firm if the
40 authority determines that an undue financial advantage would inure
41 to a purchaser if the investment occurs or if the investment would be
42 inconsistent with the investment policies and goals of the State.

43 (4) The authority shall have a goal for 25 percent of the fund
44 money that is allocated to qualified venture firms is reserved for
45 investment in businesses located in opportunity zones.

46 (5) Within one year of the effective date of P.L. , c. (C.)
47 (pending before the Legislature as this bill), the authority shall
48 undertake a disparity study of investment by venture firms in women-

1 and minority-owned business enterprises in this State. Based on the
2 finding of the disparity study, the authority, following board
3 approval, may institute a set-aside plan to ensure that fund money
4 allocated to qualified venture firms is reserved for investment in
5 women- and minority-owned business enterprises in this State.

6 b. The authority shall make and enter into an agreement with
7 each qualified venture firm to which the authority allocates money
8 under the program. The agreement shall include provisions that
9 require the qualified venture firm to:

10 (1) make investments in qualified businesses that equal or exceed
11 the amount of capital received by the qualified venture firm from the
12 fund under the program;

13 (2) cause an audit of the qualified venture firm's books and
14 accounts, which a certified public accountant, who is licensed in
15 accordance with the "Accountancy Act of 1997," P.L.1997, c.259
16 (C.45:2B-42 et seq.), or licensed in accordance with the laws of
17 another state, shall conduct at least once in each year in which the
18 qualified venture firm is in receipt of fund money or in which the
19 qualified venture firm is responsible for the management of fund
20 money allocated to the qualified venture firm by the authority;

21 (3) enter into an agreement with each qualified business that
22 receives a qualified investment, which agreement shall, at a
23 minimum, require the qualified business to use the qualified
24 investment of capital to support its business operations in this State
25 and to provide the information required under section 31 of P.L. ,
26 c. (C.) (pending before the Legislature as this bill);

27 (4) upon the identification of a qualified investment, create a
28 special purpose vehicle for the qualified investment of the fund;

29 (5) upon the identification of a qualified investment, indicate the
30 amount of follow-on investment the authority should reserve, and
31 periodically provide updates concerning this amount;

32 (6) agree that the qualified venture firm will publicize its
33 participation in the "New Jersey Innovation Evergreen Fund;"

34 (7) consent to the authority publicly disclosing the qualified
35 venture firm on the list of qualified investment firms participating in
36 the program; and

37 (8) consent to the disclosure of tax expenditure information as
38 described in paragraph (8) of subsection b. of section 1 of P.L.2009,
39 c.189 (C.52:27B-20a).

40 c. A qualified venture firm that has made and entered into an
41 agreement with the authority in accordance with subsection b. of this
42 section is authorized to make qualified investments of capital in one
43 or more qualified businesses from fund money allocated to the
44 qualified venture firm by the authority at the times, in the amounts,
45 and subject to the terms and conditions that the qualified venture firm
46 determines to be necessary and appropriate. The authority may limit
47 the amount of allocated fund money that a qualified venture firm
48 invests in a qualified business based upon the size of investments the

1 qualified business has received, the source of the investments, and
2 the industry in which the qualified business is engaged.

3

4 31. (New section) a. A qualified venture firm shall annually
5 report to the authority:

6 (1) the amount of the qualified investment, if any, uninvested at
7 the end of the preceding calendar year;

8 (2) all qualified investments made during the preceding calendar
9 year, including the number and wages of employees of each qualified
10 business at the time the venture firm made the qualified investment
11 and as of December 31 of that year;

12 (3) for any qualified investment in which the qualified venture
13 firm no longer has a position as of the end of the calendar year, the
14 number of employees of the business as of the date the investment
15 was terminated;

16 (4) financials, audited by a certified public accountant, who is
17 licensed in accordance with the "Accountancy Act of 1997,"
18 P.L.1997, c.259 (C.45:2B-42 et seq.), or licensed in accordance with
19 the laws of another state, of the qualified venture firm and the special
20 purpose vehicle that include a consolidated summary of the
21 performance of the qualified venture firm. Any information about the
22 performance of an individual business, including the qualified
23 business, shall be considered confidential and not subject to the
24 requirements of P.L.1963, c.73 (C.47:1A-1 et seq.); and

25 (5) any other information the authority requires to ascertain the
26 impact of the program on the economy of the State.

27 b. With respect to the information required under paragraphs (1)
28 through (4) of subsection a. of this section, the report shall include a
29 statement prepared by a certified public accountant, who is licensed
30 in accordance with the "Accountancy Act of 1997," P.L.1997, c.259
31 (C.45:2B-42 et seq.), or licensed in accordance with the laws of
32 another state, certifying that the accountant has reviewed the report
33 and that the information and representations contained in the report
34 are accurate.

35 c. Not later than 60 days after the sale or other disposition of a
36 qualified investment, the qualified venture firm shall provide to the
37 authority a report on the amount of the stock sold or disposed of and
38 the consideration received for the sale or disposition. The report shall
39 detail the cumulative effect of sequentially introduced positive or
40 negative values and include the gross income and details of any
41 offsetting fees that reduce the net distribution. Any dividend or
42 proceeds received by the authority for the sale or other disposition of
43 a qualified investment shall be deposited into the fund and used in
44 accordance with section 23 of P.L. , c. (C.) (pending before
45 the Legislature as this bill).

46 d. A qualified venture firm shall, as required at the discretion of
47 the authority, submit to the authority satisfactory evidence
48 supporting the information detailed in the annual report and

1 certifying that all information provided by the qualified venture firm
2 to the authority is true, including information contained in the
3 application for certification, the agreement between the qualified
4 venture firm and authority, any amendment to that agreement, and
5 any other information submitted by the qualified venture firm to the
6 authority pursuant to sections 20 through 34 of P.L. , c. (C.)
7 (pending before the Legislature as this bill). The qualified venture
8 firm, or an authorized agent of the qualified venture firm, shall certify
9 under the penalty of perjury that the information provided pursuant
10 to this section is true.

11

12 32. (New section) The New Jersey Innovation Evergreen
13 Advisory Board is established in but not of the authority for the
14 purposes of providing guidance and networking opportunities to
15 qualified businesses. The members of the board shall serve in a
16 voluntary capacity, to be appointed through a process to be
17 determined by the chief executive officer of the authority from
18 among purchasers and other strategic partners identified by the chief
19 executive officer, to support the State's innovation ecosystem. The
20 terms of the voluntary members so appointed, after the initial
21 appointments, shall be one year, and each member may be
22 reappointed.

23

24 33. (New section) Beginning the year next following the year in
25 which sections 20 through 34 of P.L. , c. (C.) (pending before
26 the Legislature as this bill) take effect and every two years thereafter,
27 the authority shall prepare a report on the implementation of the
28 program, and submit the report to the Governor, and, pursuant to
29 section 2 of P.L.1991, c.164 (C.52:14-19.1), to the Legislature. Each
30 biennial report required under this section shall include the names
31 and locations of qualified businesses receiving capital; the amount of
32 each qualified investment; a report by a certified public accountant,
33 who is licensed in accordance with the "Accountancy Act of 1997,"
34 P.L.1997, c.259 (C.45:2B-42 et seq.), or licensed in accordance with
35 the laws of another state, of the consolidated performance of the fund;
36 the cumulative amount of capital committed by purchasers; the rate
37 and amount of fees charged by each qualified venture firm, including
38 performance-based earnings and carried interest; the classification of
39 each qualified business, according to the industrial sector and the size
40 of the qualified business; the State's return on investment; the total
41 number of jobs created in the State by the qualified business after the
42 qualified investment; the average wages paid for the jobs; and any
43 other metrics the authority determines are relevant based upon
44 national best practices.

45

46 34. (New section) Notwithstanding the provisions of the
47 "Administrative Procedure Act," P.L.1968, c.410 (C.52:14B-1 et
48 seq.), to the contrary, the chief executive officer of the authority may

1 adopt, immediately, upon filing with the Office of Administrative
2 Law, regulations that the chief executive officer deems necessary to
3 implement the provisions of sections 20 through 34 of P.L. ,
4 c. (C.) (pending before the Legislature as this bill), which
5 regulations shall be effective for a period not to exceed 180 days from
6 the date of the filing. The chief executive officer shall thereafter
7 amend, adopt, or readopt the regulations in accordance with the
8 requirements of P.L.1968, c.410 (C.52:14B-1 et seq.).
9

10 35. (New section) Sections 35 through 42 of P.L. , c. (C.)
11 (pending before the Legislature as this bill) shall be known and may
12 be cited as the "Food Desert Relief Act."
13

14 36. (New section) a. The Legislature finds and declares that: (1)
15 there are certain areas of the State, known as "food desert"
16 communities, in which residents are unable to obtain reasonable and
17 adequate access to nutritious foods and, in particular, to fresh fruits
18 and vegetables; (2) the inaccessibility of nutritious food in food
19 desert communities has been attributed, in large part, to the absence
20 of supermarkets and grocery stores in those communities; (3) low-
21 income families are more likely than others to live in food desert
22 communities and to lack the transportation or financial resources
23 necessary to reach distant wholesome markets; and (4) the
24 establishment of financial incentives to supermarkets, grocery stores,
25 mid-sized food retailers, and small food retailers is a reasonable
26 means by which to ensure that residents of food desert communities
27 in the State are provided with reasonable access to nutritious, fresh,
28 and delicious produce, and are afforded the opportunity thereby to
29 make healthier eating choices for themselves and for their families.

30 b. The Legislature therefore determines that it is both reasonable
31 and necessary to authorize the New Jersey Economic Development
32 Authority to establish a program that provides financial assistance to
33 supermarkets, grocery stores, mid-sized food retailers, and small
34 food retailers to establish and retain locations in food desert
35 communities in order to provide a consistent, and easily accessible,
36 source of fresh produce to residents in those communities.
37

38 37. (New section) As used in sections 35 through 42 of P.L. ,
39 c. (C.) (pending before the Legislature as this bill):

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

43 "Department" means the Department of Agriculture.

44 "Eligible equipment costs" means expenditures for the
45 procurement of such equipment as is needed to allow a mid-sized
46 food retailer or small food retailer to store, refrigerate, or otherwise
47 maintain nutritious foods, including fresh fruits and vegetables, for

1 retail purposes, but within a standard range based upon industry
2 standards, as determined by the authority.

3 “Eligible technology costs” means expenditures for the
4 procurement or upgrade of technology systems to support online
5 ordering and e-commerce, including but is not limited to computer
6 hardware, software, internet connectivity, and database systems.

7 "Food desert community" means a physically contiguous area in
8 the State in which residents have limited access to nutritious foods,
9 such as fresh fruits and vegetables, through supermarkets and grocery
10 stores, and which has been designated as a food desert community
11 pursuant to subsection b. of section 38 of P.L. , c. (C.)
12 (pending before the Legislature as this bill).

13 "Initial operating costs" means expenditures for the operation of a
14 supermarket or grocery store within the first three years after opening
15 to the public, but within a standard range based upon industry
16 standards, as determined by the authority.

17 “Mid-sized food retailer” means a medium-sized retail outlet with
18 at least 2,500 but less than 16,000 square feet, of which at least 75
19 percent is occupied by food and related products.

20 "Program" means the Food Desert Relief Program established in
21 section 38 of P.L. , c. (C.) (pending before the Legislature
22 as this bill).

23 "Project cost" means the costs incurred in connection with the
24 establishment of a supermarket or grocery store within a food desert
25 community by the developer until the opening of the supermarket or
26 grocery store to the public, including the costs relating to lands,
27 buildings, improvements, real or personal property, or any interest
28 therein, including leases discounted to present value, including lands
29 under water, riparian rights, space rights and air rights acquired,
30 owned, developed or redeveloped, constructed, reconstructed,
31 rehabilitated or improved, any environmental remediation costs, plus
32 costs not directly related to construction, of an amount not to exceed
33 20 percent of the total costs, capitalized interest paid to third parties,
34 and the cost of infrastructure improvements, including ancillary
35 infrastructure projects.

36 "Project financing gap" means the part of the total project cost,
37 including return on investment, that remains to be financed after all
38 other sources of capital have been accounted for, including, but not
39 limited to, developer-contributed capital, which shall not be less than
40 20 percent of the total project cost, which may include the value of
41 any existing land and improvements in the project area owned or
42 controlled by the developer, and the cost of infrastructure
43 improvements in the public right-of-way, and investor or financial
44 entity capital or loans for which the developer, after making all good
45 faith efforts to raise additional capital, certifies that additional capital
46 cannot be raised from other sources on a non-recourse basis

47 “Small food retailer” means a small retail outlet, with less than
48 2,500 square feet, that sells a limited selection of foods and other

1 products, such as a bodega, convenience store, corner store,
2 neighborhood store, small grocery, or small-scale store.

3 "Supermarket or grocery store" means a retail outlet with at least
4 16,000 square feet, of which at least 90 percent is occupied by food
5 and related products.

6
7 38. (New section) a. (1) There is established the Food Desert
8 Relief Program to be administered by the New Jersey Economic
9 Development Authority. The program shall include tax credit
10 components, as provided in sections 39 and 40 of P.L. ,
11 c. (C. and C.) (pending before the Legislature as this bill),
12 in order to incentivize businesses to establish and retain new
13 supermarkets and grocery stores in food desert communities.

14 (2) The total value of tax credits approved by the authority
15 pursuant to sections 39 and 40 of P.L. , c. (C. and C.)
16 (pending before the Legislature as this bill) shall not exceed the
17 limitations set forth in section 98 of P.L. , c. (C.) (pending
18 before the legislature as this bill)..

19 b. The authority, in consultation with the Department of
20 Agriculture and the Department of Community Affairs, shall initially
21 designate not more than 50 separate geographic areas that are most
22 in need of a supermarket or grocery store as food desert communities
23 in this State. The Department of Agriculture and the Department of
24 Community Affairs shall develop criteria for the designation of food
25 desert communities, but each separate food desert community shall
26 consist of a distinct geographic area with a single defined border.
27 The criteria shall, at a minimum, incorporate analysis of municipal
28 or census tract poverty statistics, food desert information from the
29 Economic Research Service of the United States Department of
30 Agriculture, and healthier food retail tract information from the
31 federal Centers for Disease Control and Prevention. The departments
32 may also consider data related to municipal or census tract population
33 size and population density in making food desert community
34 designations pursuant to this subsection. The authority, in
35 consultation with the departments, shall continuously evaluate areas
36 previously designated as food desert communities and assess whether
37 they still meet the criteria for designation as a food desert community
38 and may designate additional food desert communities once every
39 three years following the effective date of sections 35 through 42 of
40 P.L. , c. (C.) (pending before the Legislature as this bill).

41 c. To receive a tax credit under section 39 or 40 of P.L. ,
42 c. (C. or C.) (pending before the Legislature as this bill),
43 a taxpayer shall submit an application to the authority in the form and
44 manner prescribed by the authority and in accordance with criteria
45 established by the authority. Following the approval of an
46 application, the authority may, pursuant to an award agreement,
47 award tax credits to an eligible taxpayer that:

- 1 (1) develops and opens for business to the public the first or
2 second supermarket or grocery store in a designated food desert
3 community; or
- 4 (2) owns and operates the first or second supermarket or grocery
5 store in a designated food desert community.
- 6 d. (1) The authority may sell all or a portion of the tax credits
7 made available in a fiscal year pursuant to subsection a. of this
8 section and dedicate the proceeds from such sale to provide grants
9 and loans to qualifying supermarkets, grocery stores, mid-sized food
10 retailers, and small food retailers. The amount of any grant or loan
11 provided pursuant to this subsection shall be in accordance with the
12 need of the supermarket, grocery store, mid-sized food retailer, or
13 small food retailer, as determined by the authority. The authority
14 shall sell tax credits pursuant to this section in the manner determined
15 by the authority; provided, however, the authority shall not sell tax
16 credits for less than 85 percent of the tax credit amount. Grants and
17 loans made available pursuant to this subsection shall be awarded to
18 entities that:
- 19 (a) are eligible for tax credits under subsection c. of this section in
20 lieu of tax credits; or
- 21 (b) own and operate a mid-sized food retailer or small food retailer
22 that commits to selling nutritious foods, including fresh fruits and
23 vegetables, in a designated food desert community.
- 24 (2) A mid-sized food retailer or small food retailer shall submit
25 an application to the authority to receive a grant or loan pursuant to
26 this subsection. The application shall be submitted in the form and
27 manner prescribed by the authority and in accordance with criteria
28 established by the authority. An entity eligible for a grant or loan
29 under subparagraph (a) of paragraph (1) of this subsection shall not
30 be required to submit a separate application to the authority for the
31 grant or loan, provided that the entity has submitted an application to
32 the authority pursuant to subsection c. of this section.
- 33 (3) Prior to awarding a grant or loan to a mid-sized food retailer
34 or small food retailer pursuant to this subsection, the Department of
35 Labor and Workforce Development, the Department of
36 Environmental Protection, and the Department of the Treasury shall
37 each report to the chief executive officer of the authority whether a
38 qualifying mid-sized food retailer or small food retailer is in
39 substantial good standing with the respective department, or has
40 entered into an agreement with the respective department that
41 includes a practical corrective action plan for the mid-sized food
42 retailer or small food retailer. The authority may also contract with
43 an independent third party to perform a background check on the
44 entity.
- 45 (4) A mid-sized food retailer or small food retailer shall, as
46 required at the discretion of the authority, submit to the authority
47 satisfactory information pertaining to the eligible equipment costs
48 and eligible technology costs, as certified by a certified public

1 accountant, certifications that all information provided by the mid-
2 sized food retailer or small food retailer to the authority is true,
3 including information contained in the application, any agreement
4 pertaining to the award of grants or loans under the program, any
5 amendment to such an agreement, and any other information
6 submitted by the mid-sized food retailer or small food retailer to the
7 authority pursuant to sections 35 through 42 of P.L. , c. (C.)
8 (pending before the Legislature as this bill), and evidence of the
9 eligible equipment costs and eligible technology costs of the mid-
10 sized food retailer or small food retailer. The mid-sized food retailer
11 or small food retailer, or an authorized agent of the mid-sized food
12 retailer or small food retailer, shall certify under the penalty of
13 perjury that the information provided pursuant to this subsection is
14 true.

15 e. The authority may provide technical assistance to any entity
16 that is eligible for a tax credit, grant, or loan under this section. The
17 technical assistance shall provide instructions to qualifying
18 supermarkets, grocery stores, and mid-sized food retailer or small
19 food retailers concerning best practices increasing the accessibility
20 of nutritious foods in food desert communities. Technical assistance
21 shall be made available in English as well as the two most commonly
22 spoken languages in New Jersey other than English. At the discretion
23 of the authority, technical assistance may be provided in addition to,
24 or in lieu of, any tax credit, grant, or loan awarded under sections 35
25 through 42 of P.L. , c. (C.) (pending before the Legislature
26 as this bill).

27 f. (1) The authority shall require that any tax credits, grants,
28 or loans awarded by the authority under the program be utilized by
29 the recipient for one or more of the following purposes, which shall
30 be set forth in the award agreement:

31 (a) to mitigate a project financing gap;

32 (b) to mitigate the initial operating costs of the supermarket or
33 grocery store; or

34 (c) to mitigate the eligible equipment costs or eligible technology
35 costs of the mid-sized food retailer or small food retailer in order to
36 make nutritious foods more accessible and affordable to residents
37 within food deserts; or

38 (d) to support initiatives to ensure food security of residents in
39 food desert communities.

40 (2) The value of tax credits or grants awarded to individual
41 entities under the program shall not exceed:

42 (a) in the case of an entity eligible under paragraph (1) of
43 subsection c. of this section, 40 percent of the total project cost for
44 the first supermarket or grocery store in a designated food desert
45 community, and 20 percent of the total project cost for the second
46 supermarket or grocery store in the food desert community; and

47 (b) in the case of an entity eligible under paragraph (2) of
48 subsection c. of this section, the initial operating costs of the first

1 supermarket or grocery store in a designated food desert community,
2 and one-half of the initial operating costs of the second supermarket
3 or grocery store in the food desert community; and

4 (c) in the case of an entity eligible for a grant or loan under
5 subparagraph (b) of paragraph (1) of subsection d. of this section, the
6 eligible equipment costs and eligible technology costs of the mid-
7 sized food retailer or small food retailer.

8 g. An entity that develops and opens a new supermarket or
9 grocery store in a designated food desert community shall be eligible
10 for a tax credit only if the entity demonstrates to the authority at the
11 time of application that each worker employed to perform
12 construction at the project shall be paid not less than the prevailing
13 wage rate for the worker's craft or trade, as determined by the
14 Commissioner of Labor and Workforce Development pursuant to
15 P.L.1963, c.150 (C.34:11-56.25 et seq.) and P.L.2005, c.379
16 (C.34:11-56.58 et seq.).

17 h. (1) Except as provided in paragraph (2) of this subsection, a
18 labor harmony agreement shall be required if the State has a
19 proprietary interest in a supermarket or grocery store and the
20 agreement shall remain in effect for as long as the State acts as a
21 market participant in the project. The provisions of this paragraph
22 shall apply to a supermarket or grocery store that will have more than
23 10 employees.

24 (2) A labor harmony agreement under paragraph (1) of this
25 subsection shall not be required if the authority determines that the
26 supermarket or grocery store would not be feasible if a labor harmony
27 agreement is required. The authority shall support the determination
28 by a written finding, which provides the specific basis for the
29 determination.

30 (3) As used in this subsection, "labor harmony agreement" means
31 an agreement between a business that serves as the owner or operator
32 of a supermarket or grocery store and one or more labor
33 organizations, which requires, for the duration of the agreement: that
34 any participating labor organization and its members agree to refrain
35 from picketing, work stoppages, boycotts, or other economic
36 interference against the business; and that the business agrees to
37 maintain a neutral posture with respect to efforts of any participating
38 labor organization to represent employees at a supermarket or
39 grocery store, agrees to permit the labor organization to have access
40 to the employees, and agrees to guarantee to the labor organization
41 the right to obtain recognition as the exclusive collective bargaining
42 representatives of the employees at a supermarket or grocery store by
43 demonstrating to the New Jersey State Board of Mediation, Division
44 of Private Employment Dispute Settlement, or a mutually agreed-
45 upon, neutral, third-party, that a majority of workers in the unit have
46 shown their preference for the labor organization to be their
47 representative by signing authorization cards indicating that
48 preference. The labor organization or organizations shall be from a

1 list of labor organizations that have requested to be on the list and
2 that the Commissioner of Labor and Workforce Development has
3 determined represent substantial numbers of supermarket or grocery
4 store employees in the State.

5 i. The award agreement shall require that the recipient consent
6 to the disclosure of tax expenditure information as described in
7 paragraph (8) of subsection b. of section 1 of P.L.2009, c.189
8 (C.52:27B-20a). A recipient shall certify that all factual
9 representations made by the recipient in the application or award
10 agreement are true under the penalty of perjury. A material
11 misrepresentation of fact in either the application or award agreement
12 may result in recession and recapture of any grants or tax credits
13 awarded, or acceleration of any loans made, under sections 35
14 through 42 of P.L. , c. (C.) (pending before the Legislature
15 as this bill).

16

17 39. (New section) a. For privilege periods beginning on or after
18 January 1 next following the effective date of sections 25 through 42
19 of P.L. , c. (C.) (pending before the Legislature as this bill),
20 a taxpayer eligible under subsection c. of section 38 of P.L. ,
21 c. (C.) (pending before the Legislature as this bill) shall be
22 awarded a credit against the tax due pursuant to section 5 of
23 P.L.1945, c.162 (C.54:10A-5). A taxpayer that qualifies for the
24 award of a tax credit under this section may claim 25 percent of the
25 total amount awarded in the privilege period in which the taxpayer
26 establishes and opens the supermarket or grocery store for business,
27 and an additional 25 percent of the total amount awarded in each of
28 the three privilege periods next following the initial opening,
29 provided that the supermarket or grocery store remains in business
30 and open to the public. For a taxpayer to be allowed a tax credit
31 pursuant to this section, the taxpayer shall meet the requirements of
32 this section, and the rules and regulations adopted pursuant to section
33 41 of P.L. , c. (C.) (pending before the Legislature as this
34 bill).

35 b. The order of priority of the application of the credit allowed
36 pursuant to this section and any other credits allowed against the tax
37 imposed pursuant to section 5 of P.L.1945, c.162 (C.54:10A-5) for a
38 privilege period shall be as prescribed by the Director of the Division
39 of Taxation in the Department of the Treasury, in consultation with
40 the chief executive office of the authority. The amount of the credit
41 applied pursuant to this section against the tax imposed pursuant to
42 section 5 of P.L.1945, c.162 (C.54:10A-5), shall not reduce a
43 taxpayer's tax liability for a privilege period to an amount less than
44 the statutory minimum provided in subsection (e) of section 5 of
45 P.L.1945, c.162 (C.54:10A-5). Any credit shall be valid in the
46 privilege period in which the certification is approved and any unused
47 portion thereof may be carried forward into the next 10 privilege
48 periods or until exhausted, whichever is earlier.

1 c. The authority shall award tax credits to taxpayers until either
2 the available tax credits are exhausted or all projects that are eligible
3 for a tax credit pursuant to the provisions of sections 35 through 42
4 of P.L. , c. (C.) (pending before the Legislature as this bill)
5 receive a tax credit, whichever occurs first. If insufficient funding
6 exists to allow a tax credit to a taxpayer in accordance with the
7 provisions of subsection a. of section 38 of P.L. , c. (C.)
8 (pending before the Legislature as this bill), the authority may offer
9 the taxpayer a tax credit in an amount less than that provided in
10 subsection a. of this section.

11 d. Prior to awarding a tax credit to a supermarket or grocery
12 store, the Department of Labor and Workforce Development, the
13 Department of Environmental Protection, and the Department of the
14 Treasury shall each report to the chief executive officer of the
15 authority whether a qualifying supermarket or grocery store is in
16 substantial good standing with the respective department, or has
17 entered into an agreement with the respective department that
18 includes a practical corrective action plan for the supermarket or
19 grocery store. The authority may also contract with an independent
20 third party to perform a background check on the developer.

21 e. A supermarket or grocery store shall, as required at the
22 discretion of the authority, submit to the authority satisfactory
23 information pertaining to the project cost, project financing gap, and
24 the initial operating costs, as certified by a certified public
25 accountant, certifications that all information provided by the
26 supermarket or grocery store to the authority is true, including
27 information contained in the application, any agreement pertaining to
28 the award of tax credits under the program, any amendment to such
29 an agreement, and any other information submitted by the
30 supermarket or grocery store to the authority pursuant to sections 35
31 through 42 of P.L. , c. (C.) (pending before the Legislature
32 as this bill), and evidence of the initial opening and continued
33 operation of the supermarket or grocery store. The supermarket or
34 grocery store, or an authorized agent of the supermarket or grocery
35 store, shall certify under the penalty of perjury that the information
36 provided pursuant to this subsection is true.

37
38 40. (New section) a. For taxable years beginning on or after
39 January 1 next following the effective date of sections 35 through 42
40 of P.L. , c. (C.) (pending before the Legislature as this bill),
41 a taxpayer eligible under subsection c. of section 38 of P.L. ,
42 c. (C.) (pending before the Legislature as this bill) shall be
43 awarded a credit against the tax due pursuant to N.J.S.54A:1-1 et seq.
44 A taxpayer that qualifies for the award of a tax credit under this
45 section may claim 25 percent of the total amount awarded in the
46 taxable year in which the taxpayer establishes and opens the
47 supermarket or grocery store for business, and may claim 25 percent
48 of the total amount awarded in each of the three taxable years next

1 following the initial opening, provided that the supermarket or
2 grocery store remains in business and open to the public. For a
3 taxpayer to be awarded a tax credit pursuant to this section, the
4 taxpayer shall meet the requirements of this section, and the rules and
5 regulations adopted pursuant to section 41 of P.L. , c. (C.)
6 (pending before the Legislature as this bill).

7 b. The order of priority of the application of the credit allowed
8 pursuant to this section and any other credits allowed against the tax
9 imposed pursuant to N.J.S.54A:1-1 et seq. for a taxable year shall be
10 as prescribed by the Director of the Division of Taxation in the
11 Department of the Treasury, in consultation with the chief executive
12 officer of the authority. The amount of the credit applied pursuant to
13 this section against the tax imposed pursuant to N.J.S.54A:1-1 et seq.
14 shall not reduce a taxpayer's tax liability for a taxable year to an
15 amount less than zero. Any credit shall be valid in the taxable year in
16 which the certification is approved and any unused portion thereof
17 may be carried forward into the next 10 taxable years or until
18 depleted, whichever is earlier.

19 c. A business entity that is classified as a partnership for federal
20 income tax purposes shall not be allowed the credit directly under
21 N.J.S.54A:1-1 et seq., but the amount of credit of the taxpayer in
22 respect of a distributive share of partnership income shall be
23 determined by allocating to the taxpayer that proportion of the credit
24 acquired by the partnership that is equal to the taxpayer's share,
25 whether or not distributed, of the total distributive income or gain of
26 the partnership for its taxable year ending within or with the
27 taxpayer's taxable year.

28 A taxpayer that is a New Jersey S corporation shall not be allowed
29 the credit directly under N.J.S.54A:1-1 et seq., but the amount of
30 credit of a taxpayer in respect of a pro rata share of S corporation
31 income shall be determined by allocating to the taxpayer that
32 proportion of the credit acquired by the New Jersey S corporation
33 that is equal to the taxpayer's share, whether or not distributed, of the
34 total pro rata share of S corporation income of the New Jersey S
35 corporation for its taxable year ending within or with the taxpayer's
36 taxable year.

37 d. The authority shall award tax credits to taxpayers until either
38 the available tax credits are exhausted or all projects that are eligible
39 for a tax credit pursuant to the provisions of sections 35 through 42
40 of P.L. , c. (C.) (pending before the Legislature as this bill)
41 receive a tax credit, whichever occurs first. If insufficient funding
42 exists to allow a tax credit to a taxpayer in accordance with the
43 provisions of subsection a. of section 38 of P.L. , c. (C.)
44 (pending before the Legislature as this bill), the authority may offer
45 the taxpayer a tax credit in an amount less than that provided in
46 subsection a. of this section 40.

47 e. Prior to awarding a tax credit to a supermarket or grocery
48 store, the Department of Labor and Workforce Development, the

1 Department of Environmental Protection, and the Department of the
2 Treasury shall each report to the chief executive officer of the
3 authority whether a qualifying supermarket or grocery store, and each
4 contractor and subcontractor performing construction work at the
5 qualifying supermarket or grocery store, is in substantial good
6 standing with the respective department, or has entered into an
7 agreement with the respective department that includes a practical
8 corrective action plan. The authority may also contract with an
9 independent third party to perform a background check on the
10 developer.

11 f. A supermarket or grocery store shall, as required at the
12 discretion of the authority, submit to the authority satisfactory
13 information pertaining to the project cost, project financing gap, and
14 the initial operating costs, as certified by a certified public
15 accountant, certifications that all information provided by the
16 supermarket or grocery store to the authority is true, including
17 information contained in the application, any agreement pertaining to
18 the award of tax credits under the program, any amendment to such
19 an agreement, and any other information submitted by the
20 supermarket or grocery store to the authority pursuant to sections 35
21 through 42 of P.L. , c. (C.) (pending before the Legislature
22 as this bill), and evidence of the initial opening and continued
23 operation of the supermarket or grocery store. The supermarket or
24 grocery store, or an authorized agent of the supermarket or grocery
25 store, shall certify under the penalty of perjury that the information
26 provided pursuant to this subsection is true.

27

28 41. (New section) The authority, in consultation with the
29 department and the Director of the Division of Taxation in the
30 Department of the Treasury, shall adopt, pursuant to the
31 "Administrative Procedure Act," P.L.1968, c.410 (C.52:14B-1 et
32 seq.), rules and regulations necessary to carry out the provisions of
33 sections 35 through 42 of P.L. , c. (C.) (pending before the
34 Legislature as this bill).

35

36 42. (New section) Within one year of the effective date of
37 sections 35 through 42 of P.L. , c. (C.) (pending before the
38 Legislature as this bill), the authority shall annually submit a report
39 to the Governor, the State Treasurer, and, pursuant to section 2 of
40 P.L.1991, c.164 (C.52:14-19.1), the Legislature, on the effectiveness
41 of the program in establishing supermarkets and grocery stores in
42 food desert communities.

43

44 43. (New section) Sections 43 through 53 of P.L. , c. (C.)
45 (pending before the Legislature as this bill) shall be known and may
46 be cited as the "New Jersey Community-Anchored Development
47 Act."

1 44. (New section) The purpose of the New Jersey Community-
2 Anchored Development Act is for the New Jersey Economic
3 Development Authority to facilitate, in partnership with the State's
4 key not-for-profit and governmental anchor institutions, large-scale
5 development projects with desirable employment and geographical
6 characteristics that are to impact a broader community. The
7 Legislature finds that where a broad commonality of goals exists
8 between anchor institutions and the State, the authority can
9 effectively utilize anchor institutions as investors in, and additional
10 overseers of, projects that the authority seeks to incentivize. Under
11 the legislation, anchor institutions in the areas of education, health
12 care, culture, community development, and economic development
13 are provided with the opportunity to act as investors in targeted
14 development, utilizing proceeds from the sale of State tax credits.
15 This approach harnesses the deep experience of the numerous anchor
16 institutions in the State, institutions that enjoy decades-long
17 relationships with communities around the State, making them ideal
18 partners for companies wanting to come to or expand in New Jersey.

19 This legislation seeks to overcome cost-of-occupancy differences
20 between New Jersey and less expensive options in other jurisdictions
21 for specific properties by reducing the cost of occupancy being
22 offered to a targeted company. This legislation represents a shift in
23 State economic development policy from a grant model to an
24 investment model, differing significantly from past award models in
25 that the legislation does not provide a certain dollar amount to private
26 employers based on the number and types of jobs being created or
27 preserved in the State.

28 The legislation affords an opportunity for an anchor institution and
29 the authority to become partners in a project, with the authority
30 receiving a negotiated current or deferred economic return on the tax
31 credit investment made by the anchor institution and ultimately the
32 return of the amount initially invested. Through a competitive
33 application process to the authority, a real estate partnership between
34 an anchor institution and a partner business will make its case for an
35 amount of tax credits necessary for that project to be able to establish
36 occupancy costs at a competitive level.

37 By its inclusion of designated federal opportunity zones and areas
38 eligible to be designated as federal opportunity zones as a separate
39 basis for projects to receive tax credits, the legislation seeks to
40 incentivize anchor institutions to look beyond the borders of their
41 host communities, permitting them to invest in other locales that lack
42 strong anchor institutions, thus expanding their influence and impact
43 by doing so. Simultaneously, such investments will further the
44 objectives of the State in attracting high-value employers and in
45 providing economic stimulus to areas of the State that prior
46 investment cycles have overlooked. The legislation is also expansive
47 enough to permit the addition of other beneficial uses to a qualifying

1 project; including housing, public amenities, parking, mixed uses,
2 and facilities of an anchor institution itself.

3 The tax credits issued by the authority to an applicant anchor
4 institution are to be issued pursuant to a tax credit agreement that sets
5 forth negotiated terms on which the authority has agreed to issue the
6 credits. The tax credit agreement is to include standards relating to
7 the anticipated economic results of the community-anchored project
8 and address accountability in the event that the community-anchored
9 project fails to meet the requirements specified in the tax credit
10 agreement.

11 The Legislature declares that two principal objectives underscore
12 the policy approach of this legislation: first, an incentive program
13 cannot succeed as a one-size-fits-all structure, and therefore an award
14 of tax credits is to be thoroughly underwritten by the authority and
15 specifically designed for scenarios in which the authority finds that
16 the award will be effective; and second, the State is better served
17 where the State's financial support is characterized and treated as an
18 investment rather than an explicit grant.

19

20 45. (New section) As used in sections 43 through 53 of P.L. ,
21 c. (C.) (pending before the Legislature as this bill):

22 "Affiliate" means an entity that directly or indirectly controls, is
23 under common control with, or is controlled by an anchor institution
24 or a partner business. Control exists in all cases in which the entity
25 is a member of a controlled group of corporations as defined pursuant
26 to section 1563 of the federal Internal Revenue Code (26 U.S.C.
27 s.1563) or the entity is an organization in a group of organizations
28 under common control that is subject to the regulations applicable to
29 organizations pursuant to subsection (b) or (c) of section 414 of the
30 federal Internal Revenue Code (26 U.S.C. s.414). A taxpayer may
31 establish by clear and convincing evidence, as determined by the
32 Director of the Division of Taxation in the Department of the
33 Treasury, that control exists in situations involving lesser
34 percentages of ownership than required by the above referenced
35 federal statutes.

36 "Anchor institution" means a governmental entity or nonprofit
37 entity incorporated pursuant to Title 15 of the Revised Statutes or
38 Title 15A of the New Jersey Statutes having a primary mission and
39 specific policy goals that align with those of the authority under the
40 program and that is a comprehensive health care system, a public
41 research university, a private research university, a major cultural
42 scientific, research and philanthropic institutions, or public colleges
43 which are separate from public research universities, certified as an
44 anchor institution by the board pursuant to subsection a. of section
45 46 of P.L. , c. (C.) (pending before the Legislature as this
46 bill).

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

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

4 "Commitment period" means the period of time, which shall be
5 not less than 10 years and no greater than twice the eligibility period
6 that is granted to an anchor institution, to distribute to the authority
7 the agreed upon returns on investment for the award of tax credits
8 pursuant to the program; provided, however, at the election of the
9 authority or upon the request of an anchor institution in order to
10 benefit the community-anchored project, and as determined in the
11 sole discretion of the authority, the authority may grant up to two
12 consecutive five-year extensions of the commitment period.

13 "Community-anchored project" means a capital project that is
14 located in an area that is designated as a New Jersey State opportunity
15 zone, an area of the State designated pursuant to the "State Planning
16 Act," P.L.1985, c.398 (C.52:18A-196 et seq.), as Planning Area 1
17 (Metropolitan), or a municipality with a Municipal Revitalization
18 Index distress score of at least 50 and for which an anchor institution
19 is to be awarded tax credits by the authority pursuant to a tax credit
20 agreement which establishes the award of tax credits as an investment
21 by the authority in the project, provided that the project will result in
22 a capital investment of at least \$10,000,000 in a New Jersey State
23 opportunity zone or in any other area of the State, but a project that
24 is not located in a New Jersey State opportunity zone is to be
25 primarily designed to result in the economic expansion of a targeted
26 industry in this State.

27 "Comprehensive health care system" means an entity in this State
28 with the primary purpose of offering comprehensive health care
29 services. "Comprehensive health care system" shall not include any
30 business that manages or offers one or more health benefits plans.

31 "Comprehensive health care services" means the basic health care
32 services provided under a health benefits plan, including medical and
33 surgical services provided by licensed health care providers who may
34 include, but are not limited to, family physicians, internists,
35 cardiologists, psychiatrists, rheumatologists, dermatologists,
36 orthopedists, obstetricians, gynecologists, neurologists,
37 endocrinologists, radiologists, nephrologists, emergency services
38 physicians, ophthalmologists, pediatricians, pathologists, general
39 surgeons, osteopathic physicians, physical therapists and
40 chiropractors. Basic benefits may also include inpatient or outpatient
41 services rendered at a licensed hospital, covered services performed
42 at an ambulatory surgical facility, and ambulance services.
43 "Comprehensive health care services" shall include only services
44 provided by licensed health care providers.

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

47 "Eligibility period" means the period in which an anchor
48 institution may claim, sell, transfer, or otherwise use a tax credit

1 under the New Jersey Community-Anchored Development Program,
2 beginning with the tax period in which the authority accepts
3 certification of the business that it has met the capital investment
4 requirements of the program and extending thereafter for a term of
5 not more than 10 years.

6 "Eligible position" means a full-time position in a business in this
7 State which the business has filled with a full-time employee. An
8 eligible position shall not include an independent contractor or a
9 consultant.

10 "Experienced nonprofit or governmental economic or community
11 development entity" means a nonprofit entity incorporated pursuant
12 to Title 15 of the Revised Statutes or Title 15A of the New Jersey
13 Statutes that has a core mission and a community track record of
14 advancing economic or community development in at least one area
15 of the State and that has appropriate prior experience in successfully
16 developing mixed-use projects and utilizing complex financing
17 arrangements in developing similar types of projects, as determined
18 by the board.

19 "Major cultural institution" means a public or nonsectarian
20 nonprofit institution within this State that engages in the cultural,
21 intellectual, scientific, environmental, educational, or artistic
22 enrichment of the people of this State, and which is designated by the
23 board as a major cultural institution.

24 "New full-time job" means an eligible position created by an
25 anchor institution or a partner business at the community-anchored
26 project that did not previously exist in this State. For the purposes of
27 determining a number of new full-time jobs, the eligible positions of
28 an affiliate shall be considered eligible positions of the business.

29 "New Jersey State opportunity zone" means a federal population
30 census tract in this State that was eligible to be designated as a
31 qualified opportunity zone pursuant to 26 U.S.C. s.1400Z-1.

32 "Partner business" means a corporation, partnership, firm,
33 enterprise, franchise, association, trust, sole proprietorship, or other
34 legal entity, but shall not include a public entity that enters into an
35 agreement with an anchor institution to rent and occupy commercial
36 space within a community-anchored project. Under the program a
37 partner business, subject to agreement with the anchor institution,
38 may lease one or more portions of the partner business's space in the
39 community-anchored project to one or more other persons or entities.

40 "Private research university" means Princeton University and any
41 other institution of higher education in this State designated by the
42 board as a private research university, based on criteria and metrics
43 established by the board.

44 "Program" means the New Jersey Community-Anchored
45 Development Program established pursuant to section 46 of P.L. ,
46 c. (C.) (pending before the Legislature as this bill).

1 "Public research university" means Rutgers, The State University
2 of New Jersey, Rowan University, the New Jersey Institute of
3 Technology, and Montclair State University.

4 "Qualified business accelerator or incubator facility" means a
5 commercial space that contains office, laboratory, or industrial space
6 and which is located near, and presents opportunities for
7 collaboration with, a public research university, a private research
8 university, teaching hospital, college, or university, and within which
9 at least 50 percent of the gross leasable area is restricted for use by
10 one or more targeted industry start-up companies during the
11 commitment period.

12 "Targeted industry" means any industry identified from time to
13 time by the authority which shall initially include advanced
14 transportation and logistics, advanced manufacturing, aviation,
15 autonomous vehicle and zero-emission vehicle research or
16 development, clean energy, life sciences, hemp processing,
17 information and high technology, finance and insurance, professional
18 services, film and digital media, and non-retail food and beverage
19 businesses, including food innovation and other innovative industries
20 that disrupt current technologies or business models.

21 "Tax credit agreement" means a tax credit agreement entered into
22 pursuant to section 50 of P.L. , c. (C.) (pending before the
23 Legislature as this bill) between the authority and an anchor
24 institution.

25 "Work First New Jersey program" means the Work First New
26 Jersey program established pursuant to P.L.1997, c. 38 (C.44:10-55
27 et seq.).

28
29 46. (New section) a. The New Jersey Community-Anchored
30 Development Program is established as a program under the
31 jurisdiction of the New Jersey Economic Development Authority.
32 The authority shall administer the program to invest in and
33 incentivize the expansion of targeted industries in the State and the
34 continued development of certain areas of the State through the
35 provision of tax credits to anchor institutions. The board shall certify
36 qualified anchor institutions based on the requirements of sections 43
37 through 53 of P.L. , c. (C.) (pending before the Legislature
38 as this bill), and may approve the award of a tax credit to an anchor
39 institution pursuant to sections 47 and 48 of P.L. , c. (C. and
40 C.) (pending before the Legislature as this bill). The value of
41 all tax credits approved by the authority to anchor institutions under
42 the program shall be subject to the limitations set forth in section 98
43 of P.L. , c. (C.) (pending before the Legislature as this bill).

44 b. (1) The authority shall administer the program to invest
45 in, and incentivize the establishment of, community-anchored
46 projects by anchor institutions, independently or in collaboration
47 with one or more partner businesses or governmental entities. The

1 authority's investment in community-anchored projects shall be in
2 the form of the award of tax credits to anchor institutions.

3 (2) (a) The authority may award a tax credit to an anchor
4 institution under the program, which the anchor institution shall
5 convert into an investment by the authority in a community-anchored
6 project, subject to the condition that the anchor institution either sell
7 and transfer the tax credit, or adopt a plan to use the tax credit in
8 order to finance the completion of the community-anchored project,
9 which condition shall be included in the tax credit agreement entered
10 into pursuant to section 50 of P.L. , c. (C.) (pending before
11 the Legislature as this bill). An anchor institution receiving tax
12 credits under the program shall use the proceeds derived from the
13 sale or financing of the tax credits to make an equity investment in
14 or to provide a loan or other financial support for the community-
15 anchored project that will permit the anchor institution, and, if
16 applicable, a partner business, to develop the community-anchored
17 project and to attract tenants, owners, investors, lenders, partners,
18 collaborators, and other beneficial parties to the community-
19 anchored project. A tax credit agreement, entered into pursuant to
20 section 50 P.L. , c. (C.) (pending before the Legislature as
21 this bill) shall detail the terms by which an anchor institution will
22 convert the award of tax credits into an investment by the authority
23 into the community-anchored project, subject to potential returns on
24 investment to the authority based on an agreed-upon formula for the
25 distribution of returns, including upon the sale of a community-
26 anchored project or at the end of the commitment period. For
27 community-anchored projects financed solely by governmental and
28 nonprofit entity investments, the authority shall negotiate an agreed
29 upon formula which shall include, but not be limited to, the potential
30 recapture of the value of the tax credits awarded. For community-
31 anchored projects that are not financed solely by governmental and
32 nonprofit entity investments, the authority shall negotiate an agreed
33 upon formula which shall include, but not be limited to, the potential
34 recapture of the value of the tax credits awarded and additional
35 returns on investment. The tax credit agreement shall, however,
36 specify that the authority's interest in the community-anchored
37 project shall be subordinate to the investments made by an anchor
38 institution and partner businesses. References to investments and
39 returns in sections 43 through 53 of P.L. , c. (C.) (pending
40 before the Legislature as this bill) shall also include loans and other
41 financial support and their corresponding returns.

42 (b) Consistent with an applicable tax credit agreement, a tax
43 credit awarded to an anchor institution for conversion into an
44 authority investment, as provided pursuant to subparagraph (a) of this
45 paragraph, may be applied against tax liability otherwise due
46 pursuant to section 5 of P.L.1945, c.162 (C.54:10A-5), pursuant to
47 sections 2 and 3 of P.L.1945, c.132 (C.54:18A-2 and C.54:18A-3),

1 pursuant to section 1 of P.L.1950, c.231 (C.17:32-15), or pursuant to
2 N.J.S.17B:23-5.

3 (3) The authority shall develop protocols for assumptions testing
4 relating to projected and actual returns on investment under the
5 program and regularly analyze the returns on investment received by
6 the authority under the program, and shall evaluate future
7 applications and projections considering the results of the
8 assumptions testing and analysis.

9 c. The authority shall engage in program evaluation and
10 assumptions testing to ensure that the authority at least recaptures the
11 value of the tax credits awarded to all anchor institutions and realizes
12 additional returns on investment under the program; provided,
13 however, that for community-anchored projects financed solely by
14 governmental and nonprofit entity investments, the authority may
15 negotiate a potential return on investment, the calculation of which
16 would include, but not be limited to, recapture of the value of the tax
17 credits awarded for those community-anchored projects financed
18 solely by governmental and nonprofit entities.

19 d. Any funds distributed to the authority as a return on
20 investment pursuant to the program shall be deposited into the
21 General Fund of the State.

22

23 47. (New section) a. An anchor institution shall be eligible to
24 receive a tax credit under the program only if the anchor institution
25 submits a program application to the authority that results in
26 completion of a community-anchored project through a capital
27 investment in a New Jersey State opportunity zone or, if the
28 community-anchored project is primarily designed to result in the
29 economic expansion of a targeted industry in this State, in an area of
30 the State designated pursuant to the "State Planning Act," P.L.1985,
31 c.398 (C.52:18A-196 et seq.), as Planning Area 1 (Metropolitan) or
32 in a municipality with a Municipal Revitalization Index distress score
33 of at least 50.

34 b. At the time of application, an anchor institution seeking tax
35 credits pursuant to the program shall demonstrate to the authority:

36 (1) that the proposed community-anchored project will result in a
37 capital investment in a New Jersey State opportunity zone or, if the
38 project is primarily designed to result in the economic expansion of
39 a targeted industry in this State, in an area of the State designated
40 pursuant to the "State Planning Act," P.L.1985, c.398 (C.52:18A-196
41 et seq.), as Planning Area 1 (Metropolitan) or in a municipality with
42 a Municipal Revitalization Index distress score of at least 50;

43 (2) the structure and terms of the financial, corporate, and real
44 estate instruments to be utilized to successfully complete and then
45 operate the community-anchored project, including, but not limited
46 to, the proposed economic and business relationship between the
47 anchor institution and any partner business;

- 1 (3) that the anchor institution, along with any partner business
2 participating in a community-anchored project, has not commenced
3 any construction at the site of the community-anchored project prior
4 to submitting an application, unless the authority determines that the
5 community-anchored project would not be completed otherwise or,
6 in the event the community-anchored project is to be undertaken in
7 phases, the requested tax credit covers only phases for which
8 construction has not yet commenced;
- 9 (4) the value of the tax credit that is necessary in each year of the
10 eligibility period, in order for the anchor institution to finance the
11 establishment of the community-anchored project;
- 12 (5) the total aggregate value of the tax credit for the entire
13 eligibility period that is necessary in order for the anchor institution
14 to finance the establishment of the community-anchored project;
- 15 (6) that the award of tax credits under the program will be
16 converted into an investment by the authority into the community-
17 anchored project, and demonstrate to the authority the anticipated
18 current and deferred returns, as applicable, on that investment;
- 19 (7) that the community-anchored project shall comply with the
20 standards established by the authority through regulation based on
21 the green building manual prepared by the Commissioner of
22 Community Affairs pursuant to section 1 of P.L.2007, c. 132
23 (C.52:27D-130.6), regarding the use of renewable energy, energy-
24 efficient technology, and non-renewable resources in order to reduce
25 environmental degradation and encourage long-term cost reduction;
- 26 (8) that the community-anchored project shall comply with the
27 authority's affirmative action requirements, adopted pursuant to
28 section 4 of P.L.1979, c.303 (C.34:1B-5.4);
- 29 (9) a description of the significant economic, social, planning,
30 employment, environmental, fiscal, and other benefits that would
31 accrue to the State, county, or municipality from the community-
32 anchored project;
- 33 (10) that each worker and subcontractor working on construction
34 of the community-anchored project prior to the start of the eligibility
35 period shall be paid not less than \$15 per hour or 120 percent of the
36 minimum wage fixed under subsection a. of section 5 of P.L.1966,
37 c.113 (C.34:11-56a4), whichever is higher;
- 38 (11) that during the eligibility period, each worker employed to
39 perform construction work and building services work at the
40 community-anchored project shall be paid not less than the prevailing
41 wage rate for the worker's craft or trade, as determined by the
42 Commissioner of Labor and Workforce Development pursuant to
43 P.L.1963, c.150 (C.34:11-56.25 et seq.) and P.L.2005, c.379
44 (C.34:11-56.58 et seq.). In the event the community-anchored
45 project constitutes a lease of more than 55 percent of a single facility,
46 these requirements shall apply to the entire facility;
- 47 (12) that during the eligibility period, the anchor institution shall
48 partner with one or more local community organizations that provide

1 support and services to Work First New Jersey program recipients, in
2 order to provide work activity opportunities and other appropriate
3 services to Work First New Jersey program recipients, which
4 activities and services may include, but shall not be limited to: work-
5 study programs, internships, sector-based contextualized literacy
6 training, skills-based training in growth industries in the State, and
7 job retention and advancement services;

8 (13) the extent to which the community-anchored development
9 will result in the expansion of a targeted industry in this State;

10 (14) that the timing of the award and investment of tax credits
11 under the program shall allow for the successful completion and
12 operation of the community-anchored project; and

13 (15) that the community-anchored project is viable and that the
14 anchor institution is a credible partner for completing the
15 community-anchored project and providing the agreed-upon
16 potential returns to the authority, as detailed in the tax credit
17 agreement entered into pursuant to section 50 of P.L. , c. (C.)
18 (pending before the Legislature as this bill).

19 c. Prior to the board considering an application submitted by an
20 anchor institution, the Department of Labor and Workforce
21 Development, the Department of Environmental Protection, and the
22 Department of the Treasury shall each report to the chief executive
23 officer of the authority whether the anchor institution and any partner
24 business is in substantial good standing with the respective
25 department, or has entered into an agreement with the respective
26 department that includes a practical corrective action plan anchor
27 institution or partner business. The authority may also contract with
28 an independent third party to perform a background check on an
29 anchor institution and any partner business.

30 d. In order to facilitate the creation of new partnerships with
31 anchor institutions, the authority shall publish on the authority's
32 website a list of names and contact information for each anchor
33 institution that has submitted an application pursuant to this section.
34

35 48. (New section) a. Prior to March 1, 2027, an anchor
36 institution seeking a tax credit pursuant to the program shall submit
37 an application to the authority in a form and manner prescribed in
38 regulations adopted by the authority pursuant to the provisions of the
39 "Administrative Procedure Act," P.L.1968, c.410 (C.52:14B-1 et
40 seq.). The authority shall accept and certify applications for tax
41 credits during the award rounds established pursuant to section 49 of
42 P.L. , c. (C.) (pending before the Legislature as this bill).

43 b. The authority shall not consider an application for a
44 community-anchored project unless the anchor institution submits,
45 with the application, a letter evidencing support for the community-
46 anchored project from the governing body of the municipality in
47 which the community-anchored project is located.

1 c. The authority shall review the project costs for a proposed
2 community-anchored project and evaluate and validate the
3 underlying financial structure proposed by the anchor institution.
4 The authority shall conduct a State fiscal impact analysis to ensure
5 that the overall value of tax credits provided to the community-
6 anchored project is projected to result in net benefits to the State,
7 taking into account the current and deferred returns to the authority.
8 The authority shall assess the cost of these reviews to the applicant.
9 An anchor institution shall pay to the authority the full amount of the
10 direct costs of an analysis concerning the anchor institution's
11 application for tax credits that a third party retained by the authority
12 performs, if the authority deems such retention to be necessary.

13 d. If at any time during the eligibility period the authority
14 determines that an anchor institution made a material
15 misrepresentation on the program application, the anchor institution
16 shall forfeit or repay to the authority the value of tax credits
17 associated with that application.
18

19 49. (New section) a. The authority shall award tax credits
20 under the program through a competitive application process
21 consisting of up to two award rounds each year. The authority shall
22 provide notice to the public of the opening and closing dates for
23 submission of program applications on the authority's Internet
24 website.

25 b. (1) The authority shall review applications for tax credits
26 submitted to the authority by the deadline date of the award round
27 and shall evaluate each application as if it were received on the
28 deadline date, without providing any preference for early
29 submissions. To determine priority for an award of a tax credit, all
30 applications for community-anchored projects that satisfy the criteria
31 set forth in sections 47 and 48 of P.L. , c. (C. and)
32 (pending before the Legislature as this bill) in a given award round
33 shall be ranked on the basis of a scoring system developed by the
34 authority through regulations adopted pursuant to the provisions of
35 the "Administrative Procedure Act," P.L.1968, c.410 (C.52:14B-1 et
36 seq.). Prior to the commencement of an award round, the authority
37 shall determine the minimum score for the award round that an
38 anchor institution is required to attain to be eligible for a tax credit.

39 (2) The authority may establish different criteria for community-
40 anchored projects that are located in a New Jersey State opportunity
41 zone and community-anchored projects that are primarily designed
42 to result in the economic expansion of a targeted industry in this
43 State.

44 c. The scoring system developed by the authority pursuant to
45 subsection b. of this section shall assess applications for tax credits
46 based on the following competitive criteria, which shall include, but
47 shall not be limited to:

- 1 (1) the amount of tax credit requested by the anchor institution
2 compared to the overall investments required for the completion of
3 the community-anchored project, along with the amount of the
4 potential return on the authority's investment of tax credits to the
5 State by the end of the commitment period, the amount of the tax
6 credit, if any, that is unlikely to be realized as a return on investment
7 to the State, and the proposed terms and structure for the authority's
8 investment in the project, including applicable current and deferred
9 returns;
- 10 (2) the financial benefit of the community-anchored project to the
11 community in which the community-anchored project will be
12 located;
- 13 (3) apprenticeships or workforce programs to be offered because
14 of the community-anchored project;
- 15 (4) the ability of the community-anchored project to absorb and
16 adapt to changing environmental conditions and deliver its
17 objectives;
- 18 (5) how the community-anchored project will advance State,
19 regional, and local development and planning strategies;
- 20 (6) the relationship of the community-anchored project to a
21 comprehensive local development strategy, including its relation to
22 other development and redevelopment projects in the municipality;
- 23 (7) the degree to which the community-anchored project
24 enhances and promotes job creation and economic development;
- 25 (8) the extent of economic and related social distress in the
26 municipality and the immediate area surrounding the community-
27 anchored project;
- 28 (9) the extent to which the community-anchored project provides
29 for the development of workforce housing and housing for
30 individuals with special needs;
- 31 (10) the extent to which the community-anchored project
32 constitutes the expansion of the anchor institution to different areas
33 of the State;
- 34 (11) the extent to which the community-anchored project provides
35 for infrastructure, parking, retail, green space, or other public
36 amenities creating a mixed-use community-anchored project;
- 37 (12) the inclusion of a qualified business accelerator or incubator
38 facility as a part of the community-anchored project;
- 39 (13) the length of the commitment period for the community-
40 anchored project;
- 41 (14) the quality and number of new full-time jobs that will be
42 created by the anchor institution or a partner business at the
43 community-anchored project;
- 44 (15) the quality and number of existing full-time jobs that will be
45 retained by the anchor institution or a partner business in the State as
46 a result of completing the community-anchored project, with the
47 criteria specifying, in scoring the application, that the retention of an

1 existing full-time job shall be given not more than one-third the
2 weight of a new full-time job of a similar quality; and

3 (16) if the anchor institution has a board of directors, the extent to
4 which that board of directors is diverse and representative of the
5 community in which the community-anchored project is located.

6 d. Notwithstanding the provisions of subsection c. of this
7 section, the authority may adopt, pursuant to the provisions of the
8 "Administrative Procedure Act," P.L.1968, c.410 (C.52:14B-1 et
9 seq.), rules and regulations adjusting competitive criteria required
10 under the program when necessary to respond to the prevailing
11 economic conditions in the State.

12 e. Prior to the award of a tax credit to an anchor institution, to
13 be converted into an authority investment in a community-anchored
14 project, the Department of Labor and Workforce Development, the
15 Department of Environmental Protection, and the Department of the
16 Treasury shall each report to the chief executive officer of the
17 authority as to whether the anchor institution, along with any partner
18 business identified in a program application, and each contractor and
19 subcontractor performing work at the community-anchored project,
20 is in substantial good standing with the respective department, or has
21 entered into an agreement with the respective department that
22 includes a practical corrective action plan. Provided that all parties
23 are in substantial good standing, or have entered into such an
24 agreement, the authority shall allocate tax credits to community-
25 anchored projects according to the community-anchored project's
26 score and until either the available tax credits are exhausted or all
27 community-anchored projects obtaining the minimum score receive
28 a tax credit, whichever occurs first. If insufficient funding exists to
29 fully fund all eligible community-anchored projects, a community-
30 anchored project may be offered partial funding.

31 f. Applications that do not receive the minimum score
32 established by the authority for that award round shall not receive
33 further consideration for a tax credit by the authority in that award
34 round; however, an anchor institution may revise or complete a new
35 application to be submitted in a subsequent award round.

36 g. If an anchor institution declines a tax credit offered by the
37 authority, the authority shall offer the tax credit to the applicant with
38 the application having the next highest score, and having obtained at
39 least the minimum score in that award round.

40

41 50. (New section) a. Following approval and selection of an
42 application pursuant to sections 48 and 49 of P.L. , c. (C.)
43 (pending before the Legislature as this bill), the authority shall enter
44 into a tax credit agreement with the anchor institution. The chief
45 executive officer of the authority shall negotiate the terms and
46 conditions of the tax credit agreement on behalf of the State.

47 b. (1) A tax credit agreement shall specify the amount of the
48 tax credit that the authority shall award to the anchor institution for

1 conversion into an authority investment and specify the duration of
2 the eligibility period, which shall not exceed 10 years. The tax credit
3 agreement shall provide an estimated date of completion for the
4 community-anchored project and include a requirement for periodic
5 progress reports through completion, including the submittal of
6 executed financing commitments and documents or agreements that
7 evidence site control.

8 (2) If, as a result of a default under the tax credit agreement, the
9 authority rescinds a tax credit in the same calendar year in which the
10 authority approved the tax credit, then the authority may assign the
11 tax credit to another applicant that attained the minimum score
12 determined pursuant to section 49 of P.L. , c. (C.) (pending
13 before the Legislature as this bill).

14 c. The terms of the tax credit agreement shall:

15 (1) provide for a verification of project financing at the time the
16 anchor institution and any partner business provides executed
17 financing commitments to the authority and a verification of the
18 anchor institution's projected cash flow at the time of certification
19 that the project is completed;

20 (2) specify the length of the commitment period for the
21 community-anchored project and the terms by which the anchor
22 institution shall provide to the authority current or deferred returns
23 on investment generated by the community-anchored project and
24 commit to a structure for returns on investment;

25 (3) allow the anchor institution to distribute returns on investment
26 to the authority for the tax credits in the amount specified in the tax
27 credit agreement at any time within the commitment period, but
28 require such distribution to occur if the community-anchored project
29 is sold before the end of the commitment period;

30 (4) specify amounts of returns to be retained by the anchor
31 institution for capital reserves, programming, or other purposes;

32 (5) identify the value of any monetary or financial benefit offered
33 or provided by the anchor institution to any partner business that
34 works with the anchor institution to complete and operate the
35 community-anchored project;

36 (6) identify any benefits created by the anchor institution for a
37 partner business through equity investment in or debt-financing of a
38 community-anchored project and specify the formula by which such
39 benefits are passed through to a partner business;

40 (7) specify that the authority or the State may purchase tax credits
41 offered for sale by an anchor institution for 90 percent of the stated
42 value of the tax credit before considering any further discounting to
43 present value which shall be permitted;

44 (8) at a minimum, require an anchor institution to provide
45 oversight of the community-anchored project through ongoing
46 reporting by a partner business to the anchor institution, and
47 subsequent ongoing reporting by the anchor institution to the
48 authority;

1 (9) specify other measures through which the authority shall
2 ensure oversight of outstanding tax credit investments, and, in the
3 event that an anchor institution fails to meet its obligations under the
4 tax credit agreement or any program requirement, establish the right
5 of the authority to assume direct oversight of any or all projects for
6 which the anchor institution has entered into investment agreements
7 and require the anchor institution to pursue any remedies it may have
8 against a partner business;

9 (10) at a minimum, require that the anchor institution, and any
10 partner businesses, adopt specific nondiscrimination policies for the
11 operation of a community-anchored project; and

12 (11) require that any partner business of an anchor institution
13 consent to the disclosure of tax expenditure information as described
14 in paragraph (8) of subsection b. of section 1 of P.L.2009, c.189
15 (C.52:27B-20a).

16 d. The tax credit agreement shall include a requirement that the
17 chief executive officer of the authority receive annual reports from
18 the anchor institution that are to include separate certifications by the
19 Department of Environmental Protection, the Department of Labor
20 and Workforce Development, and the Department of the Treasury
21 demonstrating that the anchor institution, any partner business, and
22 each contractor and subcontractor performing work at the
23 community-anchored project is in substantial good standing with that
24 department, or have entered into an agreement with that department
25 that includes a corrective action plan, and the tax credit agreement
26 shall include a provision that the anchor institution shall forfeit the
27 tax credit in any year in which an uncured default exists under the tax
28 credit agreement. The tax credit agreement shall, however, allow the
29 authority to extend, in individual cases, the deadline for any annual
30 reporting or certification requirement.

31 e. An anchor institution shall, as required at the discretion of the
32 authority, submit to the authority satisfactory evidence of actual
33 project costs, as certified by a certified public accountant, evidence
34 of a temporary certificate of occupancy, or other event evidencing
35 project completion. The anchor institution, or an authorized agent of
36 the anchor institution, shall certify under the penalty of perjury that
37 the information provided pursuant to this subsection is true.

38
39 51. (New section) a. Up to the limits established in
40 subsection b. of this section and in accordance with a tax credit
41 agreement, beginning upon the receipt of occupancy permits for any
42 portion of the community-anchored project, or upon any other event
43 evidencing project completion as set forth in the tax credit agreement,
44 an anchor institution of an approved community-anchored project
45 shall be awarded a base tax credit of \$5,000,000 for conversion into
46 an authority investment in the community-anchored project.

47 b. An anchor institution may be allowed a tax credit in excess of
48 the base amount, if approved by the authority, provided, however, the

1 total tax credit allowed per community-anchored project shall not
2 exceed \$75,000,000 and the total investment of all State resources in
3 a community-anchored project shall not exceed 40 percent of the total
4 cost of the project.

5
6 52. (New section) a. An anchor institution that is awarded a
7 tax credit under sections 43 through 53 of P.L. , c. (C.)
8 (pending before the Legislature as this bill) shall, commencing in the
9 year in which the tax credit is awarded, and each year thereafter for
10 the remainder of the eligibility period, submit a report indicating
11 whether the anchor institution is aware of any condition, event, or act
12 that would cause the anchor institution not to be in compliance with
13 the tax credit agreement or the provisions of sections 43 through 53
14 of P.L. , c. (C.) (pending before the Legislature as this bill)
15 and any additional reporting requirements contained in the tax credit
16 agreement or tax credit certificate. The anchor institution, or an
17 authorized agent of the anchor institution, shall certify under the
18 penalty of perjury that the information provided pursuant to this
19 subsection is true.

20 b. (1) Upon receipt and review of each report submitted
21 during the eligibility period, the authority shall provide to the anchor
22 institution and the Director of the Division of Taxation in the
23 Department of the Treasury a certificate of compliance indicating the
24 amount of tax credits awarded to the anchor institution for conversion
25 into an authority investment in the community-anchored project, that
26 the anchor institution may:

27 (a) offer for sale through the provision of a tax credit transfer
28 certificate pursuant to section 53 of P.L. , c. (C.) (pending
29 before the Legislature as this bill); or

30 (b) use as collateral or to secure any financial instrument
31 approved by the authority to provide financing for the community-
32 anchored project, if that use is in accordance with rules and
33 regulations adopted by the authority, pursuant to the provisions of the
34 "Administrative Procedure Act," P.L.1968, c.410 (C.52:14B-1 et
35 seq.), to govern the use of program tax credits.

36 (2) Upon receipt by the director of the certificate of compliance,
37 the director shall coordinate with the anchor institution and the
38 authority to provide the anchor institution with a tax credit transfer
39 certificate, as described in section 53 of P.L. , c. (C.) (pending
40 before the Legislature as this bill), or a tax credit certificate for the
41 value awarded by the authority for that year that the anchor institution
42 may use as provided in paragraph (1) of this subsection b. and in
43 accordance with the rules adopted pursuant to subparagraph (b) of
44 paragraph (1) of this subsection.

45
46 53. (New section) a. An anchor institution may apply to the
47 director and the chief executive officer of the authority for a tax credit
48 transfer certificate, covering one or more years. The tax credit

1 transfer certificate, upon receipt thereof by the anchor institution
2 from the director and the chief executive officer of the authority, may
3 be sold or assigned, in full or in part, in the privilege period during
4 which the anchor institution receives the tax credit transfer certificate
5 from the director, to another person, who may apply the credit against
6 a tax liability pursuant to section 5 of P.L.1945, c.162 (C.54:10A-5),
7 sections 2 and 3 of P.L.1945, c.132 (C.54:18A-2 and C.54:18A-3),
8 section 1 of P.L.1950, c.231 (C.17:32-15), or N.J.S.17B:23-5.

9 b. The anchor institution shall not sell or assign, including a
10 collateral assignment, a tax credit transfer certificate allowed under
11 this section for consideration received by the anchor institution of
12 less than 85 percent of the transferred credit amount before
13 considering any further discounting to present value which shall be
14 permitted. The tax credit transfer certificate issued to an anchor
15 institution by the director shall be subject to any limitations and
16 conditions imposed on the application of State tax credits pursuant to
17 sections 43 through 53 of P.L. , c. (C.) (pending before the
18 Legislature as this bill) and any other terms and conditions that the
19 director may prescribe.

20 c. A purchaser or assignee of a tax credit transfer certificate
21 pursuant to this section may make any subsequent transfers,
22 assignments, or sales of a tax credit transfer certificate for an amount
23 to be negotiated with a subsequent purchaser or assignee.

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

- 27 (1) the name of the transferor;
- 28 (2) the name of the transferee;
- 29 (3) the value of the tax credit transfer certificate;
- 30 (4) the State tax against which the transferee may apply the tax
31 credit; and
- 32 (5) the consideration received by the transferor.

33
34 54. (New section) Sections 54 through 67 of P.L. , c. (C.)
35 (pending before the Legislature as this bill) shall be known and may
36 be cited as the "New Jersey Aspire Program Act."

37
38 55. (New section) As used in sections 54 through 67 of P.L. ,
39 c. (C.) (pending before the Legislature as this bill):

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

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

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

1 City International Airport and the Federal Aviation Administration
2 William J. Hughes Technical Center.

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

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

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

19 "Collaborative workspace" means coworking, accelerator,
20 incubator, or other shared working environments that promote
21 collaboration, interaction, socialization, and coordination among
22 tenants through the clustering of multiple businesses or individuals.
23 For this purpose, the collaborative workspace shall be the greater of:
24 2,500 of dedicated square feet or 10 percent of the total property on
25 which the redevelopment project is situated. The collaborative
26 workspace shall include a community manager, be focused on
27 collaboration among the community members, and include regularly
28 scheduled education events for the community members. The
29 collaborative workspace shall also include a physical open space that
30 supports the engagement of its community members.

31 "Commercial project" means a building, which is predominantly
32 commercial and contains 100,000 or more square feet of office and
33 retail space, industrial space, or film studios, professional stages,
34 television studios, recording studios, screening rooms, or other
35 infrastructure for film production, for purchase or lease and may
36 include a parking component.

37 "Developer" means a person who enters or proposes to enter into
38 an incentive award agreement pursuant to the provisions of section
39 62 of P.L. , c. (C.) (pending before the Legislature as this
40 bill), including, but not limited, to a lender that completes a
41 redevelopment project, operates a redevelopment project, or
42 completes and operates a redevelopment project.

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

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

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

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

12 "Eligibility period" means the period not to exceed 15 years for a
13 commercial or mixed-use project or the period not to exceed 10 years
14 for a residential project specified in an incentive award agreement
15 during which a developer may claim a tax credit under the program.

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

22 "Food desert community" means a physically contiguous area in
23 the State in which residents have limited access to nutritious foods,
24 such as fresh fruits and vegetables, through supermarkets and grocery
25 stores.

26 "Government-restricted municipality" means a municipality in
27 this State with a municipal revitalization index distress score of at
28 least 7, that met the criteria for designation as an urban aid
29 municipality in the 2019 State fiscal year, and that, on the effective
30 date of P.L. , c. (C.) (pending before the Legislature as this
31 bill), is subject to financial restrictions imposed pursuant to the
32 Municipal Stabilization and Recovery Act of 2016, P.L.2016, c.4
33 (52:27BBBB-1), or is restricted in its ability to levy property taxes
34 on property in that municipality as a result of the State of New Jersey
35 owning or controlling property representing at least 25 percent of the
36 total land area of the municipality or as a result of the federal
37 government of the United States owning or controlling at least 50
38 acres of the total land area of the municipality, which is dedicated as
39 a national natural landmark.

40 "Health care or health services center" means an establishment
41 where patients are admitted for examination and treatment by one or
42 more physicians, dentists, psychologists, or other medical
43 practitioners.

44 "Incentive area" means an area designated pursuant to the "State
45 Planning Act," P.L.1985, c.398 (C.52:18A-196 et seq.), as Planning
46 Area 1 (Metropolitan), Planning Area 2 (Suburban), or a Designated
47 Center, , provided an area designated as Planning Area 2 (Suburban)
48 or a Designated Center shall be located within a one-half mile radius

1 of the mid-point, with bicycle and pedestrian connectivity, of a New
2 Jersey Transit Corporation, Port Authority Transit Corporation, or
3 Port Authority Trans-Hudson Corporation rail, bus, or ferry station,
4 including all light rail stations, or a high frequency bus stop as
5 certified by the New Jersey Transit Corporation.

6 "Incentive award" means an award of tax credits to reimburse a
7 developer for all or a portion of the project financing gap of a
8 redevelopment project pursuant to the provisions of sections 54
9 through 67 of P.L. , c. (C.) (pending before the Legislature
10 as this bill).

11 "Incentive award agreement" means the contract executed
12 between a developer and the authority pursuant to section 62 of
13 P.L. , c. (C.) (pending before the Legislature as this bill),
14 which sets forth the terms and conditions under which the developer
15 may receive the incentive awards authorized pursuant to the
16 provisions of sections 54 through 67 of P.L. , c. (C.) (pending
17 before the Legislature as this bill).

18 "Incubator facility" means a commercial property, which contains
19 5,000 or more square feet of office, laboratory, or industrial space,
20 which is located near, and presents opportunities for collaboration
21 with, a research institution, teaching hospital, college, or university,
22 and within which at least 75 percent of the gross leasable area is
23 restricted for use by one or more technology startup companies.

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

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

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

45 "Moderate-income housing" means housing affordable according
46 to federal Department of Housing and Urban Development or other
47 recognized standards for home ownership and rental costs and
48 occupied or reserved for occupancy by households with a gross

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

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

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

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

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

19 "Program" means the New Jersey Aspire Program established by
20 section 56 of P.L. , c. (C.) (pending before the Legislature
21 as this bill).

22 "Project cost" means the costs incurred in connection with a
23 redevelopment project by a developer until the issuance of a
24 permanent certificate of occupancy, or until such other time specified
25 by the authority, for a specific investment or improvement, including
26 the costs relating to lands, buildings, improvements, real or personal
27 property, or any interest therein, including leases discounted to
28 present value, including lands under water, riparian rights, space
29 rights, and air rights acquired, owned, developed or redeveloped,
30 constructed, reconstructed, rehabilitated, or improved, any
31 environmental remediation costs, plus costs not directly related to
32 construction, of an amount not to exceed 20 percent of the total costs,
33 capitalized interest paid to third parties, and the cost of infrastructure
34 improvements, including ancillary infrastructure projects. The cost
35 of acquisition of land or fees associated with the application or
36 administration of a grant under sections 54 through 67 of P.L. ,
37 c. (C.) (pending before the Legislature as this bill) shall not
38 constitute a project cost.

39 "Project financing gap" means the part of the total project cost,
40 including reasonable and appropriate return on investment, that
41 remains to be financed after all other sources of capital have been
42 accounted for, including, but not limited to developer contributed
43 capital, which shall not be less than 20 percent of the total project
44 cost, and investor or financial entity capital or loans for which the
45 developer, after making all good faith efforts to raise additional
46 capital, certifies that additional capital cannot be raised from other
47 sources on a non-recourse basis.

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

5 "Qualified incentive tract" means (i) a population census tract
6 having a poverty rate of 20 percent or more; or (ii) a census tract in
7 which the median family income for the census tract does not exceed
8 80 percent of the greater of the Statewide median family income or
9 the median family income of the metropolitan statistical area in
10 which the census tract is situated.

11 "Quality childcare facility" is a child care center licensed by the
12 Department of Children and Families, operating continuously, which
13 has not been subject to an enforcement action, and which has and
14 maintains a total licensed capacity of at least 60 children age 6 years
15 or younger.

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

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

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

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

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

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

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

1 "Transit hub municipality" means a Transit Village or a
2 municipality: a. which qualifies for State aid pursuant to P.L.1978,
3 c.14 (C.52:27D-178 et seq.), or which has continued to be a qualified
4 municipality thereunder pursuant to P.L.2007, c.111; and b. in which
5 30 percent or more of the value of real property was exempt from
6 local property taxation during tax year 2006. The percentage of
7 exempt property shall be calculated by dividing the total exempt
8 value by the sum of the net valuation which is taxable and that which
9 is tax exempt.

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

14 "Workforce housing" means housing that is affordable according
15 to federal Department of Housing and Urban Development or other
16 recognized standards for home ownership and rental costs, and
17 occupied or reserved for occupancy by households with a gross
18 household income of more than 80 percent, but less than 120 percent,
19 of the median gross household income for households of the same
20 size within the housing region in which the housing is located.

21
22 56. (New section) a. The New Jersey Aspire Program is hereby
23 established as a program under the jurisdiction of the New Jersey
24 Economic Development Authority. The authority shall administer
25 the program to encourage redevelopment projects through the
26 provision of incentive awards to reimburse developers for certain
27 project financing gap costs. The board may approve the award of an
28 incentive award to a developer upon application to the authority
29 pursuant to sections 58 and 59 of P.L. , c. (C. , C. , and
30 C.) (pending before the Legislature as this bill). The value of
31 all tax credits approved by the authority pursuant to sections 54
32 through 67 of P.L. , c. (C.) (pending before the Legislature
33 as this bill), shall be subject to the limitations set forth in section 98
34 of P.L. , c. (C.) (pending before the Legislature as this bill).

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

39
40 57. (New section) a. Prior to March 1, 2027, a developer shall be
41 eligible to receive an incentive award for a redevelopment project
42 only if the developer demonstrates to the authority at the time of
43 application that:

44 (1) without the incentive award, the redevelopment project is not
45 economically feasible;

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

1 (3) the redevelopment project is located in the incentive area;

2 (4) except for demolition and site remediation activities, the
3 developer has not commenced any construction at the site of the
4 redevelopment project prior to submitting an application, unless the
5 authority determines that the redevelopment project would not be
6 completed otherwise or, in the event the redevelopment project is to
7 be undertaken in phases, the requested incentive award is limited to
8 only phases for which construction has not yet commenced;

9 (5) the redevelopment project shall comply with minimum
10 environmental and sustainability standards;

11 (6) the redevelopment project shall comply with the authority's
12 affirmative action requirements, adopted pursuant to section 4 of
13 P.L.1979, c.203 (C.34:1B-5.4);

14 (7) each worker employed or subcontractor of a developer
15 working at a redevelopment project, 80 percent or more of which is
16 operated by the developer, shall be paid not less than \$15 per hour or
17 120 percent of the minimum wage fixed under subsection a. of
18 section 5 of P.L.1966, c.113 (C.34:11-56a4), whichever is higher;

19 (8) during the eligibility period, each worker employed to
20 perform construction work or building services work at the
21 redevelopment project shall be paid not less than the prevailing wage
22 rate for the worker's craft or trade, as determined by the
23 Commissioner of Labor and Workforce Development pursuant to
24 P.L.1963, c.150 (C.34:11-56.25 et seq.) and P.L.2005, c.379
25 (C.34:11-56.58 et seq.). In the event a redevelopment project is
26 undertaken by a tenant and the tenant has a leasehold of more than
27 55 percent of space in the building owned or controlled by the
28 developer, the requirement that each worker employed to perform
29 building service work at the building be paid not less than the
30 prevailing wage shall apply to the entire building;

31 (9) the redevelopment project shall be completed, and the
32 developer shall be issued a certificate of occupancy for the
33 redevelopment project facilities by the applicable enforcing agency
34 within four years of executing the incentive award agreement
35 corresponding to the redevelopment project;

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

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

43 b. In addition to the requirements set forth in subsection a. of
44 this section, for a commercial project to qualify for an incentive
45 award the developer shall demonstrate that:

46 (1) the incremental increase of State revenues realized from the
47 commercial project upon its completion shall be in excess of the

1 amount necessary to reimburse the developer for its project financing
2 gap; and
3 (2) the developer shall have an equity participation of at least 20
4 percent of the total project cost.
5 c. In addition to the requirements set forth in subsection a. of
6 this section, for a residential project to qualify for an incentive award,
7 the residential project shall:
8 (1) have a total project cost of at least \$17,500,000, if the project
9 is located in a municipality with a population greater than 200,000
10 according to the latest federal decennial census;
11 (2) have a total project cost of at least \$10,000,000 if the project
12 is located in a municipality with a population less than 200,000
13 according to the latest federal decennial census; or
14 (3) have a total project cost of at least \$5,000,000 if the project is
15 in a qualified incentive tract or government-restricted municipality.
16 d. In addition to the requirements set forth in subsections a. and
17 c. of this section, for a residential project consisting of newly-
18 constructed residential units to qualify for an incentive award, the
19 developer shall reserve at least 20 percent, but not more than 50
20 percent, of the residential units constructed for occupancy by low-
21 and moderate-income households with affordability controls as
22 required under the "Fair Housing Act," P.L.1985, c. 222 (C.52:27D-
23 301 et al.), unless: the municipality in which the property is located
24 has received substantive certification from the council and such a
25 reservation is not required under the approved affordable housing
26 plan; the municipality has been given a judgment of repose or a
27 judgment of compliance by the court, and such a reservation is not
28 required under the approved affordable housing plan. The extent to
29 which the proposed project would attract or retain a skilled
30 employment base that is important to the State's competitive position
31 generally or to capture economic development opportunities within
32 targeted industries, this 20 percent for low-income housing and
33 moderate-income housing may be used for workforce housing, or
34 housing for individuals with special needs to the extent consistent
35 with the Fair Housing Act, P.L.1985, c. 222 (C.52:27D-301 et al.).
36 This 20 percent shall be constructed within the same housing
37 development.
38 e. Prior to the board considering an application submitted by a
39 developer, the Department of Labor and Workforce Development,
40 the Department of Environmental Protection, and the Department of
41 the Treasury shall each report to the chief executive officer of the
42 authority whether the developer is in substantial good standing with
43 the respective department, or has entered into an agreement with the
44 respective department that includes a practical corrective action plan
45 for the developer. The authority may also contract with an
46 independent third party to perform a background check on the
47 developer.

1 58. (New section) a. Prior to March 1, 2027, a developer that
2 meets the eligibility criteria in section 57 of P.L. , c. (C.)
3 (pending before the Legislature as this bill) and is seeking an
4 incentive award for a redevelopment project shall submit an
5 application to the authority and, in the case of a residential project,
6 shall submit an application to the authority and the agency, in a form
7 and manner prescribed in regulations adopted by the authority, in
8 consultation with the agency, pursuant to the provisions of the
9 “Administrative Procedure Act,” P.L.1968, c.410 (C.52:14B-1 et
10 seq.). The authority shall accept applications for incentive awards
11 during the grant periods established pursuant to section 59 of P.L. ,
12 c. (C.) (pending before the Legislature as this bill).

13 b. The authority shall not consider an application for a
14 commercial project unless the developer submits a letter evidencing
15 support for the commercial project from the governing body of the
16 municipality in which the commercial project is located with the
17 application.

18 c. The authority shall review the project cost, evaluate and
19 validate the project financing gap estimated by the developer, and
20 conduct a State fiscal impact analysis to ensure that the overall public
21 assistance provided to the project will result in a net positive benefit
22 to the State, provided that the net benefit analysis shall not apply to
23 capital investment for a food delivery source, or a health care or
24 health services center with a minimum of 10,000 square feet of space
25 devoted to residential projects, health care or health services that is
26 located in a municipality with a Municipal Revitalization Index
27 distress score of at least 50 lacking adequate access, as determined
28 by the Commissioner of Health, to health care or health services. In
29 determining whether a project will result in a net positive benefit to
30 the State, the authority shall not consider the value of any taxes
31 exempted, abated, rebated, or retained under the "Five-Year
32 Exemption and Abatement Law," P.L.1991, c.441 (C.40A:21-1 et
33 seq.), the "Long Term Tax Exemption Law," P.L.1991, c.431
34 (C.40A:20-1 et al.), the "New Jersey Urban Enterprise Zones Act,"
35 P.L.1983, c.303 (C.52:27H-60 et seq.), or any other law that has the
36 effect of lowering or eliminating the developer’s State or local tax
37 liability. The determination made pursuant to this subsection shall
38 be based on the potential tax liability of the developer without regard
39 for potential tax losses if the developer were to locate in another state.
40 The authority shall assess the cost of these reviews to the applicant.
41 A developer shall pay to the authority the full amount of the direct
42 costs of an analysis concerning the developer’s application for a tax
43 credit that a third party retained by the authority performs, if the
44 authority deems such retention to be necessary. The authority shall
45 evaluate the net economic benefits on a present value basis under
46 which the requested tax credit allocation amount is discounted to
47 present value at the same discount rate as the projected benefits from

1 the implementation of the proposed redevelopment project for which
2 an award of tax credits is being sought.

3 d. For a redevelopment project subject to the requirement of
4 subsection c. of this section to be eligible for any tax credits under
5 the program, a developer shall demonstrate to the authority that the
6 award of tax credits will yield a net positive benefit to the State
7 equaling an amount determined by the authority through regulation
8 that exceeds the requested tax credit amount. The developer shall
9 certify, under the penalty of perjury, that all documents submitted,
10 and factual assertions made, to the authority to demonstrate that the
11 award of tax credits will yield a net positive benefit to the State in
12 accordance with this subsection are true and accurate at the time of
13 submission. A redevelopment project located in a government-
14 restricted municipality shall yield a net positive benefit to the State
15 that exceeds the requested tax credit amount, but the net benefit
16 requirement set by the authority for such redevelopment projects may
17 be up to 35 percentage points lower than the net benefit requirement
18 set by the authority for all other eligible redevelopment projects.

19 e. If at any time during the eligibility period the authority
20 determines that the developer made a material misrepresentation on
21 the developer's application, the developer shall forfeit the incentive
22 award.

23 f. If circumstances require a developer to amend its application
24 to the authority, then the developer, or an authorized agent of the
25 developer, shall certify to the authority that the information provided
26 in its amended application is true under the penalty of perjury.

27

28 59. (New section) a. Prior to March 1, 2027, for
29 redevelopment projects eligible pursuant to section 57 of P.L. ,
30 c. (C.) (pending before the Legislature as this bill), the
31 authority shall award incentive awards through an application
32 process consisting of up to two biannual award rounds. The authority
33 shall provide notice to the public of the opening and closing dates for
34 submission of grant applications on its Internet website. The
35 authority shall award incentive awards based on the order in which
36 complete, qualifying applications were received by the authority.

37 b. Prior to allocating an incentive award to a redevelopment
38 project, the Department of Labor and Workforce Development, the
39 Department of Environmental Protection, and the Department of the
40 Treasury shall each report to the chief executive officer of the
41 authority whether the developer and each contractor and
42 subcontractor performing work at the redevelopment project is in
43 substantial good standing with the respective department, or has
44 entered into an agreement with the respective department that
45 includes a practical corrective action plan. The authority may also
46 contract with an independent third party to perform a background
47 check on the developer. Provided that the developer and all
48 contractors and subcontractors are in substantial good standing, or

1 have entered into such agreements, the authority shall allocate
2 incentive awards to redevelopment projects according to the
3 redevelopment project's score and until either the available incentive
4 awards are exhausted or all redevelopment projects obtaining the
5 minimum score receive an incentive award, whichever occurs first.
6 If insufficient funding exists to fully fund all eligible projects, a
7 project may be offered partial funding.

8
9 60. (New section) a. Following approval and selection of an
10 application pursuant to sections 58 and 59 of P.L. , c. (C. and
11 C.) (pending before the Legislature as this bill), the authority
12 shall enter into an incentive award agreement with the developer.
13 The chief executive officer of the authority shall negotiate the terms
14 and conditions of the incentive award agreement on behalf of the
15 State. The incentive award agreement shall require that the developer
16 consent to the disclosure of tax expenditure information as described
17 in paragraph (8) of subsection b. of section 1 of P.L.2009, c.189
18 (C.52:27B-20a).

19 b. An incentive award agreement shall specify the amount of the
20 incentive award the authority shall award to the developer and the
21 duration of the eligibility period, which shall not exceed 15 years for
22 a commercial or mixed-use project and shall not exceed 10 years for
23 a residential project. The incentive award agreement shall provide
24 an estimated date of completion and include a requirement for
25 periodic progress reports, including the submittal of executed
26 financing commitments and documents that evidence site control. If
27 the authority does not receive periodic progress reports, or if the
28 progress reports demonstrate unsatisfactory progress, then the
29 authority may rescind the incentive award. If the authority rescinds
30 an incentive award in the same calendar year in which the authority
31 approved the incentive award, then the authority may assign the
32 incentive award to another applicant. The incentive award agreement
33 may also provide for a verification of the financing gap at the time
34 the developer provides executed financing commitments to the
35 authority and a verification of the developer's projected cash flow at
36 the time of certification that the project is completed.

37 c. To ensure the protection of taxpayer money, if the authority
38 determines that the project financing gap is smaller than determined
39 at board approval, the authority shall reduce the amount of the tax
40 credit on a pro rata basis. If there is no project financing gap, then
41 the developer shall forfeit the incentive award. This test shall be
42 conducted at the end of the third year of the eligibility period
43 whereupon the authority shall evaluate the developer's cash flow and
44 compare that cash flow to the projected cash flow at the time of board
45 approval. For a commercial project, if the actual cash flow exceeds
46 the projected cash flow at the time of board approval by more than
47 15 percent, the authority shall require the developer to pay up to 15
48 percent of the amount of the excess. To the extent applicable, in the

1 case of a residential project, the developer's return on investment
2 shall be subject to the provisions of section 7 of P.L.1983, c.530
3 (C.55:14K-7).

4 d. The incentive award agreement shall include a requirement
5 that the chief executive officer of the authority receive annual reports
6 from the Department of Environmental Protection, the Department of
7 Labor and Workforce Development, and the Department of the
8 Treasury demonstrating that the developer and each contractor and
9 subcontractor performing work at the redevelopment project is in
10 substantial good standing with the respective department, or has
11 entered into an agreement with the respective department that
12 includes a practical corrective action. The incentive award
13 agreement shall also include a provision that the developer shall
14 forfeit the incentive award in any year in which any such report is not
15 received. The incentive award agreement shall also require a
16 developer to engage in on-site consultations with the Division of
17 Workplace Safety and Health in the Department of Health.

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

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

40 (3) As used in this subsection:

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

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

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

20 f. (1) In addition to the incentive award agreement, a
21 developer shall enter into a community benefits agreement with the
22 authority and the county or municipality in which the redevelopment
23 project is located. The agreement may include, but shall not be
24 limited to, requirements for training, employment, and youth
25 development and free services to underserved communities in and
26 around the community in which the redevelopment project is located.
27 Prior to entering a community benefits agreement, the governing
28 body of the county or municipality in which the redevelopment
29 project is located shall hold at least one public hearing at which the
30 governing body shall hear testimony from residents, community
31 groups, and other stakeholders on the needs of the community that
32 the agreement should address.

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

41 (3) At the time the developer submits the annual report required
42 pursuant to section 62 of P.L. , c. (C.) (pending before the
43 Legislature as this bill) to the authority, the developer shall certify,
44 under the penalty of perjury, that it is in compliance with the terms
45 of the community benefits agreement. If the developer fails to
46 provide the certification required pursuant to this paragraph or the
47 authority determines that the developer is not in compliance with the
48 terms of the community benefits agreement based on the reports

1 submitted by the community advisory committee pursuant to
2 paragraph (2) of this subsection, then the authority may rescind an
3 award or recapture all or part of any tax credits awarded.

4 g. A developer shall submit, prior to the first disbursement of tax
5 credits under the incentive award agreement, but no later than six
6 months following project completion, satisfactory evidence of actual
7 project costs, as certified by a certified public accountant, evidence
8 of a temporary certificate of occupancy, or other event evidencing
9 project completion that begins the eligibility period indicated in the
10 incentive award agreement. The developer, or an authorized agent of
11 the developer, shall certify that the information provided pursuant to
12 this subsection is true under the penalty of perjury. Claims, records,
13 or statements submitted by a developer to the authority in order to
14 receive tax credits shall not be considered claims, records, or
15 statements made in connection with State tax laws.

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

19

20 61. (New section) a. Up to the limits established in
21 subsection b. of this section and in accordance with an incentive
22 award agreement, beginning upon the receipt of occupancy permits
23 for any portion of the redevelopment project, or upon any other event
24 evidencing project completion as set forth in the incentive award
25 agreement, a developer shall be allowed a total tax credit that shall
26 not exceed 45 percent of the total project cost of the redevelopment
27 project, except for a commercial project that is located in a
28 government-restricted municipality, in which case the total tax credit
29 allowed shall not exceed 50 percent of the total project cost of the
30 commercial project.

31 b. The value of all tax credits approved by the authority under
32 the program for a redevelopment project shall not exceed
33 \$50,000,000 per redevelopment project if located in a qualified
34 incentive tract, government-restricted municipality, or municipality
35 with a Municipal Revitalization Index distress score of at least 50, or
36 \$32,000,000 for any other redevelopment project.

37

38 62. (New section) a. A developer approved for an incentive
39 award pursuant to sections 58 and 59 of P.L. , c. (C. and
40 C.) (pending before the Legislature as this bill) and that enters
41 an incentive award agreement pursuant to section 60 of P.L. ,
42 c. (C.) (pending before the Legislature as this bill) shall submit
43 annually, commencing in the year in which the incentive award is
44 issued and for the remainder of the eligibility period, a report
45 indicating whether the developer is aware of any condition, event, or
46 act that would cause the developer not to be in compliance with the
47 incentive award agreement or the provisions of sections 54 through
48 67 of P.L. , c. (C.) (pending before the Legislature as this

1 bill) and any additional reporting requirements contained in the
2 incentive award agreement or tax credit certificate. The developer,
3 or an authorized agent of the developer, shall certify that the
4 information provided pursuant to this subsection is true under the
5 penalty of perjury.

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

11 (2) Upon receipt by the director of the certificate of compliance,
12 the director shall allow the developer a credit against the tax imposed
13 pursuant to section 5 of P.L.1945, c.162 (C.54:10A-5). A developer
14 shall apply the credit awarded against the developer's liability under
15 section 5 of P.L.1945, c.162 (C.54:10A-5), sections 2 and 3 of
16 P.L.1945, c.132 (C.54:18A-2 and C.54:18A-3), section 1 of
17 P.L.1950, c.231 (C.17:32-15), or N.J.S.17B:23-5 for the privilege
18 period during which the director allows the developer a tax credit
19 pursuant to this subsection. A developer shall not carry forward an
20 unused credit unless the developer was unable to use the credit
21 because the developer's redevelopment project was directly impacted
22 due to a natural disaster, state emergency, national emergency, or a
23 situation that was out of the developer's control that impacted the
24 developer's use of the credit that year, in which case the developer is
25 permitted to carry forward an unused credit for up two years upon
26 submitting evidence of the developer's redevelopment project being
27 directly impacted by such a circumstance and receiving approval
28 from the authority. Credits granted to a partnership shall be passed
29 through to the partners, members, or owners, respectively, pro-rata,
30 or pursuant to an executed agreement among the partners, members,
31 or owners documenting an alternate distribution method provided to
32 the director accompanied by any additional information as the
33 director may prescribe.

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

43 c. The authority may, pursuant to an amendment to the incentive
44 award agreement, provide short-term stabilization loans to a
45 developer eligible for an incentive award pursuant to subparagraph
46 (b) of paragraph (3) of subsection a. of section 57 or of P.L. ,
47 c. (C.) (pending before the Legislature as this bill). The
48 authority may finance the loans authorized pursuant to this

1 subsection through a sale of tax credits to which the developer would
2 be entitled at a future date pursuant to the incentive award agreement
3 and as authorized under this act or through appropriations made
4 available by the Legislature. A developer shall utilize a loan made
5 available pursuant to this subsection exclusively for project costs or
6 to mitigate a project financing gap. The loans shall bear interest at
7 rates and terms deemed appropriate by the authority but shall bear an
8 interest rate of zero percent per year for the first five years of the loan
9 term.

10

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

27 b. The developer shall not sell or assign, including a collateral
28 assignment, a tax credit transfer certificate allowed under this section
29 for consideration received by the developer of less than 85 percent of
30 the transferred credit amount before considering any further
31 discounting to present value which shall be permitted, except a
32 developer of a residential project consisting of newly-constructed
33 residential units may assign a tax credit transfer certificate for
34 consideration of less than 85 percent subject to the submission of a
35 plan to the authority and the agency to use the proceeds derived from
36 the assignment of tax credits to complete the residential project,
37 except a developer of a residential project consisting of newly-
38 constructed residential units that has received federal low income
39 housing tax credits under 26 U.S.C. s.42(b)(2)(B)(i) may assign a tax
40 credit transfer certificate for consideration of no less than 75 percent
41 subject to the submission of a plan to the authority and the New
42 Jersey Housing and Mortgage Finance Agency to use the proceeds
43 derived from the assignment of tax credits to complete the residential
44 project. The tax credit transfer certificate issued to a developer by
45 the director shall be subject to any limitations and conditions
46 imposed on the application of State tax credits pursuant to sections
47 54 through 67 of P.L. , c. (C.) (pending before the Legislature

1 as this bill) and any other terms and conditions that the director may
2 prescribe.

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

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

- 9 (1) the name of the transferrer;
10 (2) the name of the transferee;
11 (3) the value of the tax credit transfer certificate; and
12 (4) the consideration received by the transferrer.
13

14 64. (New section) a. A developer who has entered into an
15 incentive award agreement pursuant to section 62 of P.L. ,
16 c. (C.) (pending before the Legislature as this bill) may, upon
17 notice to and written consent of the authority and State Treasurer,
18 pledge, assign, transfer, or sell any or all of its right, title, and interest
19 in and to the incentive award agreement and in the incentive awards
20 payable under the incentive award agreement, and the right to receive
21 the incentive awards, along with the rights and remedies provided to
22 the developer under the incentive award agreement. Any assignment
23 shall be an absolute assignment for all purposes, including the federal
24 bankruptcy code.

25 b. Any pledge of an incentive award made by the developer shall
26 be valid and binding from the time the pledge is made and filed in
27 the records of the authority. The incentive award pledged and
28 thereafter received by the developer shall immediately be subject to
29 the lien of the pledge without any physical delivery thereof or further
30 act, and the lien of any pledge shall be valid and binding against all
31 parties having claims of any kind in tort, contract, or otherwise
32 against the developer irrespective of whether the parties have notice
33 thereof. As a condition of any incentive grant, the grantee, assignee,
34 pledgee or subsequent holder of the incentive grant shall immediately
35 file notice of the same with the clerk of the county in which the
36 project is located.

37 c. The authority shall publish on its Internet website the
38 following information concerning each pledge, assignment, transfer,
39 or sale approved by the authority pursuant to this section:

- 40 (1) the name of the person or entity offering the pledge,
41 assignment, transfer, or sale of a right, title, or interest in an incentive
42 grant agreement or tax credit agreement;
43 (2) the name of the person or entity receiving the pledge,
44 assignment, transfer, or sale of a right, title, or interest in the
45 incentive grant agreement or tax credit agreement;
46 (3) the value of the right, title, or interest in the incentive grant
47 agreement or tax credit agreement; and

1 (4) the consideration received by the person or entity offering the
2 pledge, assignment, transfer, or sale of the right, title, or interest in
3 the incentive grant agreement or tax credit agreement.
4

5 65. (New section) a. As used in this section, "transformative
6 project" means a redevelopment project that has a project financing
7 gap, that has a total project cost of at least \$100,000,000, and that
8 includes 500,000 or more square feet of new or substantially
9 renovated industrial, commercial, or residential space or that includes
10 250,000 or more square feet of film studios, professional stages,
11 television studios, recording studios, screening rooms, or other
12 infrastructure for film production and which is of special economic
13 importance as measured by the level of new jobs, new capital
14 investment, opportunities to leverage leadership in a high-priority
15 targeted industry, or other state priorities as determined by the
16 authority pursuant to rules and regulations promulgated to implement
17 this section. The criteria developed by the authority shall include,
18 but shall not be limited to:

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

22 (2) for a residential or mixed-use project, the construction of
23 1,000 or more new residential units, 20 percent of which shall be
24 constructed for occupancy by low- and moderate-income households
25 with affordability controls as required under the under the "Fair
26 Housing Act," P.L.1985, c. 222 (C.52:27D-301 et al.), which 20
27 percent shall include, to the extent to which the proposed
28 transformative project would attract or retain a skilled employment
29 base that is important to the State's competitive position generally or
30 to capture economic development opportunities within targeted
31 industries, low-income housing, moderate-income housing,
32 workforce housing, or housing for individuals with special needs, and
33 which 20 percent shall be constructed within the same housing
34 development;

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

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

43 b. The authority may award an incentive award to no more than
44 seven transformative projects in accordance with the provisions of
45 sections 59 through 67 of P.L. , c. (C.); provided, however,
46 a transformative project shall not be subject to the competitive
47 application procedure set forth in section 59 of P.L. , c. (C.)
48 (pending before the Legislature as this bill). A transformative project

1 receiving an incentive award pursuant to this section, other than a
2 project that includes 250,000 or more square feet of film studios,
3 professional stages, television studios, recording studios, screening
4 rooms or other infrastructure for film production, shall be located in
5 a distressed municipality, a government-restricted municipality, or
6 an urban transit hub municipality. No more than two transformative
7 project receiving an incentive award pursuant to this section shall be
8 located in the same municipality. The authority shall not consider an
9 application for a transformative project unless the applicant submits
10 with its application a letter evidencing support for the transformative
11 project from the governing body of the municipality in which the
12 transformative project is located.

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

41 d. In determining net benefits for any business or person
42 considering locating in a transformative project and applying to
43 receive from the authority any other economic development incentive
44 subsequent to the award of transformative project tax credits pursuant
45 to section 65 of P.L. , c. (C.) (pending before the Legislature
46 as this bill), the authority shall not credit the business or person with
47 any benefit that was previously credited to the transformative project

1 pursuant to section 65 of P.L. , c. (C.) (pending before the
2 Legislature as this bill).

3 e. The authority shall administer the credits awarded pursuant to
4 this section in accordance with the provisions of sections 62 and 63
5 of P.L. , c. (C. and C.) (pending before the Legislature
6 as this bill).

7 f. Prior to allocating an incentive award to a developer, the
8 Department of Labor and Workforce Development, the Department
9 of Environmental Protection, and the Department of the Treasury
10 shall each report to the chief executive officer of the authority
11 whether the developer and each contractor and subcontractor
12 performing work at the transformative project is in substantial good
13 standing with the respective department, or has entered into an
14 agreement with the respective department that includes a practical
15 corrective action plan. The authority may also contract with an
16 independent third party to perform a background check on the
17 applicant.

18 g. Notwithstanding the limitation on incentive awards set forth
19 in subsection b. of section 61 and section 98 of P.L. , c. (C.)
20 (pending before the Legislature as this bill) to the contrary, the
21 authority may allow a developer of a transformative project a tax
22 credit, as reimbursement for certain project financing gap costs, in an
23 amount not to exceed 30 percent of the total project cost, the total
24 value of the project financing gap, or \$250,000,000 whichever is less.
25

26 66. (New section) Beginning the year next following the year in
27 which P.L. , c. (C.) (pending before the Legislature as this
28 bill) takes effect and every two years thereafter, a State college or
29 university established pursuant to chapter 64 of Title 18A of the New
30 Jersey Statutes shall, pursuant to an agreement executed between the
31 State college or university and the authority, prepare a report on the
32 implementation of the program, and submit the report to the
33 authority, the Governor, and, pursuant to section 2 of P.L.1991, c.164
34 (C.52:14-19.1), to the Legislature. Each biennial report required
35 under this section shall include a description of each redevelopment
36 project receiving a tax credit under the program, a detailed analysis
37 of the consideration given in each project to the factors set forth in
38 sections 58 and 59 of P.L. , c. (C. , C. , and C.)
39 (pending before the Legislature as this bill), in the case of a
40 commercial project, the return on investment for incentive awards
41 provided and the commercial project's impact on the State's
42 economy, and any other metrics the State college or university
43 determines are relevant based upon national best practices. The
44 authority shall prepare a written response to the report, which the
45 authority shall submit to the Governor and, pursuant to section 2 of
46 P.L.1991, c.164 (C.52:14-19.1), to the Legislature.

1 67. (New section) Notwithstanding the provisions of the
2 "Administrative Procedure Act," P.L.1968, c.410 (C.52:14B-1 et
3 seq.), to the contrary, the chief executive officer of the authority may
4 adopt, immediately, upon filing with the Office of Administrative
5 Law, regulations that the chief executive officer deems necessary to
6 implement the provisions of sections 54 through 67 of P.L. ,
7 c. (C.) (pending before the Legislature as this bill), which
8 regulations shall be effective for a period not to exceed 180 days from
9 the date of the filing. The chief executive officer shall thereafter
10 amend, adopt, or readopt the regulations in accordance with the
11 requirements of P.L.1968, c.410 (C.52:14B-1 et seq.).
12

13 68. (New section) Sections 68 through 81 of P.L. , c. (C.)
14 (pending before the Legislature as this bill) shall be known and may
15 be cited as the "Emerge Program Act."
16

17 69. (New section) As used in sections 68 through 81 of P.L. ,
18 c. (C.) (pending before the Legislature as this bill):

19 "Affiliate" means an entity that directly or indirectly controls, is
20 under common control with, or is controlled by the business. Control
21 exists in all cases in which the entity is a member of a controlled
22 group of corporations, as defined pursuant to section 1563 of the
23 Internal Revenue Code of 1986 (26 U.S.C. s.1563), or the entity is an
24 organization in a group of organizations under common control, as
25 defined pursuant to subsection (c) of section 414 of the Internal
26 Revenue Code of 1986 (26 U.S.C. s.414). A taxpayer may establish
27 by clear and convincing evidence, as determined by the Director of
28 the Division of Taxation in the Department of the Treasury, that
29 control exists in situations involving lesser percentages of ownership
30 than required by sections 1563 and 414 of the Internal Revenue Code
31 of 1986 (26 U.S.C. ss.1563 and 414).

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

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

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

44 "Building services" means any cleaning or routine building
45 maintenance work, including but not limited to sweeping,
46 vacuuming, floor cleaning, cleaning of rest rooms, collecting refuse
47 or trash, window cleaning, securing, patrolling, or other work in
48 connection with the care or securing of an existing building,

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

6 "Business" means an applicant proposing to own or lease premises
7 in a qualified business facility that is: a corporation that is subject to
8 the tax imposed pursuant to section 5 of P.L.1945, c.162 (C.54:10A-
9 5), sections 2 and 3 of P.L.1945, c.132 (C.54:18A-2 and C.54:18A-
10 3), section 1 of P.L.1950, c.231 (C.17:32-15), or N.J.S.17B:23-5, or
11 is a partnership, S corporation, limited liability company, or non-
12 profit corporation. A business shall include an affiliate of the
13 business if that business applies for a credit based upon any capital
14 investment made by or full-time employees of an affiliate. If the
15 business or tenant is a cooperative or part of a cooperative, then the
16 cooperative may qualify for credits by counting the full-time
17 employees and capital investments of its member organizations, and
18 the cooperative may distribute credits to its member organizations.
19 If the business or tenant is a cooperative that leases to its member
20 organizations, the lease shall be treated as a lease to an affiliate or
21 affiliates. A business shall include an affiliate of the business if that
22 business applies for a credit based upon any capital investment made
23 by full-time employees of an affiliate.

24 "Capital investment" means expenses that a business or an affiliate
25 of the business incurs following its submission of an application to
26 the authority pursuant to section 72 of P.L. , c. (C.) (pending
27 before the Legislature as this bill), but prior to the project completion
28 date, as shall be defined in the project agreement, for: a. site
29 preparation and construction, repair, renovation, improvement,
30 equipping, or furnishing on real property or of a building, structure,
31 facility, or improvement to real property; b. obtaining and installing
32 furnishings and machinery, apparatus, or equipment, including but
33 not limited to material goods subject to bonus depreciation under
34 sections 168 and 179 of the federal Internal Revenue Code (26 U.S.C.
35 ss.168 and 179), for the operation of a business on real property or in
36 a building, structure, facility, or improvement to real property; or any
37 combination of the foregoing.

38 "College or university" means a county college, an independent
39 institution of higher education, a public research university, or a State
40 college.

41 "Commitment period" means a period that is 1.5 times the
42 eligibility period specified in the project agreement entered into
43 pursuant to section 73 of P.L. , c. (C.) (pending before the
44 Legislature as this bill), rounded up, for each applicable phase
45 agreement.

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

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

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

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

16 "Eligibility period" means the period in which an eligible business
17 may claim a tax credit under the program for a given project phase,
18 beginning with the tax period in which the authority accepts
19 certification of the eligible business that it has met the capital
20 investment and employment requirements of the program for the
21 respective project phase, and extending thereafter for a term of not
22 more than seven years, with the term to be determined at the
23 discretion of the applicant, provided that the term of the eligibility
24 period may consist of nonconsecutive tax years if the applicant elects
25 at any time after the end of the first tax period of the eligibility period
26 to defer the continuation of the eligibility period to a subsequent tax
27 period. The authority may extend the eligibility period one additional
28 tax period to accommodate a prorated payment pursuant to paragraph
29 (2) of subsection a. of section 77 of P.L. , c. (C.) (pending
30 before the Legislature as this bill).

31 "Eligible business" means any business that satisfies the criteria
32 set forth in section 71 of P.L. , c. (C.) (pending before the
33 Legislature as this bill) at the time of application for tax credits under
34 the program.

35 "Eligible position" or "full-time job" means a full-time position in
36 a business in this State which the business has filled with a full-time
37 employee. An eligible position shall not include an independent
38 contractor or a consultant.

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

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

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

4 c. are the proposed site of a qualified incubator facility, a
5 tourism destination project, or transit oriented development; or

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

12 "Full-time employee" means a person:

13 a. who is employed by a business for consideration for at least
14 35 hours a week, or who renders any other standard of service
15 generally accepted by custom or practice as full-time employment,
16 and whose wages are subject to withholding as provided in the "New
17 Jersey Gross Income Tax Act," N.J.S.54A:1-1 et seq.;

18 b. who is employed by a professional employer organization
19 pursuant to an employee leasing agreement between the business and
20 the professional employer organization, pursuant to P.L.2001, c.260
21 (C.34:8-67 et seq.) for at least 35 hours a week, or who renders any
22 other standard of service generally accepted by custom or practice as
23 full-time employment, and whose wages are subject to withholding
24 as provided in the "New Jersey Gross Income Tax Act," N.J.S.54A:1-
25 1 et seq.; or

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

35 A "full time employee" further means a person who, except for
36 purposes of the Statewide workforce, is provided, by the business,
37 with employee health benefits under a health benefits plan authorized
38 pursuant to State or federal law and who is paid no less than \$15 per
39 hour or 120 percent of the minimum wage fixed under subsection a.
40 of section 5 of P.L.1966, c.113 (C.34:11-56a4), whichever is higher.

41 With respect to a logistics, manufacturing, energy, defense,
42 aviation, or maritime business, excluding primarily warehouse or
43 distribution operations, located in a port district having a container
44 terminal, the requirement that employee health benefits are to be
45 provided shall be deemed to be satisfied if the benefits are provided
46 in accordance with industry practice by a third party obligated to
47 provide such benefits pursuant to a collective bargaining agreement;

1 A "full-time employee" shall include, but shall not be limited to,
2 an employee that has been hired by way of a labor union hiring hall
3 or its equivalent. 35 hours of employment per week qualified
4 business facility shall constitute one "full-time employee," regardless
5 of whether or not the hours of work were performed by one or more
6 persons.

7 "Full-time employee" shall not include any person who works as
8 an independent contractor or on a consulting basis for the business or
9 a contract worker whose income is subject to withholding as provided
10 in the "New Jersey Gross Income Tax Act," N.J.S.54A:1-1 et seq.,
11 except that any person working as an independent contractor or
12 contract worker whose income is subject to withholding as provided
13 in the "New Jersey Gross Income Tax Act," N.J.S.54A:1-1 et seq.,
14 for the business shall be deemed a full-time employee if the business
15 demonstrates to the authority that: (a) the person working as an
16 independent contractor for the business works at least 35 hours per
17 week or renders any other standard service generally accepted by
18 custom or practice as full-time employment, and the person is
19 provided with employee health benefits under a health benefits plan
20 authorized pursuant to State or federal law; and (b) the business
21 provides documentation to the authority to permit the authority to
22 verify the compensation paid to, and the time worked by, the person
23 working as an independent contractor. The business shall provide to
24 the authority an annual report that identifies the number of persons
25 working as independent contractors for the business and their
26 contractual or partnering relationship with the business as provided
27 pursuant to subsection i. of section 3 of P.L.2011, c.149 (C.34:1B-
28 244).

29 "Full-time employee" shall not include any person who, at the
30 time of project application, works in New Jersey for consideration
31 for at least 35 hours per week for the business, or who renders any
32 other standard of service generally accepted by custom or practice as
33 full-time employment, but who, prior to project application, was not
34 provided, by the business, with employee health benefits under a
35 health benefits plan authorized pursuant to State or federal law.

36 "Government-restricted municipality" means a municipality in
37 this State with a municipal revitalization index distress score of at
38 least 75, that met the criteria for designation as an urban aid
39 municipality in the 2019 State fiscal year, and that, on the effective
40 date of P.L. , c. (C.) (pending before the Legislature as this
41 bill), is subject to financial restrictions imposed pursuant to the
42 Municipal Stabilization and Recovery Act of 2016, P.L.2016, c.4
43 (52:27BBBB-1), or is restricted in its ability to levy property taxes
44 on property in that municipality as a result of the State of New Jersey
45 owning or controlling property representing at least 25 percent of the
46 total land area of the municipality or as a result of the federal
47 government of the United States owning or controlling at least 50

1 acres of the total land area of the municipality, which is dedicated as
2 a national natural landmark.

3 "Incentive agreement" means the contract between the business
4 and the authority, which sets forth the terms and conditions under
5 which the business shall be eligible to receive the incentives
6 authorized pursuant to the program.

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

10 "Incentive area" means:

11 a. an aviation district;

12 b. a port district;

13 c. a distressed municipality or transit hub municipality;

14 d. an area designated pursuant to the "State Planning Act,"
15 P.L.1985, c.398 (C.52:18A-196 et seq.), as Planning Area 1
16 (Metropolitan), Planning Area 2 (Suburban), Planning Area 3 (Fringe
17 Planning Area); or a Designated Center under the State Development
18 and Redevelopment Plan, provided an area designated as Planning
19 Area 2 (Suburban) or Planning Area 3 (Fringe Planning Area) or a
20 Designated Center shall be located within a one-half mile radius of
21 the mid-point, with bicycle and pedestrian connectivity, of a New
22 Jersey Transit Corporation, Port Authority Transit Corporation, or
23 Port Authority Trans-Hudson Corporation rail, bus, or ferry station,
24 including all light rail stations, or a high frequency bus stop as
25 certified by the New Jersey Transit Corporation.

26 e. an area located within a smart growth area and planning area
27 designated in a master plan adopted by the New Jersey Meadowlands
28 Commission pursuant to subsection (i) of section 6 of P.L.1968,
29 c.404 (C.13:17-6) or subject to a redevelopment plan adopted by the
30 New Jersey Meadowlands Commission pursuant to section 20 of
31 P.L.1968, c.404 (C.13:17-21);

32 f. an area located within any land owned by the New Jersey
33 Sports and Exposition Authority, established pursuant to P.L.1971,
34 c.137 (C.5:10-1 et seq.), within the boundaries of the Hackensack
35 Meadowlands District as delineated in section 4 of P.L.1968, c.404
36 (C.13:17-4);

37 g. an area located within a regional growth area, rural
38 development area zoned for industrial use as of the effective date of
39 P.L.2016, c.75, or town, village, or a military and federal installation
40 area designated in the comprehensive management plan prepared and
41 adopted by the Pinelands Commission pursuant to the "Pinelands
42 Protection Act," P.L.1979, c.111 (C.13:18A-1 et seq.);

43 h. an area located within a government-restricted municipality;

44 i. an area located within land approved for closure under any
45 federal Commission on Base Realignment and Closure action;

46 j. an area located within an area designated pursuant to the
47 "State Planning Act," P.L.1985, c.398 (C.52:18A-196 et seq.), as
48 Planning Area 4A (Rural Planning Area), Planning Area 4B

1 (Rural/Environmentally Sensitive), or Planning Area 5
2 (Environmentally Sensitive), so long as that area designated as
3 Planning Area 4A (Rural Planning Area), Planning Area 4B
4 (Rural/Environmentally Sensitive), or Planning Area 5
5 (Environmentally Sensitive) is located within: (1) a designated center
6 under the State Development and Redevelopment Plan; (2) a
7 designated growth center in an endorsed plan until the State Planning
8 Commission revises and readopts New Jersey's State Strategic Plan
9 and adopts regulations to revise this definition as it pertains to
10 Statewide planning areas; (3) any area determined to be in need of
11 redevelopment pursuant to sections 5 and 6 of P.L.1992, c.79
12 (C.40A:12A-5 and C.40A:12A-6) or in need of rehabilitation
13 pursuant to section 14 of P.L.1992, c.79 (C.40A:12A-14); (4) any
14 area on which a structure exists or previously existed including any
15 desired expansion of the footprint of the existing or previously
16 existing structure provided the expansion otherwise complies with all
17 applicable federal, State, county, and local permits and approvals; or
18 (5) any area on which an existing tourism destination project is
19 located; or

20 k. an area located in a qualified opportunity zone.

21 "Incentive phase agreement" means a sub-agreement of the
22 incentive agreement that governs the timing, capital investment,
23 employment levels, and other applicable details of the respective
24 phase.

25 "Independent institution of higher education" means a college or
26 university incorporated and located in New Jersey, which by virtue
27 of law, character, or license is a nonprofit educational institution
28 authorized to grant academic degrees and which provides a level of
29 education that is equivalent to the education provided by the State's
30 public institutions of higher education, as attested by the receipt of
31 and continuation of regional accreditation by the Middle States
32 Association of Colleges and Schools, and which is eligible to receive
33 State aid under the provisions of the Constitution of the United States
34 and the Constitution of the State of New Jersey, but does not include
35 any educational institution dedicated primarily to the education or
36 training of ministers, priests, rabbis, or other professional persons in
37 the field of religion.

38 "Industrial premises" or "industrial space" means premises or
39 space in which at least 51 percent of the square footage will be or has
40 been used for the assembling, processing, manufacturing, or any
41 combination thereof, of finished or partially finished products from
42 materials or fabricated parts, including, but not limited to, factories
43 or as a warehouse if the business uses the warehouse as part of the
44 chain of distribution for products assembled, processed,
45 manufactured, or any combination thereof, by the business at the
46 qualified business facility; for the breaking or demolishing of
47 finished or partially finished products; or for the production of oil or
48 gas or the generation or transformation of electricity.

1 "Industrial use" means assembling, processing, manufacturing, or
2 any combination thereof, of finished or partially finished products
3 from materials or fabricated parts; the breaking or demolishing of
4 finished or partially finished products; or the production of oil or gas
5 or the generation or transformation of electricity. "Industrial use"
6 includes farming purposes as that term is defined under IRC section
7 6420(c)(3)(A), undertaken in an industrial space.

8 "Infrastructure Fund" means the Recovery Infrastructure Fund
9 established pursuant to section 79 of P.L. , c. (C.) (pending
10 before the Legislature as this bill) to fund local infrastructure
11 improvements.

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

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

40 "Mega project" means a project of special economic importance,
41 as determined pursuant to regulations adopted by the chief executive
42 officer of the authority, as measured by the level of new jobs, new
43 capital investment, and opportunities to leverage leadership in a high-
44 priority targeted industry, as determined by the authority pursuant to
45 rules and regulations promulgated to implement P.L. , c. (C.)
46 (pending before the Legislature as this bill).

47 "Minimum environmental and sustainability standards" means
48 standards established by the authority in accordance with the green

1 building manual prepared by the Commissioner of Community
2 Affairs pursuant to section 1 of P.L.2007, c.132 (C.52:27D-130.6),
3 regarding the use of renewable energy, energy-efficient technology,
4 and non-renewable resources to reduce environmental degradation
5 and encourage long-term cost reduction.

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

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

16 "Other eligible area" means the portions of the incentive area that
17 are not located within a distressed municipality, or the employment
18 and investment corridor.

19 "Partnership" means an entity classified as a partnership for
20 federal income tax purposes.

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

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

32 "Program" means the Emerge Program established by section 70
33 of P.L. , c. (C.) (pending before the Legislature as this bill).

34 "Project" means the capital investment and the employment
35 commitment at a qualified business facility pursuant to the project
36 agreement.

37 "Project agreement" means the contract executed between an
38 eligible business and the authority pursuant to section 75 of P.L. ,
39 c. (C.) (pending before the Legislature as this bill), which sets
40 forth the terms and conditions under which the eligible business may
41 receive the incentives authorized pursuant to the program.

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

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

1 "Qualified business facility" means any building, complex of
2 buildings, or structural components of buildings, and all machinery
3 and equipment located therein, used in connection with the operation
4 of a business that is not engaged in final point of sale retail business
5 at that location, unless the building, complex of buildings or
6 structural components of buildings, and all machinery and equipment
7 therein, are used in connection with the operation of a tourism
8 destination project located in the Atlantic City Tourism District as
9 established pursuant to section 5 of P.L.2011, c.18 (C.5:12-219).

10 "Qualified incentive tract" means: (i) a population census tract
11 having a poverty rate of 20 percent or more; or (ii) a census tract in
12 which the median family income for the census tract does not exceed
13 80 percent of the greater of the Statewide median family income or
14 the median family income of the metropolitan statistical area in
15 which the census tract is situated.

16 "Qualified incubator facility" means a commercial building
17 located within an incentive area: that contains 5,000 or more square
18 feet of office, laboratory, or industrial space; that is located near, and
19 presents opportunities for collaboration with, a research institution,
20 teaching hospital, college, or university; and within which at least 50
21 percent of the gross leasable area is restricted for use by one or more
22 technology startup companies during the commitment period.

23 "Qualified opportunity zone" means a federal population census
24 tract in this State that was eligible to be designated as a qualified
25 opportunity zone pursuant to 26 U.S.C. s.1400Z-1.

26 "Quality child care facility" is a child care center licensed by the
27 Department of Children and Families, operating continuously, which
28 has not been subject to an enforcement action, and which has and
29 maintains a total licensed capacity of at least 60 children age 6 years
30 or younger.

31 "Retained full-time job" means an eligible position that currently
32 exists in New Jersey and is filled by a full-time employee, but which,
33 because of a potential relocation by the business, is at risk of being
34 lost to another state or country or of being eliminated. For the
35 purposes of determining the number of retained full-time jobs, the
36 eligible positions of an affiliate shall be considered eligible positions
37 of the business.

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

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

42 "Small business" means a business engaged primarily in a targeted
43 industry with fewer than 100 employees, as determined at the time of
44 application.

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

47 "Targeted industry" means any industry identified from time to
48 time by the authority which shall initially include advanced

1 transportation and logistics, advanced manufacturing, aviation,
2 autonomous vehicle and zero-emission vehicle research or
3 development, clean energy, life sciences, hemp processing,
4 information and high technology, finance and insurance, professional
5 services, film and digital media, and non-retail food and beverage
6 businesses, including food innovation and other innovative industries
7 that disrupt current technologies or business models.

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

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

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

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

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

40

41 70. (New section) a. The Emerge Program is hereby
42 established as a program under the jurisdiction of the New Jersey
43 Economic Development Authority. The authority shall administer
44 the program to encourage economic development, job creation, and
45 the retention of significant numbers of jobs in imminent danger of
46 leaving the State. The board may approve the award of tax credits to
47 an eligible business upon application of the chief executive officer of
48 the eligible business and following the execution of a letter of intent

1 and the payment of fees, subject to the limitations set forth in
2 subsection b. of this section:

3 b. value of all tax credits approved by the authority for
4 businesses eligible pursuant to section 71 of P.L. , c. (C.)
5 shall be subject to the limitations set forth in section 98 of P.L. ,
6 c. (C.) (pending before the Legislature as this bill).

7

8 71. (New section) a. Beginning on the effective date of P.L. ,
9 c. (C.) (pending before the Legislature as this bill), but prior
10 to March 1, 2027, to be eligible for tax credits under the program, a
11 business's chief executive officer, or equivalent officer, shall
12 demonstrate to the authority at the time of application that:

13 (1) the business will make, acquire, or lease a capital investment
14 at the qualified business facility equal to or greater than the
15 applicable amount set forth in subsection b. of this section;

16 (2) the business will create or retain new and retained full-time
17 jobs at the qualified business facility in an amount equal to or greater
18 than the applicable number set forth in subsection c. of this section;

19 (3) the qualified business facility is located in a qualified
20 incentive area;

21 (4) the award of tax credits will be a material factor in the
22 business's decision to create or retain the number of new and retained
23 full-time jobs set forth in its application;

24 (5) the award of tax credits, the capital investment resultant from
25 the award of tax credits, and the resultant creation and retention of
26 new and retained full-time jobs will yield a net positive benefit to the
27 State equaling at least 400 percent of the requested tax credit
28 allocation amount, or for a phased project the requested tax credit
29 allocation amount for the initial phase, and on a cumulative basis
30 each phase thereafter, which determination shall be calculated prior
31 to considering the value of the requested tax credit under the program
32 and shall be based on the benefits generated during the period of time
33 from approval through the end of the commitment period, or through
34 the end of the longer period of extended commitment that the
35 business may elect for purposes of receiving credit for benefits
36 projected to occur after the expiration of the commitment period,
37 except that:

38 (a) an award of tax credits to a business for a qualified business
39 facility located in a distressed municipality or transit hub
40 municipality shall yield a net positive benefit to the State, based on
41 the benefits generated during the period of time from approval
42 through the end of the commitment period, that equals at least 300
43 percent of the requested tax credit amount;

44 (b) an award of tax credits to a business for a qualified business
45 facility located in a government-restricted municipality, or for a
46 mega project, shall yield a net positive benefit to the State, based on
47 the benefits generated during the period of time from approval

1 through the end of the commitment period, that equals at least 200
2 percent of the requested tax credit amount;

3 (c) the net economic benefits shall be evaluated on a present value
4 basis with the requested tax credit allocation amount discounted to
5 present value at the same discount rate as the benefits from capital
6 investment resultant from the award of tax credits and the resultant
7 retention and creation of full-time jobs as provided in subparagraph
8 (d) of this paragraph; and

9 (d) the net economic benefits shall be discounted to reflect the
10 uncertainty of the business's location after the commitment period
11 expires, provided that a business may elect a period of extended
12 commitment for which time the economic benefits shall be creditable
13 to the determination of the net economic benefit of the project, and a
14 business electing a period of extended commitment and failing to
15 maintain the project through the expiration of that extended
16 commitment period shall be obligated to repay a proportion of the
17 incremental benefits received on account of having extended the
18 commitment period, taking into consideration the number of years of
19 extended commitment during which the business maintained the
20 project;

21 (e) in making the determination required pursuant to this
22 paragraph, the authority shall not consider the value of any taxes
23 exempted, abated, rebated, or retained under the "Five-Year
24 Exemption and Abatement Law," P.L.1991, c.441 (C.40A:21-1 et
25 seq.), the "Long Term Tax Exemption Law," P.L.1991, c.431
26 (C.40A:20-1 et al.), the "New Jersey Urban Enterprise Zones Act,"
27 P.L.1983, c.303 (C.52:27H-60 et seq.), or any other law that has the
28 effect of lowering or eliminating the business's State or local tax
29 liability, and the business's chief executive officer or equivalent
30 officer shall certify, under the penalty of perjury, that all documents
31 submitted, and factual assertions made, to the authority to
32 demonstrate that the award of tax credits will yield a net positive
33 benefit to the State in accordance with this paragraph are true and
34 accurate at the time of submission;

35 (6) the qualified business facility shall be in compliance with
36 minimum environmental and sustainability standards;

37 (7) the project shall comply with the authority's affirmative
38 action requirements, adopted pursuant to section 4 of P.L.1979, c.203
39 (C.34:1B-5.4); and

40 (8) (a) each worker employed to perform construction work or
41 building services work at the qualified business facility shall be paid
42 not less than the prevailing wage rate for the worker's craft or trade,
43 as determined by the Commissioner of Labor and Workforce
44 Development pursuant to P.L.1963, c.150 (C.34:11-56.25 et seq.) and
45 P.L.2005, c.379 (C.34:11-56.58 et seq.), unless:

46 (i) the work performed under the contract is performed at a
47 qualified business facility owned by a landlord that is not a business
48 receiving authority assistance;

1 (ii) the landlord is a party to the construction contract; and
2 (iii) the qualified business facility constitutes a lease of less than
3 35 percent of the qualified business facility at the time of contract
4 and under any agreement to subsequently lease the qualified business
5 facility.

6 (b) In accordance with section 1 of P.L.1979, c.303 (C.34:1B-
7 5.1), nothing in this paragraph shall be construed as requiring the
8 payment of prevailing wage for construction commencing more than
9 two years after a business has executed with the authority a
10 commitment letter regarding authority financial assistance and the
11 first payment or other provision of the assistance is received.

12 b. (1) The minimum capital investment required to be
13 eligible under the program shall be as follows:

14 (a) for the rehabilitation, improvement, fit-out, or retrofit of an
15 existing industrial, warehousing, logistics, or research and
16 development portion of the premises for continued similar use by the
17 business, a minimum investment of \$20 per square foot of gross
18 leasable area;

19 (b) for the new construction of an industrial, warehousing,
20 logistics, or research and development portion of the premises for use
21 by the business, a minimum investment of \$60 per square foot of
22 gross leasable area;

23 (c) for the rehabilitation, improvement, fit-out, or retrofit of
24 existing portion of the premises that does not qualify pursuant to
25 subparagraph (a) or (b) of this paragraph, a minimum investment of
26 \$40 per square foot of gross leasable area;

27 (d) for the new construction of a portion of the premises that does
28 not qualify pursuant to subparagraph (a) or (b) of this paragraph, a
29 minimum investment of \$120 per square foot of gross leasable area;
30 and

31 (e) for a small business, no new minimum capital investment
32 shall be required, provided the applicant has demonstrated evidence
33 satisfactory to the authority of its intent to remain in the State for the
34 commitment period.

35 (2) In the event the business invests less than that amount set forth
36 in paragraph (1) of this subsection in the qualified business facility,
37 the business shall donate the uninvested balance to the infrastructure
38 fund established pursuant to section 79 of P.L. , c. (C.)
39 (pending before the Legislature as this bill). (3)

40 Notwithstanding the provisions of paragraphs (1) and (2) of this
41 subsection, the authority may adopt, pursuant to the provisions of the
42 "Administrative Procedure Act," P.L.1968, c.410 (C.52:14B-1 et
43 seq.), rules and regulations adjusting the minimum capital investment
44 amounts required under the program when necessary to respond to
45 the prevailing economic conditions in the State.

46 c. (1) The minimum number of new or retained full-time jobs
47 required to be eligible under the program shall be as follows:

1 (a) for a small business, 25 percent growth of its workforce with
2 new full-time jobs within the eligibility period in accordance with
3 subsection e. of section 76 of P.L. , c. (C.) (pending before
4 the Legislature as this bill);

5 (b) for a business engaged primarily in a targeted industry which
6 does not qualify as a small business, 25 new full-time jobs;

7 (c) for any other business, a minimum of 35 new full-time jobs;

8 (d) for a business located in qualified incentive tract or
9 government-restricted municipality that will retain 500 or more
10 retained full-time jobs, a minimum of the business's retained full-
11 time jobs at the time of application and new construction or
12 rehabilitation, improvement, fit-out, or retrofit of an existing portion
13 of the premises equal in size to the space occupied by the business's
14 retained full-time jobs at the time of application;

15 (e) for a business located in the State that will retain 1,000 or more
16 retained full-time jobs, a minimum of the business's retained full-
17 time jobs at the time of application and new construction or
18 rehabilitation, improvement, fit-out, or retrofit of an existing portion
19 of the premises equal in size to the space occupied by the business's
20 retained full-time jobs at the time of application.

21 (2) Notwithstanding the provisions of paragraph (1) of this
22 subsection, the authority may adopt, pursuant to the provisions of the
23 "Administrative Procedure Act," P.L.1968, c.410 (C.52:14B-1 et
24 seq.), rules and regulations adjusting the minimum number of new or
25 retained full-time jobs required under the program when necessary to
26 respond to the prevailing economic conditions in the State.

27 d. A business shall provide and adhere to a plan that
28 demonstrates that the qualified business facility is capable of
29 accommodating more than half of the business's new or retained full-
30 time employees as approved and shall certify, under the penalty of
31 perjury, that not less than 80 percent or more of the new or retained
32 full-time jobs are held by employees whose earnings are subject to
33 withholding under the "New Jersey Gross Income Tax Act,"
34 N.J.S.54A:1-1 et seq. On the effective date of P.L. , c. (C.)
35 (pending before the Legislature as this bill) this requirement shall
36 apply to projects approved under P.L.2011, c.149 (C.34:1B-242 et
37 seq.), P.L.2007, c.346 (C.34:1B-207 et seq.), and P.L.1996, c.26
38 (C.34:1B-124 et al.). The requirements set forth in this subsection
39 may be modified by the authority to respond to an emergency,
40 disaster, or other factors that result in employees of an eligible
41 business having to work from a location other than the qualified
42 business facility.

43 e. The owner of the business, or an authorized agent of the
44 owner, shall certify that all factual representations made by the
45 business to the authority pursuant to subsection a. of this section are
46 true under the penalty of perjury.

47 f. A business eligible pursuant to this section may submit an
48 application to the authority in accordance with the provisions of

1 section 72 of P.L. , c. (C.) (pending before the Legislature
2 as this bill) on or after the effective date of P.L. ,
3 c. (C. or) (pending before the Legislature as this bill) but
4 prior to March 1, 2027.
5

6 72. (New section) a. A business that meets the eligibility criteria
7 in section 71 of P.L. , c. (C. or) (pending before the
8 Legislature as this bill) and is seeking a grant of tax credits for a
9 project under the program shall submit an application for approval of
10 the project to the authority in a form and manner prescribed in
11 regulations adopted by the authority pursuant to the provisions of the
12 "Administrative Procedure Act," P.L.1968, c.410 (C.52:14B-1 et
13 seq.).

14 b. (1) Before the board may consider an eligible business's
15 application for tax credits, the Department of Labor and Workforce
16 Development, the Department of Environmental Protection, and the
17 Department of the Treasury shall each report to the chief executive
18 officer of the authority whether the eligible business is in compliance
19 with the respective department, or, if necessary, has entered into an
20 agreement with the respective department that includes a practical
21 corrective action plan for the eligible business. The authority may
22 also contract with an independent third party to perform a
23 background check on the eligible business. Provided that the eligible
24 business is in substantial good standing, or has entered into such an
25 agreement, before the board may approve an eligible business's
26 application for tax credits, the eligible business shall execute a non-
27 binding letter of intent with the chief executive officer of the
28 authority, specifying the amount and terms and conditions of tax
29 credits that the authority is prepared to propose for board approval
30 and that are intended to be a material factor in the decision by the
31 eligible business to create or retain the proposed number of new and
32 retained full-time jobs, and in which the eligible business certifies
33 such tax credits are a material factor in its decision.

34 (2) To assist the authority in determining whether the award of
35 tax credits is a material factor in the eligible business's decision to
36 create or retain the minimum number of new and retained full-time
37 jobs for eligibility under the program, the chief executive officer of
38 the authority shall require the eligible business to submit, as part of
39 its application, a full economic analysis of all locations under
40 consideration by the eligible business; all lease agreements,
41 ownership documents, or substantially similar documentation for the
42 eligible business's current in-State locations; and all lease
43 agreements, ownership documents, or substantially similar
44 documentation for potential out-of-State location alternatives, to the
45 extent they exist. The chief executive officer of the authority may
46 further consider the costs associated with opening and maintaining a
47 business in New Jersey, competitive proposals that the eligible
48 business has received from other states, the prevailing economic

1 conditions, and any other factors that the chief executive officer of
2 the authority deems relevant to assist the authority in determining
3 whether an award of tax credits is a material factor in the eligible
4 business's decision. Based on this information, the authority shall
5 independently verify and confirm the eligible business's assertion
6 that the award of tax credits under the program is a material factor in
7 the eligible business's decision to create or retain the minimum
8 number of new and retained full-time jobs for eligibility under the
9 program and, in the case of retained full-time jobs, the jobs are
10 actually at risk of leaving the State, before the authority may award
11 the eligible business any tax credits under the " Emerge Program
12 Act," sections 70 through 81 of P.L. , c. (C.) (pending before
13 the Legislature as this bill). The owner of the eligible business, or an
14 authorized agent of the owner, shall certify that all factual
15 representations made by the business to the authority pursuant to this
16 paragraph are true under the penalty of perjury.

17 c. An eligible business shall pay to the authority the full amount
18 of the direct costs of an analysis concerning the eligible business's
19 application for a tax credit, which a third party retained by the
20 authority performs, if the authority deems such retention to be
21 necessary. The authority shall have the discretion to waive all or a
22 portion of the costs of application for a small business.

23 d. If at any time during the eligibility period the authority
24 determines that the eligible business made a material
25 misrepresentation on the eligible business's application, the eligible
26 business shall forfeit all tax credits awarded under the program,
27 which shall be in addition to any other criminal or civil penalties to
28 which the business and the officer may be subject.

29 e. If circumstances require an eligible business to amend its
30 application to the authority, then the owner of the eligible business,
31 or an authorized agent of the owner, shall certify to the authority that
32 the information provided in its amended application is true under the
33 penalty of perjury.

34 f. Nothing shall preclude a business from applying for tax
35 credits under the program for more than one project pursuant to one
36 or more applications.

37
38 73. (New section) a. Following approval by the board, but
39 before the issuance of tax credits, the authority shall require an
40 eligible business to enter into a project agreement. The terms of the
41 project agreement shall be consistent with the eligibility
42 requirements of section 71 of P.L. , c. (C.) (pending before
43 the Legislature as this bill), as applicable, and shall include, but shall
44 not be limited to, the following:

45 (1) (i) a detailed description of the proposed project which will
46 result in job creation or retention, and the number of new and retained
47 full-time jobs that are approved for tax credits;

- 1 (ii) for a phased project, an incentive phase agreement for which
2 each phase identifies a description of the phase, the expected capital
3 investment and number of new full-time jobs, and the time following
4 acceptance of the incentive agreement when each phase is to begin
5 and be completed, with the awarding of tax credits under the
6 incentive agreement to be predicated on the number of full-time jobs
7 created through the fulfillment of each incentive phase agreement;
- 8 (2) the eligibility period of the tax credits or, for a phased project,
9 the eligibility period of the tax credits for each phase;
- 10 (3) personnel information that will enable the authority to
11 administer the program;
- 12 (4) a requirement that the eligible business maintain the project
13 at a location in New Jersey for the commitment period, with at least
14 the minimum number of full-time jobs as required by this program,
15 and a provision to permit the authority to recapture all or part of any
16 tax credits awarded, at its discretion, if the eligible business does not
17 remain in compliance with this provision for the required term or
18 significantly reduces the number of full-time employees, or the
19 salaries thereof, to which the eligible business certified at the
20 commencement of the eligibility period;
- 21 (5) a method for the eligible business to certify that it has met the
22 capital investment and employment requirements of the program set
23 forth in subsections b. and c. of section 71 of P.L. , c. (C.)
24 (pending before the Legislature as this bill) and to report annually to
25 the authority the number of new and retained full-time employees,
26 and the salaries thereof, for which the tax credits are to be allowed;
- 27 (6) representations that the eligible business is in substantial good
28 standing or meets the agreement requirements described in paragraph
29 (1) of subsection b. of section 71 of P.L. , c. (C.) (pending
30 before the Legislature as this bill), the project complies with all
31 applicable laws, and specifically, that the project does not violate any
32 environmental law;
- 33 (7) a provision permitting an audit of the payroll records of the
34 business from time to time, as the authority deems necessary;
- 35 (8) a provision that the chief executive officer of the authority
36 receives annual reports from the Department of Environmental
37 Protection, the Department of Labor and Workforce Development,
38 and the Department of the Treasury demonstrating that the eligible
39 business and each contractor and subcontractor performing work at
40 the qualified business facility is in compliance with the respective
41 department, or has entered into an agreement with the respective
42 department that includes a practical corrective action plan, and a
43 provision providing that if the eligible business is not in compliance
44 with its legal obligations of rules administered by these departments
45 and has been given formal notice thereof, then the authority may
46 suspend the issuance of tax credits pending resolution of the dispute;

1 (9) a requirement for the eligible business to engage in on-site
2 consultations with the Division of Workplace Safety and Health in
3 the Department of Health;

4 (10) a provision permitting the authority to amend the agreement;
5 and

6 (11) a provision establishing the conditions under which the
7 authority, the eligible business, or both, may terminate the
8 agreement.

9 b. (1) In addition to the project agreement, an eligible
10 business shall enter into a community benefits agreement with the
11 authority and the county or municipality in which the qualified
12 business facility is located. The agreement may include, but shall not
13 be limited to, requirements for training, employment, and youth
14 development and free services to underserved communities in and
15 around the community in which the qualified business facility is
16 located. Prior to entering a community benefits agreement, the
17 governing body of the county or municipality in which the qualified
18 business facility is located shall hold at least one public hearing at
19 which the governing body shall hear testimony from residents,
20 community groups, and other stakeholders on the needs of the
21 community that the agreement should address.

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

30 (3) At the time the eligible business submits the annual report
31 required pursuant to section 77 of P.L. , c. (C.) (pending
32 before the Legislature as this bill) to the authority, the eligible
33 business shall certify, under the penalty of perjury, that it is in
34 compliance with the terms of the community benefits agreement. If
35 the eligible business fails to provide the certification required
36 pursuant to this paragraph or the authority determines that the eligible
37 business is not in compliance with the terms of the community
38 benefits agreement based on the reports submitted by the community
39 advisory committee pursuant to paragraph (2) of this subsection, then
40 the authority may rescind the award or recapture all or part of any tax
41 credits awarded.

42
43 74. (New section) a. Commencing with the date six months
44 following the date the authority and an eligible business execute a
45 project agreement, the eligible business shall demonstrate that it has
46 obtained site plan approval and has committed financing for, and site
47 control of, the qualified business facility. If the eligible business
48 obtained site control of the qualified business facility prior to the

1 execution of the letter of intent pursuant to section 72 of P.L. ,
2 c. (C.) (pending before the Legislature as this bill), then the
3 authority may rescind approval of the award of tax credits, unless the
4 eligible business disclosed the fact that the eligible business had
5 obtained the site prior to executing the letter of intent and the
6 authority determines that the award of tax credits was still a material
7 factor in the eligible business's decision to create or retain the
8 minimum number of new and retained full-time jobs for eligibility
9 under the program. The eligible business shall provide an estimated
10 date of completion and shall submit periodic progress reports. The
11 authority may rescind an award of tax credits if an eligible business
12 fails to provide the information required under this section within the
13 period indicated in the approval of the tax credits by the board. The
14 authority may rescind an award of tax credits under the program if a
15 project fails to advance in accordance with the project agreement.

16 b. Upon completion of the capital investment and employment
17 requirements of the program, an eligible business shall submit to the
18 authority certifications evidencing that the eligible business has
19 satisfied the conditions relating to the capital investment and
20 employment requirements of the project agreement with supporting
21 evidence satisfactory to the authority. Absent extenuating
22 circumstances and the written approval of the authority, the eligible
23 business shall submit the certification within three years following
24 the date of approval of the application. The authority may grant two
25 six-month extensions of the deadline; provided that the date of
26 completion shall not occur later than four years following the date of
27 approval of the application by the authority; provided further that the
28 authority may grant one additional extension not to exceed one year
29 upon a finding by the authority that: (1) the project is delayed due to
30 unforeseeable acts related to the project beyond the eligible
31 business's control and without its fault or negligence; (2) the eligible
32 business is using best efforts, with all due diligence, to proceed with
33 the completion of the project and the submission of the certification;
34 and (3) the eligible business has made, and continues to make, all
35 reasonable efforts to prevent, avoid, mitigate, and overcome the
36 delay. To qualify for the one-year extension, the eligible business
37 shall provide timely notice to the authority of the delay within 30
38 days after the eligible business has actual or constructive knowledge
39 of the delay, and shall provide periodic reports, not less than every
40 30 days, of the status of the delay and the steps the eligible business
41 is taking to mitigate or overcome the delay.

42 c. If the Governor declares an emergency, then the chief
43 executive officer of the authority shall have the discretion to grant an
44 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, however, that:
47 (i) the 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 best
3 efforts, with all due diligence, to proceed with the completion of the
4 project and the submission of the certification; and (iv) the eligible
5 business has made, and continues to make, all reasonable efforts to
6 prevent, avoid, mitigate, and overcome the delay.

7 d. The owner of the eligible business, or an authorized agent of
8 the owner, shall certify that the information provided pursuant to this
9 section is true under the penalty of perjury.

10
11 75. (New section) a. The total amount of the tax credit for an
12 eligible business for each new or retained full-time job shall be as set
13 forth in subsections b. through g. of this section. The total tax credit
14 amount shall be calculated and credited to the business annually for
15 each year of the eligibility period, notwithstanding any other
16 provisions of P.L. , c. (C.) (pending before the Legislature
17 as this bill) to the contrary.

18 b. The base amount of the tax credit for each new or retained
19 full-time job for an eligible business shall be as follows:

20 (1) for an eligible business facility located within a government-
21 restricted municipality, or which is a mega project, \$4,000 per year;

22 (2) for a qualified business facility located within a distressed
23 municipality, \$3,500 per year;

24 (3) for a qualified business facility located within a transit hub
25 municipality but not qualifying under paragraph (1) of this
26 subsection, 3,000 per year;

27 (4) for a project in a qualified opportunity zone or an employment
28 and investment corridor, \$2,500 per year; and

29 (5) for a project in other eligible areas, \$500 per year.

30 c. (1) In addition to the base amount of the tax credit, the
31 amount of the tax credit to be awarded for each new or retained full-
32 time job shall be increased with the following bonuses:

33 (a) for an eligible business with a qualified business facility
34 located in a municipality with a Municipal Revitalization Index score
35 greater than 50, an increase of \$1,000 per year;

36 (b) for an eligible business with a qualified business facility at
37 which the capital investment in industrial or research and
38 development premises for industrial or research and development use
39 by the business is in excess of the minimum capital investment
40 required for eligibility pursuant to subsection b. of section 71 of
41 P.L. , c. (C.) (pending before the Legislature as this bill), an
42 increase of \$1,000 per year for each additional amount of investment
43 that exceeds the minimum amount required for eligibility by 40
44 percent, with a maximum increase of \$3,000 per year, unless the
45 project qualifies as a mega project or the qualified business facility
46 is located in a government-restricted municipality, in which case the
47 maximum increase is \$5,000 per year;

- 1 (c) for an eligible business with large numbers of new full-time
2 jobs during the commitment period, the increases shall be in
3 accordance with the following schedule:
- 4 (i) if the number of new full-time jobs is between 251 and 400,
5 \$500 per year;
- 6 (ii) if the number of new full-time jobs is between 401 and 600,
7 \$750 per year;
- 8 (iii) if the number of new full-time jobs is between 601 and 800,
9 \$1000 per year;
- 10 (iv) if the number of new full-time jobs is between 801 and 1,000,
11 \$1,250 per year;
- 12 (v) if the number of new full-time jobs is in excess of 1,000,
13 \$1,500 per year;
- 14 (d) for an eligible business that annually funds an industry-
15 specific training program, which has the capacity to enroll 10 percent
16 or more of the eligible business's full-time workforce, or pays a State
17 educational institution to provide to the public an industry-specific
18 training program, an increase of \$500 per year; provided, however,
19 that if the training program is provided by a State educational
20 institution that is within 10 miles of the qualified business facility,
21 then the increase shall be \$1,000 per year;
- 22 (e) for an eligible business that qualifies as a small business, an
23 increase of \$500 per year;
- 24 (f) (i) for an eligible business with new full-time jobs and
25 retained full-time jobs at the qualified business facility with a median
26 salary in excess of the existing median salary for the county in which
27 the project is located, or, in the case of a project in a government-
28 restricted municipality, a business that employees full-time positions
29 at the project with a median salary in excess of the median salary for
30 the government-restricted municipality, an increase of \$250 per year
31 during the eligibility period for each 35 percent by which the
32 project's median salary levels exceeds the county or government-
33 restricted municipality median salary, with a maximum increase of
34 \$1,500 per year;
- 35 (g) for an eligible business with a qualified business facility
36 located in a qualified incentive tract, an increase of \$500 per year;
- 37 (h) for an eligible business engaged primarily in a targeted
38 industry, an increase of \$500 per year;
- 39 (i) for an eligible business with a qualified business facility
40 located in a qualified incubator facility, an increase of \$500 per year;
- 41 (j) for an eligible business that enters into a labor harmony
42 agreement in accordance with subsection c. of section 73 of P.L. ,
43 c. (C.) (pending before the Legislature as this bill), an increase
44 of \$2,000 per year for the portion of the project subject to that labor
45 harmony agreement;
- 46 (k) for an eligible business that provides its employees access to
47 child care either through an on-site quality child care facility free of
48 charge to its employees or through reimbursements paid by the

1 eligible business to its employees for the cost of child care in
2 accordance with standards adopted by the authority, an increase of
3 \$1,000 per year;

4 (l) for an eligible business that enters into a partnership with a
5 prisoner re-entry program for the purpose of identifying and
6 promoting employment opportunities at the eligible business for
7 former inmates and current inmates leaving the corrections system,
8 and that hires at least one active participant in the re-entry program,
9 an increase of \$500 per year.

10 (m) for an eligible business with a qualified business facility that
11 exceeds the Leadership in Energy and Environmental Design's
12 "Silver" rating standards but does not exceed "Gold" rating standards
13 or completes substantial environmental remediation, an additional
14 increase of \$250 per year, or for an eligible business with a qualified
15 business facility that exceeds the Leadership in Energy and
16 Environmental Design's "Gold" rating standards, an additional
17 increase of \$500 per year;

18 (n) for an eligible business in a targeted industry with a qualified
19 business facility that is used by the eligible business to conduct a full
20 time collaborative relationship with a college or university,
21 including, but not limited to, a doctoral university, an increase of
22 \$1,000 per year;

23 (o) for an eligible business with a project that generates solar
24 energy on site for use within the qualified business facility of an
25 amount that equals at least 50 percent of the qualified business
26 facility electric supply service needs, an increase of \$500 per year;

27 (p) for an eligible business with a marine terminal project in a
28 municipality located outside a government-restricted municipality,
29 but within the geographical boundaries of the South Jersey Port
30 District, an increase of \$1,500 per year; and

31 (q) for an eligible business with a qualified business facility
32 located in a qualified opportunity zone, an increase of \$1,000 per
33 year.

34 (2) The authority shall not award a bonus to an eligible business
35 with full-time jobs at the qualified business facility that pay less than
36 \$15 per hour or 120 percent of the minimum wage fixed under
37 subsection a. of section 5 of P.L.1966, c.113 (C.34:11-56a4),
38 whichever is higher.

39 (3) The authority may adopt, pursuant to the provisions of the
40 "Administrative Procedure Act," P.L.1968, c.410 (C.52:14B-1 et
41 seq.), criteria in addition to, or in place of, the criteria set forth in
42 paragraph (1) of this subsection in response to the prevailing
43 economic conditions in the State.

44 d. The gross amount of the tax credit available to an eligible
45 business for each new or retained full-time job shall be the sum of
46 the base amount set forth in subsection b. of this section and the
47 various additional bonus amounts for which the business is eligible

1 pursuant to subsection c. of this section, subject to the following
2 limitations:

3 (1) for a mega project or a project in a government-restricted
4 municipality, the gross amount for each new or retained full-time job
5 shall not exceed \$8,000 per year;

6 (2) for a qualified business facility located within a distressed
7 municipality or qualified opportunity zone, the gross amount for each
8 new or retained full-time job shall not exceed \$6,000 per year;

9 (3) for a qualified business facility in a transit hub municipality,
10 the gross amount for each new or retained full-time job shall not
11 exceed \$5,000 per year;

12 (4) for a qualified business facility in an employment and
13 investment corridor, the gross amount for each new or retained full-
14 time job shall not exceed \$4,000 per year; and

15 (5) for a qualified business facility in other eligible areas, the
16 gross amount for each new or retained full-time job shall not exceed
17 \$3,000 per year.

18 e. The authority shall reduce the gross amount of tax credits per
19 full-time job if the median salary of new full-time jobs and retained
20 full-time jobs at the qualified business facility is less than the existing
21 median salary for the county in which the qualified business facility
22 is located. The authority shall reduce the gross amount of tax credits
23 per full-time job by an amount, in percentage points, equal to the
24 percentage the median salary of new full-time jobs and retained full-
25 time jobs at the qualified business facility is below the existing
26 median salary for the county in which the qualified business facility
27 is located. The authority shall not award a tax credit to an eligible
28 business if the median salary of new full-time jobs and retained full-
29 time jobs at the qualified business facility is 30 percent or more
30 below the existing median salary for the county in which the qualified
31 business facility is located.

32 f. After the determination by the authority of the gross amount
33 of tax credits for which an eligible business is eligible pursuant to
34 subsection d. of this section, the final total tax credit amount shall be
35 calculated as follows: (1) for each new full-time job, the eligible
36 business shall be allowed tax credits equaling the lesser of 100
37 percent of the gross amount of tax credits for each new full-time job;
38 and (2) for each retained full-time job, the eligible business shall be
39 allowed tax credits equaling 50 percent of the gross amount of tax
40 credits for each retained full-time job.

41 g. Notwithstanding the provisions of subsections a. through f. of
42 this section to the contrary, for each application approved by the
43 board, the amount of tax credits available to be applied by the
44 business annually shall not exceed an amount determined by the
45 authority to be necessary to induce the project to be sited in New
46 Jersey as determined by the board. The authority shall determine the
47 amount necessary to complete the project through staff analysis of all
48 locations under consideration by the eligible business and all lease

1 agreements, ownership documents, or substantially similar
2 documentation for the eligible business's current in-State locations
3 and potential out-of-State location alternatives, competitive
4 proposals from other states, the prevailing economic conditions, and
5 any other information that the authority deems relevant.
6

7 76. (New section) a. (1) If, in any tax period, an eligible
8 business reduces the total number of full-time employees in its
9 Statewide workforce by more than 20 percent from the number of
10 full-time employees in its Statewide workforce in the last tax period
11 prior to the credit amount approval under the program, then the
12 eligible business shall forfeit its credit amount for that tax period and
13 each subsequent tax period, until the first tax period for which
14 documentation demonstrating the restoration of the eligible
15 business's Statewide workforce to the threshold levels required by
16 this subsection has been reviewed and approved by the authority, for
17 which tax period and each subsequent tax period the full amount of
18 the credit shall be allowed.

19 (2) If the annual report filed by an eligible business pursuant to
20 section 77 of P.L. , c. (C.) (pending before the Legislature
21 as this bill) provides that the number of new full-time employees
22 employed by the eligible business at the qualified business facility,
23 or the salaries thereof, was reduced by more than 10 percent of the
24 number of new full-time employees, or salaries thereof, in the annual
25 report of the prior year, or the project agreement if the annual report
26 is the first such report filed, then the authority may reevaluate the net
27 positive economic benefit of the project and reduce the size of the
28 award accordingly. This reduction shall not affect any recapture
29 under subsection f. of this section.

30 b. If, in any tax period, the number of full-time employees
31 employed by the eligible business at the qualified business facility,
32 or the salaries thereof, drops below 80 percent of the number of new
33 and retained full-time jobs, and the salaries thereof, specified in the
34 project agreement or the incentive phase agreement, then the eligible
35 business shall forfeit its tax credit amount for that tax period and each
36 subsequent tax period, until the first tax period for which
37 documentation demonstrating the restoration of the number of full-
38 time employees employed by the eligible business at the qualified
39 business facility to 80 percent of the number of jobs specified in the
40 project agreement or incentive phase agreement or the restoration of
41 80 percent of the salaries specified in the project agreement is
42 reviewed and approved by the authority.

43 c. Except for an eligible business engaged primarily in a targeted
44 industry with less than 50 employees at application:

45 (1) If the qualified business facility is sold in whole or in part
46 during the eligibility period, the new owner shall not acquire the
47 capital investment of the seller, provided, however, that any tax
48 credits of tenants shall remain unaffected. The seller shall forfeit all

1 tax credits for the tax period in which the sale occurs and all
2 subsequent tax periods, provided, however, that an eligible business
3 may change the location of the qualified business facility if:

4 (a) the new facility:

5 (i) meets all applicable location qualifying criteria and has gross
6 leasable area not less than the gross leasable area of the qualified
7 business facility initially approved by the authority and the alternate
8 qualified business facility meets the minimum capital investment and
9 sustainability requirements of the program; or

10 (ii) does not meet all applicable location qualifying criteria or has
11 less gross leasable area than the gross leasable area of the qualified
12 business facility initially approved by the authority, if the alternate
13 qualified business facility meets the minimum capital investment and
14 sustainability requirements of the program, provided that the
15 authority shall require a new cost benefit analysis illustrating the
16 economics of the project which reflect occupancy at the alternate
17 proposed qualified business facility location for the remaining
18 duration of the commitment period and shall re-calculate the net
19 economic benefit of the project to reflect the economics of occupancy
20 at the alternate proposed location for the remaining duration of the
21 net benefit test period in lieu of the economics of continuing
22 occupancy at the qualified business facility proposed to be vacated,
23 and provided further that the award of tax credits shall be reduced
24 consistent with the variations in qualifying criteria for the alternate
25 qualified business facility location as well as in a manner consistent
26 with the revised net economic benefit calculation.

27 (b) in the event that the modified project economics materially
28 deviate from the economics of the initial approval in a manner that
29 undermines the recommendation of approval made by the staff of the
30 authority at the time of the initial approval, then the business
31 requesting to re-locate a qualified business facility shall be required
32 to obtain the approval of the members of the authority.

33 (2) If a tenant subleases its tenancy in whole or in part during the
34 eligibility period, the new tenant shall not acquire the tax credits of
35 the sublessor, and the sublessor shall forfeit all tax credits for any tax
36 period of its sublease in which the sublessor, in continued occupation
37 of a portion of the qualified business facility, fails to maintain the
38 number of jobs required for the sublessor to earn tax credits for the
39 tax period or fails to independently satisfy the minimum capital
40 investment or sustainability requirements for the program as set forth
41 in section 71 of P.L. , c. (C. or C.) (pending before the
42 Legislature as this bill). Provided, however, if the capital investment
43 of the sublessor in the occupied portion of the qualified business
44 facility is below the project minimum capital investment as set forth
45 in section 71 of P.L. , c. (C.) (pending before the Legislature
46 as this bill), the sublessor may include capital investment made by or
47 on behalf of the new tenant in the subleased portion of the qualified
48 business facility, so long as that capital investment is not the subject

1 of an independent application under an incentive program with the
2 authority.

3 d. A small business may move its qualified business facility
4 provided that the business remains in New Jersey during the
5 commitment period.

6 e. The authority may require a small business to submit a growth
7 plan, which specifies the number of new full-time employees at the
8 qualified business facility that the eligible business will hire each
9 year of the eligibility period; provided that by the end of the
10 eligibility period, the eligible business shall have a minimum of 25
11 percent growth of its workforce with new full-time jobs. If the
12 eligible business meets the number of new full-time employees
13 specified in the growth plan each year of the eligibility period, then
14 the eligible business shall be entitled to an increased credit amount
15 for that tax period, and each subsequent tax period, for each
16 additional full-time employee added above the number of full-time
17 employees certified, until the full-time employees number the
18 maximum number projected for the final year of the eligibility
19 period. Failure to meet the projections in any year shall not constitute
20 a default but shall cause the authority to reduce the award in
21 accordance with a schedule attached to the project agreement.

22 f. (1) The authority may recapture all or part of a tax credit
23 awarded if an eligible business does not remain in compliance with
24 the requirements of a project agreement for the duration of the
25 commitment period. A recapture pursuant to this subsection may
26 include interest on the recapture amount, at a rate equal to the
27 statutory rate for corporate business or insurance premiums tax
28 deficiencies, plus any statutory penalties, and all costs incurred by
29 the authority and the Division of Taxation in the Department of the
30 Treasury in connection with the pursuit of the recapture, including,
31 but not limited to, counsel fees, court costs, and other costs of
32 collection. Failure of the eligible business to meet any program
33 criteria shall constitute a default and shall result in the recapture of
34 all or part of the tax credit awarded.

35 (2) If all or part of a tax credit sold or assigned pursuant to section
36 78 of P.L. , c. (C.) (pending before the Legislature as this
37 bill) is subject to recapture, then the authority shall pursue recapture
38 from the eligible business and not from the purchaser or assignee of
39 the tax credit transfer certificate. The purchaser or assignee of a tax
40 credit transfer certificate shall be subject to any limitations and
41 conditions that apply to the use of the tax credits by the eligible
42 business.

43 (3) Any funds recaptured pursuant to this subsection, including
44 penalties and interest, shall be deposited into the General Fund of the
45 State.

46 g. A business may include an affiliate for any period, provided
47 that the business provides a valid tax clearance certificate for the
48 affiliate and a verification of the nature of the affiliate relationship

1 during the relevant period, and provided further that the affiliate
2 provides acceptable responses to the authority's legal disclosures
3 inquiries, as determined by the authority. A formal modification of
4 the authority's approval of the incentive agreement shall not be
5 necessary to add or remove an affiliate after approval or execution of
6 the incentive agreement.

7 h. A business may change its name filed with the authority by
8 providing a copy of the filed amendment to the certificate of
9 incorporation or formation, as the case may be, of the business and a
10 valid tax clearance certificate with the business's new name. A
11 formal modification of the authority's approval shall not be necessary
12 to change a business's name after approval or execution of the
13 incentive agreement.

14
15 77. (New section) a. (1) An eligible business which is
16 awarded tax credits under the program shall submit annually, no later
17 than the date indicated in the project agreement, commencing in the
18 year in which the grant of tax credits is issued and for the remainder
19 of the commitment period, a report that indicates that the eligible
20 business continues to maintain the number of new and retained full-
21 time jobs, and the salaries thereof, specified in the project agreement.
22 As part of the annual report required pursuant to this subsection, an
23 eligible business shall provide to the authority a copy of its applicable
24 New Jersey tax return showing business income and withholdings as
25 a condition of its continuation in the program, and the quarterly wage
26 report required under R.S.43:21-14 submitted to the Department of
27 Labor and Workforce Development together with an annual payroll
28 report showing: (a) the new full-time jobs which were created in
29 accordance with the project agreement, and (b) the new full-time jobs
30 created during each subsequent year of the commitment period. The
31 failure of an eligible business to submit to the authority a copy of its
32 annual payroll report or submit the quarterly wage report in
33 accordance with the provisions of this subsection during the
34 eligibility period shall result in the forfeiture of the award for that
35 year. An eligible business shall explain, in the reports required by
36 this subsection, the reason for any discrepancies between the annual
37 payroll report submitted by the eligible business and the quarterly
38 wage report. The owner of the eligible business, or an authorized
39 agent of the owner, shall certify that the information provided
40 pursuant to this paragraph is true under the penalty of perjury.
41 Claims, records, or statements submitted by an eligible business to
42 the authority in order to receive tax credits shall not be considered
43 claims, records, or statements made in connection with State tax
44 laws.

45 (2) Upon receipt and review of each report submitted during the
46 eligibility period, the authority shall provide to the eligible business
47 and the director a certificate of compliance indicating the amount of
48 tax credits that the eligible business may apply against its tax

1 liability. The authority shall pro rate the tax credit for the first and
2 last years of the eligibility period based on the number of full months
3 the project was certified in the year the eligible business first
4 certifies.

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

8 (2) An eligible business shall forfeit the credit amount for any tax
9 period for which the eligible business's documentation remains
10 uncertified as of the date for certification indicated in the project
11 agreement, although credit amounts for the remainder of the years of
12 the eligibility period shall remain available to the eligible business.

13 c. Full-time employment for an accounting or privilege period
14 shall be determined as the average of the monthly full-time
15 employment for the period.

16 d. (1) Upon receipt by the director of the certificate of
17 compliance, the director shall allow the eligible business a tax credit.
18 The eligible business may apply the credit allowed by the director
19 against the eligible business's tax liability for the tax period in which
20 the director allowed the tax credit or may carry forward the credit for
21 use by the eligible business in any of the next seven successive tax
22 periods, which credit shall expire thereafter.

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

28 (b) Credits granted to a partnership shall be passed through to the
29 partners, members, or owners, respectively, pro-rata, or pursuant to
30 an executed agreement among the partners, members, or owners
31 documenting an alternate distribution method provided to the director
32 accompanied by any additional information as the director may
33 prescribe. With respect to credits passed through to a person subject
34 to tax liability due pursuant to sections 2 or 3 of P.L.1945, c.132
35 (C.54:18A-2 and C.54:18A-3), the person shall be allowed to apply
36 credits against the person's tax liability without the provision of a tax
37 credit certificate to the Division of Taxation in the Department of the
38 Treasury for the tax period accompanying the person's tax return and
39 the person shall be considered the tax certificate holder and be subject
40 to subparagraph (c) of this paragraph. The authority may recapture
41 all or part of any tax credits claimed by a person pursuant to
42 subparagraph (b) of this paragraph with penalties and interest from
43 the person or the business in the event the Division of Taxation in the
44 Department of the Treasury does not issue a tax credit certificate in
45 an amount at least equal to the tax credit amount claimed on the
46 person's tax return for the applicable tax period.

47 (3) The director shall prescribe the order of priority of the
48 application of the credit allowed under this section and any other

1 credits allowed by law against the tax imposed under section 5 of
2 P.L.1945, c.162 (C.54:10A-5). The amount of a credit applied under
3 this section against the tax imposed pursuant to section 5 of P.L.1945,
4 c.162 (C.54:10A-5) for a privilege period, together with any other
5 credits allowed by law, shall not reduce the tax liability to an amount
6 less than the statutory minimum provided in subsection (e) of section
7 5 of P.L.1945, c.162 (C.54:10A-5).

8 (4) In lieu of applying any credit certificate or credit transfer
9 certificate against tax liability otherwise due pursuant to section 5 of
10 P.L.1945, c.162 (C.54:10A-5), sections 2 and 3 of P.L.1945, c.132
11 (C.54:18A-2 and C.54:18A-3), section 1 of P.L.1950, c.231
12 (C.17:32-15), or N.J.S.17B:23-5, the credit certificate or credit
13 transfer certificate may be surrendered to the Division of Taxation in
14 the Department of the Treasury for a cash payment equal to 90
15 percent of the amount of tax credits evidenced by the certificate,
16 provided that the issuance date of the credit certificate or credit
17 transfer certificate to the taxpayer surrendering such certificate
18 occurred at least two years prior to the date of surrender.

19

20 78. (New section) a. An eligible business may apply to the
21 director and the chief executive officer of the authority for a tax credit
22 transfer certificate, within three years of the tax period in which the
23 director allows the eligible business a tax credit, in lieu of any amount
24 of the tax credit against the eligible business's State tax liability. The
25 tax credit transfer certificate, upon receipt thereof by the eligible
26 business from the director and the chief executive officer of the
27 authority, may be sold or assigned, in an amount not less than
28 \$25,000, within three years of the tax period in which the eligible
29 business receives the tax credit transfer certificate from the director,
30 to another person that may have a tax liability pursuant to section 5
31 of P.L.1945, c.162 (C.54:10A-5), sections 2 and 3 of P.L.1945, c.132
32 (C.54:18A-2 and 54:18A-3), section 1 of P.L.1950, c.231 (C.17:32-
33 15), or N.J.S.17B:23-5. A purchaser or assignee of a tax credit
34 transfer certificate pursuant to this section shall apply the transferred
35 credit against the same tax for which the eligible business was
36 approved a tax credit under the program. The tax credit transfer
37 certificate provided to the eligible business shall include a statement
38 waiving the eligible business's right to claim the credit that the
39 eligible business has elected to sell or assign.

40 b. (1) The eligible business shall not sell or assign a tax credit
41 transfer certificate allowed under this section for consideration
42 received by the eligible business of less than 85 percent of the
43 transferred credit amount before considering any further discounting
44 to present value which shall be permitted. The tax credit transfer
45 certificate issued to the eligible business by the director shall be
46 subject to any limitations and conditions imposed on the application
47 of State tax credits pursuant to sections 70 through 81 of P.L. ,

1 c. (C.) (pending before the Legislature as this bill) and any
2 other terms and conditions that the director may prescribe.

3 (2) With respect to credits to be sold or assigned, in full or in part,
4 pursuant to an application to the authority for a tax credit transfer
5 certificate by a business to a person subject to tax liability due
6 pursuant to sections 2 or 3 of P.L.1945, c.132 (C.54:18A-2 or
7 C.54:18A-3), the person shall be allowed to apply the credits against
8 the person's tax liability without the provision of a tax credit
9 certificate to the Division of Taxation in the Department of the
10 Treasury for the tax period accompanying its tax return, and the
11 person be considered a tax credit transferee and be subject to
12 paragraph (3) of this subsection.

13 (3) The authority may recapture all or part of any tax credits
14 claimed by a person pursuant to paragraph (2) of this subsection with
15 penalties and interest from the person or the business in the event the
16 authority does not issue a tax credit certificate in an amount at least
17 equal to the tax credit amount claimed on the person's tax return for
18 the applicable tax period.

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

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

- 25 (1) the name of the transferrer;
26 (2) the name of the transferee;
27 (3) the value of the tax credit transfer certificate;
28 (4) the State tax against which the transferee may apply the tax
29 credit; and
30 (5) the consideration received by the transferrer.

31
32 79. (New section) a. The authority shall establish a dedicated
33 fund to be known as the "Recovery Infrastructure Fund." Money in
34 the fund shall be dedicated to the purpose of funding local
35 infrastructure, which shall include:

- 36 (1) buildings and structures, such as schools, fire houses, police
37 stations, recreation centers, public works garages, and water and
38 sewer treatment and pumping facilities;
39 (2) sidewalks, streets, roads, ramps, and jug handles;
40 (3) open space with improvements such as athletic fields,
41 playgrounds, and planned parks;
42 (4) open space without improvements;
43 (5) public transportation facilities such as train stations and
44 public parking facilities; and
45 (6) the purchase of equipment considered vital to public safety.

46 b. The fund shall be credited with money remitted by eligible
47 businesses pursuant to paragraph (2) of subsection b. of section 71 of
48 P.L. , c. (C.) (pending before the Legislature as this bill).

1 c. Money remitted to the fund by an eligible business pursuant
2 to paragraph (2) of subsection b. of section 71 of P.L. , c. (C.)
3 (pending before the Legislature as this bill) shall be earmarked for
4 use on local infrastructure projects in the municipality in which the
5 eligible business's project is located.

6 d. A municipality shall apply to the authority, in a form and
7 manner prescribed by the authority, for disbursements from the
8 Recovery Infrastructure Fund. The authority, in consultation with
9 the Department of Community Affairs, shall review and approve
10 applications for disbursements of money from the fund pursuant to
11 the provisions of this section and the rules and regulation
12 promulgated by the authority pursuant to paragraph (1) of subsection
13 f. of this section.

14 e. The Department of Community Affairs shall coordinate with
15 the authority and other boards, commissions, institutions,
16 departments, agencies, State officers, and employees to carry out the
17 local infrastructure projects funded through the Recovery
18 Infrastructure Fund.

19 f. (1) The authority shall adopt rules and regulations pursuant to
20 the "Administrative Procedure Act," P.L.1968, c.410 (C.52:14B-1 et
21 seq.), to effectuate the purposes of subsections a. through d. of this
22 section.

23 (2) The Department of Community Affairs shall adopt rules and
24 regulations pursuant to the "Administrative Procedure Act,"
25 P.L.1968, c.410 (C.52:14B-1 et seq.), to effectuate the purposes of
26 subsection e. of this section.

27

28 80. (New section) Beginning the year next following the year in
29 which P.L. , c. (C.) (pending before the Legislature as this
30 bill) takes effect and every two years thereafter, a State college or
31 university shall, pursuant to an agreement executed between the State
32 college or university and the authority, prepare a report on the
33 implementation of the program, and submit the report to the
34 authority, the Governor, and, pursuant to section 2 of P.L.1991, c.164
35 (C.52:14-19.1), to the Legislature. Each biennial report required
36 under this section shall include a description of each eligible business
37 receiving a tax credit under the program, a detailed analysis of the
38 consideration given to each applicant, an analysis of whether the
39 incentives awarded influenced the eligible business's decisions to
40 locate a qualified business facility in the State, the return on
41 investment for incentives awarded, the eligible business's impact on
42 the State's economy, and any other metrics the State college
43 determines are relevant based upon national best practices. The
44 authority shall prepare a written response to the report, which the
45 authority shall submit to the Governor and, pursuant to section 2 of
46 P.L.1991, c.164 (C.52:14-19.1), to the Legislature.

1 81. (New section) Notwithstanding the provisions of the
2 "Administrative Procedure Act," P.L.1968, c.410 (C.52:14B-1 et
3 seq.), to the contrary, the chief executive officer of the authority may
4 adopt, immediately, upon filing with the Office of Administrative
5 Law, regulations that the chief executive officer deems necessary to
6 implement the provisions of sections 70 through 81 of P.L. ,
7 c. (C.) (C.) (pending before the Legislature as this bill),
8 including but not limited to examples of and the determination of
9 capital investment and the determination of the limits, if any, on the
10 expense or type of furnishings that may constitute capital
11 improvements, which regulations shall be effective for a period not
12 to exceed 180 days from the date of the filing. The chief executive
13 officer shall thereafter amend, adopt, or readopt the regulations in
14 accordance with the requirements of P.L.1968, c.410 (C.52:14B-1 et
15 seq.).

16
17 82 (New section) Sections 82 through 88 of P.L. , c. (C.)
18 (pending before the Legislature as this bill) shall be known and may
19 be cited as the "Main Street Recovery Finance Program Act."
20

21 83. (New section) As used in sections 82 through 88 of P.L. ,
22 c. (C.) (pending before the Legislature as this bill):

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

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

28 "Eligible microbusiness" means a business enterprise located in
29 the State that produces goods or provides services and has fewer than
30 10 full-time equivalent employees and annual gross revenue of less
31 than \$1,000,000 at the time of application for a loan under the
32 program.

33 "Eligible small business" means any business that satisfies the
34 criteria set forth in subsection b. of section 85 of P.L. , c. (C.)
35 (pending before the Legislature as this bill) at the time of application
36 for a grant under the program.

37 "Program" means the Main Street Recovery Finance Program
38 established pursuant to section 84 of P.L. , c. (C.) (pending
39 before the Legislature as this bill).

40 "Small business" means a business engaged in the conduct of a
41 trade or business in this State that qualifies as a "small business
42 concern" within the meaning of the federal "Small Business Act,"
43 Pub.L.85-536 (15 U.S.C. § 631 et seq.) for the purpose of the small
44 business's eligibility assistance from the United States Small
45 Business Administration.

46
47 84. (New section) The Main Street Recovery Finance Program is
48 hereby established as a program under the jurisdiction of the New

1 Jersey Economic Development Authority. The authority shall
2 administer the program for the purpose of providing grants, loans,
3 and loan guarantees to eligible small businesses in accordance with
4 the provisions of sections 82 through 88 of P.L. , c. (C.)
5 (pending before the Legislature as this bill). A business seeking a
6 grant, loan, or loan guarantee under the program shall submit an
7 application to the authority. The authority shall adopt eligibility
8 criteria for the program and may consider a business's benefit to the
9 community in which it is situated and the degree to which the
10 business enhances and promotes job creation and economic
11 development in communities that have been severely impacted by the
12 COVID-19 pandemic when making awards under the program.

13

14 85. (New section) a. As part of the Main Street Recovery
15 Finance Program, the authority shall provide grants to eligible small
16 businesses from the Main Street Recovery Fund, subject to
17 appropriation or the availability of federal funds provided that not
18 less than 40 percent of such funds shall be made available to eligible
19 microbusinesses certified by the State as a "minority business" or a
20 "women's business" pursuant to P.L.1986, c.195 (C.52:27H-21.17 et
21 seq.). Grants awarded pursuant to the program may be used by an
22 eligible small business for capital improvements or to cover
23 operating expenses. The authority may dedicate up to 10 percent of
24 any amount appropriated for the purposes of this section to provide
25 technical assistance grants to eligible microbusinesses.

26 b. (1) A small business shall be eligible to receive a grant
27 pursuant to this section if the small business demonstrates to the
28 authority that:

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

34 (b) each worker employed by the small business shall be paid not
35 less than \$15 per hour or 120 percent of the minimum wage fixed
36 under subsection a. of section 5 of P.L.1966, c.113 (C.34:11-56a4),
37 whichever is higher.

38 (2) In addition to the requirements of paragraph (1) of this
39 subsection, a small business shall be eligible to receive a grant
40 pursuant to this subsection for capital improvements only if the small
41 business demonstrates to the authority at the time of application that:

42 (a) any capital improvement undertaken with grant funds shall
43 comply with standards established by the authority in accordance
44 with the green building manual prepared by the Commissioner of
45 Community Affairs pursuant to section 1 of P.L.2007, c.132
46 (C.52:27D-130.6), regarding the use of renewable energy, energy-
47 efficient technology, and non-renewable resources to reduce

1 environmental degradation and encourage long-term cost reduction;
2 and

3 (b) each worker employed to perform construction work in
4 connection with a capital improvement undertaken with grant funds
5 in excess of \$50,000 shall be paid not less than the prevailing wage
6 rate for the worker's craft or trade, as determined by the
7 Commissioner of Labor and Workforce Development pursuant to
8 P.L.1963, c.150 (C.34:11-56.25 et seq.).

9 c. Prior to March 1, 2025, an eligible small business seeking a
10 grant pursuant to this section shall submit an application for approval
11 to the authority in the form and manner prescribed in regulations
12 adopted by the authority pursuant to the provisions of the
13 "Administrative Procedure Act," P.L.1968, c.410 (C.52:14B-1 et
14 seq.). Before the board may consider an eligible small business's
15 application for grants, the Department of Labor and Workforce
16 Development, the Department of Environmental Protection, and the
17 Department of the Treasury shall each report to the chief executive
18 officer of the authority whether the eligible small business is in
19 substantial good standing with the respective department, or has
20 entered into an agreement with the respective department that
21 includes a practical corrective action plan for the eligible small
22 business. The authority may also contract with an independent third
23 party to perform a background check on the eligible small business.
24 The eligible small business, or an authorized agent thereof, shall
25 certify under the penalty of perjury that any information provided in
26 the application required pursuant to this subsection is true.

27 d. Following approval by the board, but before the disbursement
28 of grant funds, the authority shall require an eligible small business
29 to enter into a grant agreement. The grant agreement shall specify
30 the amount of the grant to be awarded the eligible small business and
31 the frequency of payments. If the authority determines that an
32 eligible small business made a material misrepresentation on the
33 eligible small business's grant application or the eligible small
34 business has failed to comply with any requirement set forth in
35 paragraphs (1) through (4) of subsection b. of this section, then the
36 small business shall return to the authority any grant awarded
37 pursuant to this section.

38

39 86. (New section) a. As part of the Main Street Recovery
40 Finance Program, the authority shall make available from the Main
41 Street Recovery Fund, subject to annual appropriation and the
42 availability of funds, to eligible community development finance
43 institutions pursuant to subsection b. of this section and to eligible
44 microbusinesses pursuant to subsection c. of this section, provided
45 that not less than 40 percent of such funds shall be made available to
46 eligible microbusinesses certified by the State as a "minority
47 business" or a "women's business" pursuant to P.L.1986, c.195
48 (C.52:27H-21.17 et seq.). The authority may dedicate up to 10

1 percent of any amount appropriated for the purposes of this section
2 to provide technical assistance grants to eligible microbusinesses.

3 b. The authority shall provide loans and grants to eligible
4 community development finance institutions in accordance with this
5 subsection. Loans and grants made available to eligible community
6 development finance institutions pursuant to this paragraph shall be
7 used to strengthen capital structures, leverage additional debt capital,
8 and increase lending and investing in economically disadvantaged
9 communities. The authority shall require an eligible community
10 development finance institutions that receives a grant or loan
11 pursuant to this subsection to enter into an agreement with the
12 authority.

13 c. The authority shall provide loans to eligible microbusinesses
14 in accordance with this subsection. Loans made available to eligible
15 microbusinesses pursuant to this subsection may be used for capital
16 improvements, employee training, salaries for new positions, and to
17 pay for day-to-day operating expenditures, including payroll, rent,
18 utilities, insurance, and purchases of goods and services. The
19 authority shall require an eligible microbusiness to enter into a loan
20 agreement. Loans made pursuant to this subsection shall have a term
21 and an interest rate determined by the authority based on conditions
22 currently prevailing in the market. The authority may forgive loans
23 provided to eligible microbusinesses pursuant to this subsection at
24 the authority's discretion. The authority may, through the terms of
25 the loan agreement, establish terms governing the incidence of
26 default by an eligible microbusiness.

27 d. Prior to March 1, 2025, an eligible community development
28 finance institution seeking a loan or a grant pursuant to subsection b.
29 of this section or an eligible microbusiness seeking a loan pursuant
30 to subsection c. of this section shall submit an application for
31 approval to the authority in the form and manner prescribed in
32 regulations adopted by the authority pursuant to the provisions of the
33 "Administrative Procedure Act," P.L.1968, c.410 (C.52:14B-1 et
34 seq.). Before the authority may consider an application, the
35 Department of Labor and Workforce Development, the Department
36 of Environmental Protection, and the Department of the Treasury
37 shall each report to the chief executive officer of the authority
38 whether the applicant is in substantial good standing with the
39 respective department, or has entered into an agreement with the
40 respective department that includes a practical corrective action plan
41 for the applicant. The authority may also contract with an
42 independent third party to perform a background check on the
43 applicant. The applicant, or an authorized agent thereof, shall certify
44 under the penalty of perjury that any information provided in the
45 application required pursuant to this subsection is true.

46

47 87. (New section) a. To aid in the economic recovery of
48 those communities most impacted by the COVID-19 pandemic and

1 to better ensure their long-term economic growth, there is created the
2 "Main Street Recovery Fund" to be held by the State Treasurer. All
3 moneys deposited in the fund shall be held and disbursed in the
4 amounts necessary to fulfill the purposes of providing grants and
5 loans pursuant to sections 85 and 86 of P.L. , c. (C.) (pending
6 before the Legislature as this bill) and the purposes enumerated in
7 subsection b. of this section, and for reasonable administrative costs
8 of implementing sections 82 through 88 of P.L. , c. (C.)
9 (pending before the Legislature as this bill). The fund may be
10 credited with pay backs; bonuses; entitlements; money received from
11 the federal government; transfers; grants; gifts; bequests; moneys
12 appropriated by the Legislature; or any other money made available
13 from any source. The State Treasurer, in consultation with the
14 authority, may invest and reinvest any moneys in the fund in the State
15 Treasurer's discretion. Any income from, interest on, or increment
16 to moneys so invested or reinvested shall be included in the fund.

17 b. Upon application to the State Treasurer, and in consultation
18 with the Chief Executive Officer of the New Jersey Economic
19 Development Authority, the State Treasurer shall make loan
20 guarantees from the fund to leverage private and public lending to
21 help finance small businesses, real estate developments, and
22 manufacturers that are creditworthy but not receiving the financing
23 needed to expand and create jobs. In making loan guarantees under
24 this section, the State Treasurer shall give due consideration to small
25 businesses and real estate developments in underserved communities
26 throughout the State that have been deeply impacted by the COVID-
27 19 pandemic.

28 c. (1) The State Treasurer shall monitor the activities of the
29 beneficiaries of the loan guarantees issued pursuant to this section on
30 an annual basis to ensure compliance with the terms and conditions
31 imposed on the recipient by the chief executive officer.

32 (2) An entity receiving a loan guarantee and the beneficiaries of
33 such loan guarantee under this section shall provide the State
34 Treasurer with an annual accounting of how the benefit it received
35 from the fund was applied.

36 (3) The annual accounting required under this section shall
37 include certifications by the Department of Labor and Workforce
38 Development, the Department of Environmental Protection, and the
39 Department of the Treasury that the entity and the beneficiaries are
40 in substantial good standing with the respective departments, or have
41 entered into an agreement with the respective department that
42 includes a practical corrective action plan.

43 (4) The entity and beneficiary, or an authorized agent thereof,
44 shall certify under the penalty of perjury that the information
45 provided pursuant to this subsection is true.

46

47 88. (New section) Notwithstanding the provisions of the
48 "Administrative Procedure Act," P.L.1968, c.410 (C.52:14B-1 et

1 seq.), to the contrary, the chief executive officer of the authority may
2 adopt, immediately, upon filing with the Office of Administrative
3 Law, regulations that the chief executive officer deems necessary to
4 implement the provisions of sections 82 through 88 of P.L. ,
5 c. (C.) (pending before the Legislature as this bill), which
6 regulations shall be effective for a period not to exceed 180 days from
7 the date of the filing. The chief executive officer shall thereafter
8 amend, adopt, or readopt the regulations in accordance with the
9 requirements of P.L.1968, c.410 (C.52:14B-1 et seq.).

10
11 89. (New section) a. The Director of the Division of
12 Taxation in the Department of the Treasury may purchase unused tax
13 credits awarded under a program listed in subsection b. of this
14 section, including tax credit transfer certificates issued by the
15 director in lieu of a tax credit allowed under such programs. The
16 director shall not pay consideration in excess of 75 percent of the
17 credit amount to be purchased, except for a credit awarded under the
18 " Emerge Program Act," sections 68 through 81 of P.L. ,
19 c. (C.) (pending before the Legislature as this bill), which
20 shall be subject to the provisions of paragraph (4) of subsection d. of
21 section 77 of P.L. , c. (C.) (pending before the Legislature as
22 this bill).

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

25 (1) the "Historic Property Reinvestment Act," sections 1 through
26 8 of P.L. , c. (C.) (pending before the Legislature as this
27 bill);

28 (2) the "Brownfield Redevelopment Incentive Program Act,"
29 sections 9 through 19 of P.L. , c. (C.) (pending before the
30 Legislature as this bill);

31 (3) the "New Jersey Innovation Evergreen Act," sections 20
32 through 34 of P.L. , c. (C.) (pending before the Legislature
33 as this bill);

34 (4) the "Food Desert Relief Act," sections 35 through 42 of
35 P.L. , c. (C.) (pending before the Legislature as this bill);

36 (5) the "New Jersey Community-Anchored Development Act,"
37 sections 43 through 53 of P.L. , c. (C.) (pending before the
38 Legislature as this bill);

39 (6) the "New Jersey Aspire Program Act," sections 54 through 67
40 of P.L. , c. (C.) (pending before the Legislature as this bill);

41 (7) the " Emerge Program Act," sections 68 through 81 of P.L. ,
42 c. (C.) (pending before the Legislature as this bill);

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

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

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

1 (11) section 1 of P.L.2018, c.56 (C.54:10A-5.39b); and
2 (12) section 2 of P.L.2018, c.56 (C.54A:4-12b).

3
4 90. (New section) a. There is established in the New Jersey
5 Economic Development Authority a Working Group on Entrepreneur
6 Zones for the purpose of making recommendations for the
7 establishment of entrepreneur zones throughout the State. The
8 working group shall consider whether the establishment of
9 entrepreneur zones in which the State provides the tax incentives,
10 regulation relief, and financial support to local entrepreneurs is the
11 most effective way to create jobs in the State. The working group
12 shall identify census tracts within the State that are suitable for
13 designation as an entrepreneur zone.

14 b. The working group shall consist of seven members appointed
15 by the chief executive officer of the New Jersey Economic
16 Development Authority.

17 c. Appointments to the working group shall be made within 30
18 days after the effective date of this act. Vacancies in the membership
19 of the working group shall be filled in the same manner as the original
20 appointments were made.

21
22 91. (New section) a. As used in this section:

23 "Personal protective equipment" means coveralls, face shields,
24 gloves, gowns, masks, respirators, and other equipment designed to
25 protect the wearer from the spread of infection or illness.

26 "State agency" means any principal department in the Executive
27 Branch of State government, and any division, board, bureau, office,
28 commission or other instrumentality within or created by such
29 department, and any independent State authority, commission,
30 instrumentality or agency, other than in the Legislative or Judicial
31 Branches of State government, which is authorized by law to award
32 public contracts.

33 b. Notwithstanding the provisions of any other law to the
34 contrary, whenever the Director of the Division of Purchase and
35 Property, or the head of any State agency shall consider bids on any
36 contract for the purchase of personal protective equipment that is
37 publicly advertised for bids, the director or the head of a State agency
38 shall list the bidders in order based upon which bid, conforming to
39 the invitation for bids, would be most advantageous to the State,
40 price, and other factors considered. If the first bidder on the list has
41 its principal place of business in this State it shall be awarded the
42 contract. If no bidder having its principal place of business in this
43 State has submitted a bid that is within five percent of the bid
44 submitted by the bidder at the top of the list that has its principal
45 place of business outside of this State, the contract shall be awarded
46 to the bidder at the top of the list. If the first bidder on the list has its
47 principal place of business outside of this State and a bidder that has
48 its principal place of business in this State is on the list and has

1 submitted a bid that is within five percent of the bid submitted by the
2 bidder at the top of the list that has its principal place of business
3 outside of this State, the contract shall be awarded to the highest
4 listed in-State bidder.

5 Any specifications for the provision or personal protective
6 equipment under this act shall be drafted in a manner to encourage
7 free, open, and competitive bidding.

8 Any specification which knowingly excludes prospective bidders
9 by reason of the impossibility of performance, bidding, or
10 qualifications by any but one bidder shall be null and void and of no
11 effect.

12 c. The State Treasurer shall adopt such rules and regulations as
13 may be necessary to implement the provisions of this section
14 pursuant to the "Administrative Procedure Act," P.L.1968, c.410
15 (C.52:14B-1 et seq.).

16
17 92. (New section) Sections 92 through 97 of P.L. , c. (C.)
18 (pending before the Legislature as this bill) shall be known and may
19 be cited as the "New Jersey Ignite Act."
20

21 93. (New section) As used in sections 92 through 97 of P.L. ,
22 c. (C.) (pending before the Legislature as this bill):

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

26 "Authority commitment period" means the period for which the
27 authority commits to provide a start-up rent grant for the payment of
28 rent in a collaborative workspace

29 "Collaborative workspace" means a business facility certified
30 pursuant to section 95 of P.L. , c. (C.) (pending before the
31 Legislature as this bill), located in this State, developed to provide
32 flexible workspaces for early stage innovation economy businesses,
33 and designed to encourage community and collaboration within an
34 inter-connected environment in which multiple start-up businesses
35 have access to shared community events and shared workplace
36 accommodations including, but not limited to, kitchens and
37 makerspaces.

38 "Collaborative workspace commitment period" means a period of
39 months equal to one-half the number of months of the authority
40 commitment period.

41 "Community event" means an event hosted by a collaborative
42 workspace and accessible to start-up tenant or member businesses,
43 without charge or with nominal charge, organized to support an
44 innovation ecosystem, as defined in section 21 of P.L. ,
45 c. (C.) (pending before the Legislature as this bill), at the
46 collaborative workspace, including, but not limited to, events such as
47 meet-ups, speaker series, and office hours for lawyers, accountants,
48 consultants, or investors.

1 "Early stage innovation economy business" means a business that
2 operates within a targeted industry with at least one full-time
3 employee, who is assigned to the collaborative workspace, and fewer
4 than 10 employees overall and with less than \$1,000,000 in gross
5 sales over the 12-month period immediately prior to submitting an
6 application for tenancy at a collaborative workspace. To be
7 considered an "early stage innovation economy business" the earliest
8 date of formation for the business must have been not more than three
9 years prior to utilizing or renting space in, or access to, the
10 collaborative workspace under the program, and the business shall
11 not have previously utilized or rented space in, or access to, another
12 collaborative workspace in the State.

13 "Full time employee" means a person who is: employed by the
14 start-up tenant or member business for at least 35 hours a week;
15 working as an independent contractor providing critical capabilities
16 to the start-up tenant or member business for at least 35 hours a week;
17 or an owner or partner of the start-up tenant or member business who
18 works for at start-up tenant or member business for at least 35 hours
19 a week.

20 "Grant agreement" means an agreement between the authority and
21 the owner and operator of a collaborative workspace which
22 memorializes the terms and conditions of the collaborative
23 workspace's participation in the program.

24 "Program" means the New Jersey Ignite Program established
25 pursuant to section 94 of P.L. , c. (C.) (pending before the
26 Legislature as this bill).

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

36 "Start-up rent grant" means a grant provided by the authority to a
37 collaborative workspace for the rent that would otherwise be due to
38 the collaborative workspace from a start-up tenant or member
39 business for the period of the authority commitment period.

40 "Start-up tenant or member business" means an early stage
41 innovation economy business that is registered to do business in New
42 Jersey, rents space in, or access to, a collaborative workspace under
43 the program, and enters into an agreement with the owner and
44 operator of the collaborative workspace to rent space in, or access to,
45 the collaborative workspace for an agreed upon period, which shall
46 include the authority commitment period, collaborative workspace
47 commitment period, and start-up tenant or member business
48 commitment period.

1 "Start-up tenant or member business commitment period" means
2 a period of months equal to the sum of the authority commitment
3 period and the collaborative workspace commitment period.
4

5 94. (New section) The New Jersey Ignite Program is hereby
6 established as a program under the jurisdiction of the authority. The
7 purpose of the program shall be to foster early stage innovation
8 economy businesses and to help those businesses overcome barriers
9 to commercial success. The authority shall structure the program as
10 a public-private partnership through which the authority provides
11 start-up rent grants to collaborative workspaces, certified pursuant to
12 section 95 of P.L. , c. (C.) (pending before the Legislature
13 as this bill), to support the early months of an early stage innovation
14 economy business's rent at the collaborative workspace.
15

16 95. (New section) a. The owner and operator of a business
17 facility located in the State may apply to the authority to have the
18 business facility certified as a collaborative workspace under the
19 program. A business facility shall be eligible for certification as a
20 collaborative workspace if:

21 (1) the business facility is developed to provide flexible
22 workspaces for early stage innovation economy businesses;

23 (2) the business facility is designed to encourage community and
24 collaboration within an inter-connected environment in which
25 multiple start-up businesses have access to shared workplace
26 accommodations;

27 (3) the owner and operator of the business facility commits to
28 hosting at least eight community events at the business facility each
29 year;

30 (4) the owner and operator of the business facility possesses a tax
31 clearance certificate issued by the Division of Taxation in the
32 Department of the Treasury;

33 (5) the owner and operator of the business facility possesses a
34 business registration certificate issued by the Division of Revenue in
35 the Department of the Treasury;

36 (6) at least five unique tenant or member businesses, in which the
37 owner and operator of the business facility does not have a direct
38 financial interest, have paid rent for space in, or access to, the
39 business facility over the two years immediately preceding the
40 submission of the application for certification as a collaborative
41 workspace pursuant to this section or, if the business facility has been
42 open for less than 90 days, the owner and operator of the business
43 facility provides to the authority at least three letters of intent from
44 prospective tenant or member businesses;

45 (7) the business facility is subject to ongoing operating costs,
46 such as rent, mortgage payments, or internal corporate charge-backs,
47 at the time of application for certification pursuant to this section;

1 (8) the owner and operator of the business facility offers at least
2 one type of workspace at the business facility for rent by an early
3 stage innovation economy business;

4 (9) the owner and operator of the business facility charges rent to
5 tenants or members; and

6 (10) the owner and operator of the business facility certifies that
7 any rent charged to a start-up tenant or member business is to be
8 market-rate.

9 b. In addition to the requirements set forth in subsection a. of
10 this section, for a business facility to qualify for certification as a
11 collaborative workspace, the authority may, in its discretion and
12 subject to available funds, require the owner and operator of the
13 business facility shall commit to paying one month's rent for a start-
14 up tenant or member business at the business facility for every two
15 months of rent to be paid by the authority as a start-up rent grant
16 under the program.

17 c. (1) The owner and operator of a business facility eligible
18 for certification as a collaborative workspace pursuant to subsections
19 a. and b. of this section shall submit an application for certification
20 and participation in the program in such form as required by the
21 authority. The application shall include any information the
22 authority determines is necessary to administer the program.

23 (2) In evaluating applications for certification as a collaborative
24 workspace, the authority may conduct site visits or perform any other
25 investigation necessary to confirm any statement made in the
26 application submitted by the owner and operator of the business
27 facility. If the authority later finds that any statement made in the
28 application for certification is inaccurate, then the authority may
29 rescind its certification of the collaborative workspace.

30 d. Following approval of an application for certification, to
31 participate in the program the authority and the owner and operator
32 of a collaborative workspace shall enter into a grant agreement
33 governing the terms, conditions, and timing under which the
34 authority shall pay the start-up rent grant to the owner and operator
35 of the collaborative workspace. The grant agreement shall require a
36 collaborative workspace to share data concerning its participation in
37 the program and on collaborative workspace utilization for the
38 purpose of better program planning and the development of new
39 programs to further support the State's economy.

40
41 96. (New section) a. Up to the limits established in this
42 subsection and in accordance with the grant agreement, the authority
43 shall provide start-up rent grants to the owner and operator of a
44 collaborative workspace through a series of scheduled payments as
45 set forth in the grant agreement. The owner and operator of the
46 collaborative workspace shall utilize the grant funding to provide
47 rent-free space to a start-up tenant or member business that agrees to
48 continue renting space in, or access to, the collaborative workspace

1 for the start-up tenant or member business commitment period. The
2 maximum start-up rent grant that the authority may provide to a
3 collaborative workspace for the tenancy of a single start-up tenant or
4 member business shall not exceed \$25,000.

5 b. The authority may provide a start-up rent grant for the
6 payment of rent for space in, or access to, a collaborative workspace
7 for up to six months; provided, however, if a collaborative workspace
8 or start-up tenant or member business satisfies any of the bonuses set
9 forth in paragraphs (1) through (5) of this subsection, then the
10 authority may provide an additional month of rent for each bonus
11 satisfied by the collaborative workspace or start-up tenant or member
12 business. The authority shall award a bonus to the owner and
13 operator of a collaborative workspace if:

14 (1) the collaborative workspace is located in a qualified
15 opportunity zone designated pursuant to 26 U.S.C. s.1400Z-1;

16 (2) the collaborative workspace is affiliated with a hospital
17 system or a New Jersey university;

18 (3) the collaborative workspace has been open less than 90 days
19 from the date on which the owner and operator of the collaborative
20 workspace applied to the authority to participate in the program and
21 the collaborative workspace is not in the same location as an existing
22 facility;

23 (4) the start-up tenant or member business for which the start-up
24 rent grant is paid is certified by the State as a "minority business" or
25 a "women's business" pursuant to P.L.1986, c.195 (C.52:27H-21.17
26 et seq.); or

27 (5) the start-up tenant or member business for which the start-up
28 rent grant is paid is the first presence of a foreign company entering
29 into the United States.

30 c. (1) The owner and operator of a collaborative workspace
31 shall annually certify to the authority, under the penalty of perjury,
32 that it is in compliance with the grant agreement.

33 (2) In addition to the certification required pursuant to paragraph
34 (1) of this subsection, the authority shall conduct an annual
35 inspection and review of the collaborative workspace and may
36 request documentation evidencing that the collaborative workspace
37 utilized the start-up rent grant it received from the authority in
38 accordance with the requirements of the program and the grant
39 agreement.

40 d. (1) If a start-up tenant or member business stops
41 occupying or accessing a collaborative workspace before the end of
42 the start-up tenant or member business commitment period, then the
43 collaborative workspace shall refund to the authority that portion of
44 the start-up rent grant covering any period in which the start-up
45 tenant or member business did not have space in, or access to, the
46 collaborative workspace.

47 (2) If the authority determines that a collaborative workspace is
48 not in compliance with the requirements of the program or of the

1 grant agreement, then the authority shall rescind the business
2 facility's certification as a collaborative workspace and bar the
3 business facility from further participation in the program.

4
5 97. (New section) The authority shall promulgate rules and
6 regulations necessary for the effective implementation of sections 92
7 through 97 of P.L. , c. (C.) (pending before the Legislature
8 as this bill). Notwithstanding any provision of the "Administrative
9 Procedure Act," P.L.1968, c.410 (C.52:14B-1 et seq.) to the contrary,
10 the authority may adopt, immediately upon filing with the Office of
11 Administrative Law, such regulations as are necessary to implement
12 the provisions of sections 92 through 97 of P.L. , c. (C.)
13 (pending before the Legislature as this bill), which shall be effective
14 for a period not to exceed 12 months following enactment, and shall
15 thereafter be amended, adopted, or readopted by the authority in
16 accordance with the requirements of the "Administrative Procedure
17 Act," P.L.1968, c.410 (C.52:14B-1 et seq.).

18
19 98. (New section) a. The combined value of all tax credits
20 awarded under the "Historic Property Reinvestment Act," sections 1
21 through 8 of P.L. , c. (C.) (pending before the Legislature as
22 this bill), the "Brownfield Redevelopment Incentive Program Act,"
23 sections 9 through 19 of P.L. , c. (C.) (pending before the
24 Legislature as this bill), the "New Jersey Innovation Evergreen Act,"
25 sections 20 through 34 of P.L. , c. (C.) (pending before the
26 Legislature as this bill), the "Food Desert Relief Act," sections 35
27 through 42 of P.L. , c. (C.) (pending before the Legislature
28 as this bill), the "New Jersey Community-Anchored Development
29 Act," sections 43 through 53 of P.L. , c. (C.) (pending before
30 the Legislature as this bill); the "New Jersey Aspire Program Act,"
31 sections 54 through 67 of P.L. , c. (C.) (pending before the
32 Legislature as this bill); and the "Emerge Program Act," sections 68
33 through 81 of P.L. , c. (C.) (pending before the Legislature
34 as this bill) shall not exceed an overall cap of \$11.5 billion over a
35 six-year period, subject to the conditions and limitations set forth in
36 this section. Of this \$11.5 billion, \$2.5 billion shall be reserved for
37 transformative projects approved under the Aspire Program or the
38 Emerge Program.

39 b. (1) The total value of tax credits awarded under any
40 constituent program of the "New Jersey Economic Recovery Act of
41 2020," P.L. , c. (C.) (pending before the Legislature as this
42 bill) shall be subject to the following annual limitations, except as
43 otherwise provided in subsection c. of this section:

44 (a) for tax credits awarded under the "Historic Property
45 Reinvestment Act," sections 1 through 8 of P.L. , c. (C.)
46 (pending before the Legislature as this bill), the total value of tax
47 credits annually awarded during the six-year period shall not exceed
48 \$50 million;

1 (b) for tax credits awarded under the "Brownfield Redevelopment
2 Incentive Program Act," sections 9 through 19 of P.L. ,
3 c. (C.) (pending before the Legislature as this bill), the total
4 value of tax credits annually awarded during the six-year period shall
5 not exceed \$50 million;

6 (c) for tax credits awarded under the "New Jersey Innovation
7 Evergreen Act," sections 20 through 34 of P.L. , c. (C.)
8 (pending before the Legislature as this bill), the total value of tax
9 credits annually awarded during the six-year period shall not exceed
10 \$60 million;

11 (d) for tax credits awarded under the "Food Desert Relief Act,"
12 sections 35 through 42 of P.L. , c. (C.) (pending before the
13 Legislature as this bill), the total value of tax credits annually
14 awarded during the six-year period shall not exceed \$40 million;

15 (e) for tax credits awarded under the "New Jersey Community-
16 Anchored Development Act," sections 43 through 53 of P.L. ,
17 c. (C.) (pending before the Legislature as this bill), the total
18 value of tax credits annually awarded during the six-year period shall
19 not exceed \$200 million, except that during each of the first three
20 years of the six-year period, the authority shall annually award tax
21 credits valuing no greater than \$130 million for projects located in
22 the 13 northern counties of the State, and the authority shall annually
23 award tax credits valuing no greater than \$70 million for projects
24 located in the eight southern counties of the State. If during any of
25 the first three years of the six-year period, the authority awards tax
26 credits in an amount less than the annual limitation for projects
27 located in northern counties or southern counties, as applicable, the
28 uncommitted portion of the annual limitation shall be available to be
29 deployed by the authority in the subsequent year, provided that the
30 uncommitted portion of tax credits shall be awarded for projects
31 located in the applicable geographic area. During each of the final
32 three years of the six-year period, the authority may annually award
33 available tax credits, including the uncommitted portion of the annual
34 limitation for any previous year, without consideration to the county
35 in which the project is located;

36 (f) for tax credits awarded under the "New Jersey Aspire Program
37 Act," sections 54 through 67 of P.L. , c. (C.) (pending before
38 the Legislature as this bill), and the "Emerge Program Act," sections
39 68 through 81 of P.L. , c. (C.) (pending before the Legislature
40 as this bill), not including tax credits awarded for transformative
41 projects, the total value of tax credits annually awarded during the
42 six-year period shall not exceed \$1.1 billion, except that during each
43 of the first three years of the six-year period, the authority shall
44 annually award tax credits valuing no greater than \$715 million for
45 projects located in the northern counties of the State, and the
46 authority shall annually award tax credits valuing no greater than
47 \$385 million for projects located in the southern counties of the State.
48 If during any of the first three years of the six-year period, the

1 authority awards tax credits in an amount less than the annual
2 limitation for projects located in northern counties or southern
3 counties, as applicable, the uncommitted portion of the annual
4 limitation shall be available to be deployed by the authority in the
5 subsequent year, provided that the uncommitted portion of tax credits
6 shall be awarded for projects located in the applicable geographic
7 area. During each of the final three years of the six-year period, the
8 authority may annually award available tax credits, including the
9 uncommitted portion of the annual limitation for any previous year,
10 without consideration to the county in which the project is located;
11 and

12 (g) for tax credits awarded for transformative projects under the
13 "New Jersey Aspire Program Act," sections 54 through 67 of P.L. ,
14 c. (C.) (pending before the Legislature as this bill), and the
15 "Emerge Program Act," sections 68 through 81 of P.L. ,
16 c. (C.) (pending before the Legislature as this bill), the total
17 value of tax credits awarded during the six-year period shall not
18 exceed \$2.5 billion. The total value of tax credits awarded for
19 transformative projects in a given year shall not be subject to an
20 annual limitation, except that no more than 10 transformative
21 projects shall be awarded tax credits during the six-year period, and
22 the total value of tax credits awarded to any transformative project
23 shall not exceed \$250 million.

24 (2) The authority may in any given year determine that it is in the
25 State's interest to approve an amount of tax credits in excess of the
26 annual limitations set forth in paragraph (1) of this subsection, but in
27 no event more than \$200,000,000 in excess of the annual limitation,
28 upon a determination by the authority board that such increase is
29 warranted based on specific criteria that may include:

30 (i) the increased demand for opportunities to create or retain
31 employment and investment the State as indicated by the volume of
32 project applications and the amount of tax credits being sought by
33 those applications;

34 (ii) the need to protect the State's economic position in the event
35 of an economic downturn;

36 (iii) the quality of project applications and the net economic
37 benefit to the State and municipalities associated with those
38 applications;

39 (iv) opportunities for project applications to strengthen or protect
40 the competitiveness of the state under the prevailing market
41 conditions;

42 (v) enhanced access to employment and investment for
43 underserved populations in distressed municipalities and qualified
44 incentives tracts;

45 (vi) increased investment and employment in high-growth
46 technology sectors and in projects that entail collaboration with
47 education institutions in the State;

48 (vii) increased development proximate to mass transit facilities;

1 (viii) any other factor deemed relevant by the authority.

2 c. In the event that the authority in any year approves projects
3 for tax credits in an amount less than the annual limitations set forth
4 in paragraph (1) of subsection b. of this section, then the
5 uncommitted portion of the annual limitation shall be available to be
6 deployed by the authority in future years for projects; provided
7 however, that in no event shall the aggregate amount of tax credits
8 approved be in excess of the overall cap of \$11.5 billion.

9
10 99. (New section) Sections 99 through 105 of P.L. ,
11 c. (C.) (pending before the Legislature as this bill) shall be
12 known and may be cited as the "Economic Development Authority
13 Integrity and Protection Act."

14
15 100. (New section) As used in sections 99 through 105 of P.L. ,
16 c. (C.) (pending before the Legislature as this bill):

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

23 "Fraud" means a deception or misrepresentation made by any
24 person or entity with the knowledge that the deception or
25 misrepresentation could result in some unauthorized benefit to that
26 person or entity or another person or entity, including any act that
27 constitutes fraud under applicable federal or State law.

28 "Economic development investigation" means an investigation of
29 fraud, abuse, or illegal acts perpetrated within economic development
30 incentive programs by applicants for, or recipients of, economic
31 development incentives.

32 "Office of the Economic Development Inspector General" means
33 the Office of the Economic Development Inspector General created
34 by section 102 of P.L. , c. (C.) (pending before the Legislature
35 as this bill).

36
37 101. (New section) a. The New Jersey Economic Development
38 Authority shall employ a Chief Compliance Officer, who shall be
39 appointed by the Chief Executive Officer of the authority to manage
40 the Division of Portfolio Management and Compliance in the
41 authority.

42 b. The Chief Compliance Officer shall:

43 (1) create, maintain, monitor, and coordinate procedures to
44 ensure that all economic development incentive programs, authority
45 employees, and economic development incentive program applicants
46 and recipients comply fully with the requirements of the
47 corresponding economic development incentive program;

1 (2) conduct, on such periodic basis as determined by the
2 authority, systematic audits of economic development incentive
3 programs for compliance with the laws, regulations, codes, orders,
4 procedures, advisory opinions and rulings concerning those
5 programs;

6 (3) maintain a central database of information concerning the
7 management of all economic development incentive programs and
8 information on economic development incentive program applicants
9 and recipients to provide for the regular and ongoing reporting,
10 verification, and monitoring of the State's economic development
11 incentive programs;

12 (4) prior to the adoption of any rule or regulation by the authority
13 or the board related to the general administration of the programs
14 administered by the authority pursuant to section 6 of P.L. ,
15 c. (C.) (pending before the Legislature as this bill), section 19
16 of P.L. , c. (C.) (pending before the Legislature as this bill),
17 section 29 of P.L. , c. (C.) (pending before the Legislature
18 as this bill), section 34 of P.L. , c. (C.) (pending before the
19 Legislature as this bill), section 41 of P.L. , c. (C.) (pending
20 before the Legislature as this bill), section 67 of P.L. , c. (C.)
21 (pending before the Legislature as this bill), section 79 of P.L. ,
22 c. (C.) (pending before the Legislature as this bill), section 88
23 of P.L. , c. (C.) (pending before the Legislature as this bill),
24 and section 97 of P.L. , c. (C.) (pending before the Legislature
25 as this bill), or any other regulation specifically related to the
26 recapture of economic development incentive award values, review
27 and certify that the provisions of program rules or regulations provide
28 the authority with adequate procedures to pursue the recapture of the
29 value of an economic development incentive in the case of substantial
30 noncompliance, fraud, or abuse by the economic development
31 incentive recipient, and that program rules and regulations are
32 sufficient to ensure against economic development incentive fraud,
33 waste, and abuse; and

34 (5) refer, to the Economic Development Inspector General and to
35 the Attorney General, information on suspected fraud or abuse
36 identified by the Division of Portfolio Management and Compliance.

37 c. The Chief Compliance Officer, in consultation with the
38 Department of Labor and Workforce Development and the
39 Department of the Treasury, shall:

40 Develop, adopt, and implement a corrective action plan, within
41 one year of the effective date of sections 99 through 105 of P.L. ,
42 c. (C.) (pending before the Legislature as this bill) and within
43 six months of receiving notice of any program deficiency issued by
44 the Economic Development Inspector General, that is designed to
45 enable the authority to properly manage the economic development
46 incentive programs administered by the authority, and adopt rules
47 and regulations concerning the administration and enforcement of the
48 Division of Portfolio Management and Compliance's duties in a

1 manner that is most compatible with ensuring against fraud and abuse
2 in the State's economic development incentive programs.

3

4 102. (New section) a. There is established, in the authority, the
5 Office of the Economic Development Inspector General, which shall
6 operate independent of the oversight or management of the Chief
7 Executive Officer of the authority. The Office of the Economic
8 Development Inspector General shall operate under the Economic
9 Development Inspector General, who shall be a retired member of
10 the Judicial Branch of the State, to be appointed by the Governor with
11 the advice and consent of the Senate for a term of four years. The
12 Economic Development Inspector General shall direct the work of
13 the Office of the Economic Development Inspector General and have
14 the following general functions, duties, powers, and responsibilities:

15 (1) to appoint such deputies, directors, assistants, and other
16 officers and employees as may be needed for the Office of the
17 Economic Development Inspector General to meet its
18 responsibilities, and to prescribe their duties and fix their
19 compensation within the amounts appropriated therefor;

20 (2) to conduct and supervise State government activities relating
21 to State economic development incentive integrity, fraud, and abuse;

22 (3) to call upon any department, office, division, or agency of
23 State government to provide such information, resources, or other
24 assistance as the Economic Development Inspector General deems
25 necessary to discharge the duties and functions and to fulfill the
26 responsibilities of the Economic Development Inspector General
27 under sections 99 through 105 of P.L. , c. (C.) (pending
28 before the Legislature as this bill). Each department, office, division,
29 and agency of this State shall cooperate with the Economic
30 Development Inspector General and furnish the Office of the
31 Economic Development Inspector General with the assistance
32 necessary to accomplish the purposes of sections 99 through 105 of
33 P.L. , c. (C.) (pending before the Legislature as this bill);

34 (4) to coordinate activities to prevent, detect, and investigate
35 economic development incentive fraud and abuse among the
36 following: the authority, State and local government officials, and all
37 economic development incentive applicants and recipients;

38 (5) to recommend and implement policies relating to economic
39 development incentive integrity, fraud, and abuse, and monitor the
40 implementation of any recommendations made by the Office of the
41 Economic Development Inspector General to the authority for the
42 administration of economic development incentives;

43 (6) to perform any other functions that are necessary or
44 appropriate in furtherance of the mission of the Office of the
45 Economic Development Inspector General; and

46 (7) to direct an economic development incentive applicant or
47 recipient to cooperate with the Office of the Economic Development
48 Inspector General and provide such information or assistance as shall

1 be reasonably required by the Office of the Economic Development
2 Inspector General.

3 b. As it relates to ensuring compliance with applicable economic
4 development incentive standards and requirements, identifying and
5 reducing fraud and abuse, and improving the efficiency and
6 effectiveness of economic development incentives, the functions,
7 duties, powers, and responsibilities of the Economic Development
8 Inspector General shall include, but not be limited to, the following:

9 (1) to establish, in consultation with the authority and the
10 Attorney General, guidelines under which the withholding of
11 payments or exclusion from economic development incentive
12 programs shall be imposed on an economic development incentive
13 applicant or recipient;

14 (2) to review the utilization of economic development incentives
15 to ensure that economic development incentive funds are
16 appropriately spent to meet the goals and purposes of an individual
17 economic development incentive program;

18 (3) to review and audit contracts, reports, documentation, claims,
19 and all awards of economic development incentives to determine
20 compliance with applicable laws, regulations, guidelines, and
21 standards, and enhance program integrity;

22 (4) to consult with the authority to optimize the economic
23 development incentive management information system in
24 furtherance of the mission of the Office of the Economic
25 Development Inspector General. The authority shall consult with the
26 Economic Development Inspector General on matters that concern
27 the operation, upgrade, and implementation of the economic
28 development incentive management information system;

29 (5) to coordinate the implementation of information technology
30 relating to economic development incentive integrity, fraud, and
31 abuse;

32 (6) to conduct educational programs for economic development
33 incentive State and local government officials and economic
34 development incentive recipients designed to limit economic
35 development incentive fraud and abuse; and

36 (7) to provide notice to the Chief Compliance Officer, appointed
37 pursuant to section 101 of P.L. , c. (C.) (pending before the
38 Legislature as this bill) if the Economic Development Inspector
39 General determines that a program deficiency exists in an economic
40 development incentive program administered by the authority and to
41 provide notice to the Chief Executive Officer of the Authority of
42 pending investigations if the Economic Development Inspector
43 General determines that such disclosure is consistent with the public
44 interest in maintaining the integrity of an economic development
45 incentive program administered by the authority or to abate the
46 continuation of fraud or abuse.

47 c. As it relates to investigating allegations of economic
48 development incentive fraud and abuse and enforcing applicable

1 laws, rules, regulations, and standards, the functions, duties, powers,
2 and responsibilities of the Economic Development Inspector General
3 shall include, but not be limited to, the following:

4 (1) to conduct economic development investigations concerning
5 any acts of misconduct within economic development incentive
6 programs;

7 (2) to provide information concerning the economic development
8 investigations of the Office of the Economic Development Inspector
9 General to the Attorney General, law enforcement authorities, and
10 any prosecutor of competent jurisdiction, and endeavor to develop
11 these economic development investigations in a manner that
12 expedites and facilitates criminal prosecutions and the recovery of
13 improperly expended economic development incentives, including
14 the maintenance of detailed records for cases processed by the
15 Economic Development Inspector General. The records shall
16 include: information on the total number of cases processed and, for
17 each case, the agency and division to which the case is referred for
18 an economic development investigation; the date on which the case
19 is referred; and the nature of the suspected fraud or abuse.

20 (3) to provide information and evidence relating to suspected
21 criminal acts that the Economic Development Inspector General may
22 obtain in carrying out its duties to law enforcement officials when
23 appropriate, and to provide such information to the Attorney General
24 and county prosecutors in order to facilitate criminal economic
25 development investigations and prosecutions;

26 (4) to refer complaints alleging criminal conduct to the Attorney
27 General or other appropriate prosecutorial authority.;

28 The Economic Development Inspector General shall maintain a
29 record of all matters referred to the Attorney General and shall be
30 authorized to disclose information received, as appropriate and as
31 may be necessary to resolve the matter referred, to the extent
32 consistent with the public interest in disclosure, the need for
33 protecting the confidentiality of complainants and informants, and
34 preserving the confidentiality of ongoing criminal economic
35 development investigations. Notwithstanding any referral made
36 pursuant to this subsection, the Economic Development Inspector
37 General may pursue any administrative or civil remedy under the law.
38 A referral by the inspector general to the Attorney General or a
39 prosecutorial authority shall in no way preclude the inspector general
40 from performing its own separate, independent investigation; and

41 (5) in furtherance of an economic development investigation, to
42 compel at a specific time and place, by subpoena, the appearance and
43 sworn testimony of any person whom the Economic Development
44 Inspector General reasonably believes may be able to give
45 information relating to a matter subject to an economic development
46 investigation:

47 (a) for this purpose, the Economic Development Inspector
48 General is empowered to administer oaths and examine witnesses

1 under oath, and compel any person to produce at a specific time and
2 place, by subpoena, any documents, books, records, papers, objects,
3 or other evidence that the Economic Development Inspector General
4 reasonably believes may relate to a matter subject to an economic
5 development investigation; and

6 (b) if any person to whom a subpoena is issued fails to appear or,
7 having appeared, refuses to give testimony, or fails to produce the
8 books, papers, or other documents required, the Economic
9 Development Inspector General may apply to the Superior Court and
10 the court may order the person to appear and give testimony or
11 produce the books, papers, or other documents, as applicable. Any
12 person failing to obey that order may be held by the court in
13 contempt;

14 (6) subject to applicable State law, to have full and unrestricted
15 access to all records, reports, audits, reviews, documents, papers,
16 data, recommendations, or other material available to the authority
17 and other State and local government agencies with respect to which
18 the Office of the Economic Development Inspector General has
19 responsibilities under sections 102 through 105 of P.L. ,
20 c. (C.) (pending before the Legislature as this bill);

21 (7) to solicit, receive, and investigate complaints related to
22 economic development incentive integrity, fraud, and abuse; and

23 (8) to prepare cases, provide expert testimony, and support
24 administrative hearings and other legal proceedings.

25 d. As it relates to recovering improperly obtained economic
26 development incentives, imposing administrative sanctions,
27 damages, or penalties, and negotiating settlements to assure that all
28 governmental resources have been properly expended, the functions,
29 duties, powers, and responsibilities of the Economic Development
30 Inspector General shall include, but not be limited to, the following:

31 (1) to pursue civil and administrative enforcement actions against
32 those who engage in fraud, abuse, or illegal acts perpetrated under
33 economic development incentive programs. These civil and
34 administrative enforcement actions shall include the imposition of
35 administrative sanctions, penalties, suspension of fraudulent or
36 illegal awards, and actions for civil recovery and seizure of property
37 or other assets connected with such economic incentive awards;

38 (2) to initiate civil suits consistent with the provisions of sections
39 99 through 105 of P.L. , c. (C.) (pending before the Legislature
40 as this bill), maintain actions for civil recovery on behalf of the State,
41 and enter into civil settlements;

42 (3) to require that the authority withhold payments to an
43 economic development incentive applicant or recipient if the
44 applicant or recipient unreasonably fails to produce complete and
45 accurate records related to an economic development investigation
46 that is initiated by the Office of the Economic Development Inspector
47 General with reasonable cause; and

1 (4) to monitor and pursue the recoupment of economic
2 development incentive awards or portions thereof, damages,
3 penalties, and sanctions.

4
5 103. (New section) a. The Economic Development Inspector
6 General is authorized to request, and shall be entitled to receive, such
7 information, assistance, and cooperation from any State or local
8 government department, board, bureau, commission, or other agency
9 or unit thereof, as may be necessary to carry out the duties and
10 responsibilities of the Office of the Economic Development Inspector
11 General pursuant to sections 102 through 105 of P.L. , c. (C.)
12 (pending before the Legislature as this bill).

13 b. Upon the request of a prosecutor of competent jurisdiction, an
14 office, department, or any other State or local government entity, the
15 Economic Development Inspector General shall provide information,
16 data, assistance, staff, and other resources as shall be necessary,
17 appropriate and available to aid and facilitate the economic
18 development investigation and prosecution of economic
19 development incentive fraud.

20
21 104. (New section) The Economic Development Inspector
22 General shall report annually to the Governor, to the Legislature,
23 pursuant to section 2 of P.L.1991, c.164 (C.52:14-19.1), and to the
24 Attorney General, the activities of the Office of the Economic
25 Development Inspector General, as well as recommendations, if any,
26 for legislation to provide for the management of the State's economic
27 development incentive programs.

28
29 105. (New section) The Economic Development Inspector
30 General, pursuant to the "Administrative Procedure Act," P.L.1968,
31 c.410 (C.52:14B-1 et seq.), shall adopt rules and regulations, in
32 consultation with the authority, the Department of Labor and
33 Workforce Development, and the Department of the Treasury,
34 concerning the administration and enforcement of the Office of the
35 Economic Development Inspector General's duties pursuant to
36 sections 102 through 105 of P.L. , c. (C.) (pending before
37 the Legislature as this bill) in a manner that is most compatible with
38 ensuring against fraud and abuse in the State's economic
39 development incentive programs.

40
41 106. (New section) a. For privilege periods ending in 2020, 2021,
42 and 2022, a taxpayer, upon approval of an application to the
43 authority, shall be allowed a credit against the tax imposed pursuant
44 to section 5 of P.L.1945, c.162 (C.54:10A-5) in the amount of
45 \$10,000 for each qualifying new hire involved in the manufacture of
46 personal protective equipment in a qualified facility in which the
47 taxpayer made a capital investment during the privilege period.

1 b. The minimum capital investment in a qualified facility
2 required to be eligible for a credit under this section shall be as
3 follows:

4 (1) for the rehabilitation, improvement, fit-out, or retrofit of an
5 existing premises in Atlantic County, Burlington County, Cape May
6 County, Cumberland County, Gloucester County, Ocean County, or
7 Salem County, a minimum investment of \$10 per square foot of gross
8 leasable area;

9 (2) for the rehabilitation, improvement, fit-out, or retrofit of an
10 existing premises in counties in the State not listed in paragraph (1)
11 of this subsection, a minimum investment of \$20 per square foot of
12 gross leasable area;

13 (3) for the new construction of a premises in Atlantic County,
14 Burlington County, Cape May County, Cumberland County,
15 Gloucester County, Ocean County, or Salem County, a minimum
16 investment of \$100 per square foot of gross leasable area; or

17 (4) for the new construction of a premises in counties in the State
18 not listed in paragraph (3) of this subsection, a minimum investment
19 of \$120 per square foot of gross leasable area.

20 c. The minimum number of new or retained qualifying full-time
21 jobs required to be eligible for a credit under this section shall be as
22 follows:

23 (1) for a qualified facility in Atlantic County, Burlington County,
24 Cape May County, Cumberland County, Gloucester County, Ocean
25 County, or Salem County, a minimum of five new or 15 retained
26 qualifying full-time jobs; or

27 (2) for a qualified facility in counties in the State not listed in
28 paragraph (1) of this subsection, a minimum of ten new or 25 retained
29 qualifying full-time jobs.

30 d. In addition to the amount of credit allowed pursuant to
31 subsection a. of this section, a taxpayer shall be allowed the following
32 tax credits for privilege periods ending in 2020, 2021, and 2022:

33 (1) \$1,000 per qualifying full-time job in the privilege period at a
34 qualified facility that is a building vacant for not less than seven years
35 in need of rehabilitation with a minimum of 250,000 square feet;

36 (2) \$1,500 per qualifying full-time job in the privilege period at a
37 qualified facility in which the manufacturing of personal protective
38 equipment is part of a research collaboration between the taxpayer
39 and a college or university located within the State; and

40 (3) \$1,000 per qualifying full-time job in the privilege period at a
41 qualified facility in which the taxpayer has established an
42 apprenticeship program or pre-apprenticeship program with a
43 technical school or county college located within the State.

44 e. The total credit allowed to a taxpayer pursuant to this section
45 during the privilege period shall not exceed \$500,000. A taxpayer
46 shall not be eligible for a tax credit under this section for the same
47 qualifying new hire for which the taxpayer is receiving a tax credit
48 incentive award under the Emerge Program established by sections

1 68 through 81 of P.L. , c. (C.) (pending before the Legislature
2 as this bill).

3 f. Notwithstanding the minimum tax schedule imposed pursuant
4 to subsection (e) of section 5 of P.L.1945, c.162 (C.54:10A-5), if the
5 amount of the tax credit allowed exceeds the amount of corporation
6 business tax otherwise due pursuant to section 5 of P.L.1945, c.162
7 (C.54:10A-5), the amount of excess shall be treated as a refundable
8 overpayment except that interest shall not be paid pursuant to section
9 7 of P.L.1992, c.175 (C.54:49-15.1) on the amount of overpayment
10 attributable to this credit amount. The director shall determine the
11 order of priority of the application of the credit allowed pursuant to
12 this section and any other credits allowed by law.

13 g. The combined value of all tax credits approved by the
14 authority and the director pursuant to this section and pursuant to
15 section 2 of P.L. , c. (C.)(pending before the Legislature as
16 this bill) shall not exceed \$10,000,000 in any State fiscal year to
17 apply against the tax imposed pursuant to the “New Jersey Gross
18 Income Tax Act,” N.J.S.54A:1-1 et seq., and the tax imposed
19 pursuant to section 5 of P.L.1945, c.162 (C.54:10A-5).

20 h. An application for the tax credit shall be submitted to the
21 authority in a form and manner prescribed by the chief executive
22 officer of the authority. As a condition of receiving tax credits under
23 this section, an applicant shall be required to commit to employ
24 qualifying new hires for which tax credits are awarded under this
25 section for a period of five years.

26 i. Notwithstanding any provision of the “Administrative
27 Procedure Act,” P.L.1968, c.410 (C.52:14B-1 et seq.) to the contrary,
28 the director chief executive officer of the authority is authorized to
29 adopt immediately upon filing with the Office of Administrative Law
30 such rules and regulations shall be effective for a period not to exceed
31 360 days following the date of filing and may thereafter be amended,
32 adopted, or readopted by the chief executive officer of the authority
33 in accordance with the requirements of P.L.1968, c.410 (C.52:14B-1
34 et seq.). The chief executive officer of the authority shall consult
35 with the Commissioner of Health related to any specification
36 requirements for what manufactured products are to qualify as
37 personal protective equipment pursuant to this section.

38 j. As used in this section:

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

42 “Director” means Director of the Division of Taxation in the
43 Department of the Treasury;

44 “Personal protective equipment” means coveralls, face shields,
45 gloves, gowns, masks, respirators, safeguard equipment, and other
46 equipment designed to protect the wearer from the spread of infection
47 or illness as may be modified from time to time by the board of the
48 authority.

1 “Qualified facility” means a facility that is:

2 (1) located in a redevelopment area or rehabilitation area as
3 defined in section 3 of P.L.1992, c.79 (C.40A:12A-3);

4 (2) located in a Smart Growth Area as identified by the Office of
5 Planning Advocacy;

6 (3) a facility in which the manufacturing of personal protective
7 equipment is part of a research collaboration between the taxpayer a
8 college or university located within the State;

9 (4) a facility in which the taxpayer has established an
10 apprenticeship program or pre-apprenticeship program with a
11 technical school or community located within the State; or

12 (5) a building vacant for not less than seven years in need of
13 rehabilitation with a minimum of 250,000 square feet.

14 “Qualifying full-time job” means a full-time position in a business
15 in this State which the business has filled with a full-time employee
16 for the manufacturing of personal protective equipment in this State.
17 The employee shall be employed for at least 35 hours a week and
18 shall be paid employee wages at a rate of not less than \$15 per hour,
19 or render any other standard of service generally accepted by custom
20 or practice as full-time employment, whose wages are subject to
21 withholding as provided in the “New Jersey Gross Income Tax Act,”
22 N.J.S.54A:1-1 et seq. and is paid employee wages at a rate of not less
23 than \$15 per hour. “Qualifying new hire” shall not include any
24 person who works as an independent contractor or on a consulting
25 basis for the business. “Qualifying new or retained job” includes
26 only a position for which the taxpayer provides employee health
27 benefits under a health benefits plan authorized pursuant to State or
28 federal law.

29
30 107. a. For taxable years 2020, 2021, and 2022, a taxpayer, upon
31 approval of an application to the authority shall be allowed a credit
32 against the tax imposed pursuant to the “New Jersey Gross Income
33 Tax Act” N.J.S.54A:1-1 et seq. in the amount of \$10,000 for each
34 qualifying new hire involved in the manufacture of personal
35 protective equipment in a qualified facility in which the taxpayer
36 made a capital investment during the taxable year.

37 b. The minimum capital investment in a qualified facility
38 required to be eligible for a credit under this section shall be as
39 follows:

40 (1) for the rehabilitation, improvement, fit-out, or retrofit of an
41 existing premises in Atlantic County, Burlington County, Cape May
42 County, Cumberland County, Gloucester County, Ocean County, or
43 Salem County, a minimum investment of \$10 per square foot of gross
44 leasable area;

45 (2) for the rehabilitation, improvement, fit-out, or retrofit of an
46 existing premises in counties in the State not listed in paragraph (1)
47 of this subsection, a minimum investment of \$20 per square foot of
48 gross leasable area;

1 (3) for the new construction of a premises in Atlantic County,
2 Burlington County, Cape May County, Cumberland County,
3 Gloucester County, Ocean County, or Salem County, a minimum
4 investment of \$100 per square foot of gross leasable area; or

5 (4) for the new construction of a premises in counties in the State
6 not listed in paragraph (3) of this subsection, a minimum investment
7 of \$120 per square foot of gross leasable area.

8 c. The minimum number of new or retained qualifying full-time
9 jobs required to be eligible for a credit under this section shall be as
10 follows:

11 (1) for a qualified facility in Atlantic County, Burlington County,
12 Cape May County, Cumberland County, Gloucester County, Ocean
13 County, or Salem County, a minimum of five new or 15 retained
14 qualifying full-time jobs; and

15 (2) for a qualified facility in counties in the State not listed in
16 paragraph (1) of this subsection, a minimum of ten new or 25 retained
17 qualifying full-time jobs.

18 d. In addition to the amount of credit allowed pursuant to
19 subsection a. of this section, a taxpayer shall be allowed the following
20 tax credits for taxable years 2020, 2021, and 2022:

21 (1) \$1,000 per qualifying full-time job in a taxable year at a
22 qualified facility that is a building vacant for not less than seven years
23 in need of rehabilitation with a minimum of 250,000 square feet;

24 (2) \$1,500 per qualifying full-time job in a taxable year at a
25 qualified facility in which the manufacturing of personal protective
26 equipment is part of a research collaboration between the taxpayer
27 and a college or university located within the State; and

28 (3) \$1,000 per qualifying full-time job in a taxable year at a
29 qualified facility in which the taxpayer has established an
30 apprenticeship program or pre-apprenticeship program with a
31 technical school or county college located within the State.

32 e. The total credit allowed to a taxpayer pursuant to this section
33 during the taxable year shall not exceed \$500,000. A taxpayer shall
34 not be eligible for a tax credit under this section for the same
35 qualifying new hire for which the taxpayer is receiving a tax credit
36 incentive award under the Emerge Program established by sections
37 68 through 81 of P.L. , c. (C.) (pending before the Legislature
38 as this bill)

39 f. If the amount of the credit exceeds the amount of tax
40 otherwise due, that amount of excess shall be an overpayment for the
41 purposes of N.J.S.54A:9-7; provided however, that subsection (f) of
42 N.J.S.54A:9-7 shall not apply. The director shall determine the order
43 of priority of the application of the credit allowed pursuant to this
44 section and any other credits allowed by law.

45 g. (1) A business entity that is classified as a partnership for
46 federal income tax purposes shall not be allowed a tax credit pursuant
47 to this section directly, but the amount of tax credit of a taxpayer in
48 respect to distributive share of entity income, shall be determined by

1 allocating to the taxpayer that proportion of the tax credit acquired
2 by the entity that is equal to the taxpayer's share, whether or not
3 distributed, of the total distributive income or gain of the entity for
4 its taxable year ending within or with the taxpayer's taxable year.

5 (2) A New Jersey S Corporation shall not be allowed a tax credit
6 pursuant to this section directly, but the amount of the tax credit of a
7 taxpayer in respect of a pro rata share of S Corporation income, shall
8 be determined by allocating to the taxpayer that proportion of the tax
9 credit acquired by the New Jersey S Corporation that is equal to the
10 taxpayer's share, whether or not distributed, of the total pro rata share
11 of S Corporation income of the New Jersey S Corporation for its
12 privilege period ending within or with the taxpayer's taxable year.

13 h. The combined value of all tax credits approved by the
14 authority and the director pursuant to this section and pursuant to
15 section 1 of P.L. , c. (C.)(pending before the Legislature as
16 this bill) shall not exceed \$10,000,000 in any State fiscal year to
17 apply against the tax imposed pursuant to the "New Jersey Gross
18 Income Tax Act," N.J.S.54A:1-1 et seq., and the tax imposed
19 pursuant to section 5 of P.L.1945, c.162 (C.54:10A-5).

20 i. An application for the tax credit shall be submitted to the
21 authority in a form and manner prescribed by the chief executive
22 officer of the authority. As a condition of receiving tax credits under
23 this section, an applicant shall be required to commit to employ
24 qualifying new hires for which tax credits are awarded under this
25 section for a period of five years.

26 j. Notwithstanding any provision of the "Administrative
27 Procedure Act," P.L.1968, c.410 (C.52:14B-1 et seq.) to the contrary,
28 the chief executive officer of the authority is authorized to adopt
29 immediately upon filing with the Office of Administrative Law such
30 rules and regulations shall be effective for a period not to exceed 360
31 days following the date of filing and may thereafter be amended,
32 adopted, or readopted by the chief executive officer of the authority
33 in accordance with the requirements of P.L.1968, c.410 (C.52:14B-1
34 et seq.). The chief executive officer of the authority shall consult
35 with the Commissioner of Health related to any specification
36 requirements for what manufactured products are to qualify as
37 personal protective equipment pursuant to this section.

38 k. As used in this section:

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

42 "Director" means Director of the Division of Taxation in the
43 Department of the Treasury;

44 "Personal protective equipment" means coveralls, face shields,
45 gloves, gowns, masks, respirators, safeguard equipment, and other
46 equipment designed to protect the wearer from the spread of infection
47 or illness as may be modified from time to time by the board of the
48 authority.

1 “Qualified facility” means a facility that is:

2 (1) located in a redevelopment area or rehabilitation area as
3 defined in section 3 of P.L.1992, c.79 (C.40A:12A-3);

4 (2) located in a Smart Growth Area as identified by the Office of
5 Planning Advocacy;

6 (3) a facility in which the manufacturing of personal protective
7 equipment is part of a research collaboration between the taxpayer a
8 college or university located within the State;

9 (4) a facility in which the taxpayer has established an
10 apprenticeship program or pre-apprenticeship program with a
11 technical school or community located within the State; or

12 (5) a building vacant for not less than seven years in need of
13 rehabilitation with a minimum of 250,000 square feet.

14 “Qualifying full-time job” means a full-time employee hired by
15 the taxpayer during the privilege period for the manufacturing of
16 personal protective equipment in this State. The person hired shall
17 be employed for at least 35 hours a week and shall be paid employee
18 wages at a rate of not less than \$15 per hour, or render any other
19 standard of service generally accepted by custom or practice as full-
20 time employment, whose wages are subject to withholding as
21 provided in the “New Jersey Gross Income Tax Act,” N.J.S.54A:1-1
22 et seq. and is paid employee wages at a rate of not less than \$15 per
23 hour. “Qualifying new hire” shall not include any person who works
24 as an independent contractor or on a consulting basis for the business.
25 “Qualifying new or retained job” includes only a position for which
26 the taxpayer provides employee health benefits under a health
27 benefits plan authorized pursuant to State or federal law.

28

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

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

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

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

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

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

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

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

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

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

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

37 (4) A business seeking a credit for a mega project shall apply for
38 the credit within four years after the effective date of the "New Jersey
39 Economic Opportunity Act of 2013," P.L.2013, c.161 (C.52:27D-
40 489p et al.).

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

44 The credit amount for any tax period for which the documentation
45 of a business's credit amount remains uncertified as of a date three
46 years after the closing date of that period shall be forfeited, although
47 credit amounts for the remainder of the years of the eligibility period
48 shall remain available to it.

1 The credit amount may be taken by the tax certificate holder for
2 the tax period for which it was issued or may be carried forward for
3 use by the tax certificate holder in any of the next 20 successive tax
4 periods, and shall expire thereafter. The tax certificate holder may
5 transfer the tax credit amount on or after the date of issuance or at
6 any time within three years of the date of issuance for use by the
7 transferee in the tax period for which it was issued or in any of the
8 next 20 successive tax periods. Notwithstanding the foregoing, no
9 more than the amount of tax credits equal to the total credit amount
10 divided by the duration of the eligibility period in years may be taken
11 in any tax period.

12 A business may elect to suspend its obligations for the 2020 tax
13 period and, if the public health emergency or state of emergency
14 declared due to the COVID-19 pandemic extends past March 2021,
15 the 2021 tax period, provided that the business shall make such
16 election in writing to the authority before the date the annual report
17 is due and such suspension shall extend the term of the eligibility
18 period by a corresponding amount of time. The authority shall amend
19 the incentive agreement, and the business shall execute the amended
20 incentive agreement within the time period provided by the authority.
21 The amended incentive agreement shall provide that the failure to
22 submit the annual report due to the suspension shall not be a
23 forfeiture or an uncertified tax period.

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

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

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

45 d. (1) If, in any tax period, the business reduces the total number
46 of full-time employees in its Statewide workforce by more than 20
47 percent from the number of full-time employees in its Statewide
48 workforce in the last tax period prior to the credit amount approval

1 under section 3 of P.L.2011, c.149 (C.34:1B-244), then the business
2 shall forfeit its credit amount for that tax period and each subsequent
3 tax period, until the first tax period for which documentation
4 demonstrating the restoration of the business's Statewide workforce
5 to the threshold levels required by the incentive agreement has been
6 reviewed and approved by the authority, for which tax period and
7 each subsequent tax period the full amount of the credit shall be
8 allowed.

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

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

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

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

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

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

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

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

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

14 g. A business that has entered into an incentive agreement may
 15 request before December 31, 2022 to terminate the incentive
 16 agreement due to the COVID-19 public health emergency; provided
 17 that the business shall submit a certification from the business's chief
 18 executive officer or equivalent officer stating that the termination is
 19 due to the public health emergency and describing the impact of the
 20 public health emergency on the business. All credits for the tax
 21 period in which the termination occurs and all subsequent tax periods
 22 shall be forfeited, provided however that any credits of the business
 23 shall remain unaffected.

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

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

41 (cf: P.L.2020, c.8, s.3)

42

43 109. Section 6 of P.L.2010, c.57 (C.34:1B-209.4) is amended to
 44 read as follows:

45 6. a. (1) A business, upon application to and approval from the
 46 authority, shall be **【allowed】** awarded a credit of 100 percent of its
 47 capital investment, made after the effective date of P.L.2010, c.57
 48 (C.48:3-87.1 et al.) but prior to its submission of documentation

1 pursuant to subsection c. of this section, in a qualified wind energy
2 facility located **【within an eligible wind energy zone】** in the State,
3 pursuant to the restrictions and requirements of this section. The
4 award of a tax credit pursuant to this section shall be structured so
5 that the authority shall make up to four awards, each equaling 25
6 percent of the total value of the tax credit, to a qualified business over
7 four privilege periods or taxable years in which the business meets
8 the requirements for the minimum number of new, full-time
9 employees. Otherwise eligible businesses with between 150 and 300
10 new, full-time jobs may receive an award based on a prorated formula
11 developed by the authority. To be eligible for any tax credits
12 authorized under this section, a business shall demonstrate to the
13 authority, at the time of application, that the State's financial support
14 of the proposed capital investment in a qualified wind energy facility
15 will yield a net positive benefit to the State. The value of all credits
16 approved by the authority pursuant to this section may be up to
17 \$100,000,000, except as may be increased by the authority if the chief
18 executive officer of the authority judges certain qualified offshore
19 wind projects to be meritorious. Credits provided pursuant to this
20 section shall not be applicable to the cap on the credits provided in
21 section 3 of P.L.2007, c.346 (C.34:1B-209).

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

32 (b) A business that is a tenant in the qualified wind energy
33 facility, the owner of which has made or acquired capital investments
34 in the facility totaling more than \$50,000,000, shall occupy a leased
35 area of the qualified wind energy facility that represents at least
36 \$17,500,000 of the capital investment in the qualified wind energy
37 facility at which **【at least 300】** the minimum number of new, full-
38 time employees in the aggregate are employed, to be eligible for a
39 credit under this section. The amount of capital investment in a
40 facility that a leased area represents shall be equal to that percentage
41 of the owner's total capital investment in the facility that the
42 percentage of net leasable area leased by the tenant is of the total net
43 leasable area of the qualified business facility. Capital investments
44 made by a tenant shall be deemed to be included in the calculation of
45 the capital investment made or acquired by the owner, but only to the
46 extent necessary to meet the owner's minimum capital investment of
47 \$50,000,000. Capital investments made by a tenant and not allocated
48 to meet the owner's minimum capital investment threshold of

1 \$50,000,000 shall be added to the amount of capital investment
2 represented by the tenant's leased area in the qualified wind energy
3 facility.

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

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

17 (3) A business shall not be **[allowed]** awarded a tax credit
18 pursuant to this section if the business receives a business
19 employment incentive grant pursuant to the "Business Employment
20 Incentive Program Act," P.L.1996, c.26 (C.34:1B-124 et al.), relating
21 to the same capital and employees that qualify the business for this
22 credit, or if the business receives assistance pursuant to the "Business
23 Retention and Relocation Assistance Act," P.L.1996, c.25 (C.34:1B-
24 112 et seq.). A business that is **[allowed]** awarded a tax credit under
25 this section shall not be eligible for incentives authorized pursuant to
26 the "Municipal Rehabilitation and Economic Recovery Act,"
27 P.L.2002, c.43 (C.52:27BBB-1 et al.).

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

31 b. A business shall apply for the credit by July 1, **[2024]** 2025,
32 and a business shall submit its documentation for approval of its
33 credit amount by July 1, **[2027]** 2028.

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

41 d. The amount of the credit **[allowed]** awarded pursuant to this
42 section shall, except as otherwise provided, be equal to the capital
43 investment made by the business, or the capital investment
44 represented by the business's leased area, and shall be taken over a
45 **[10-year]** five-year period, at the rate of **[one-tenth]** one-fifth of the
46 total amount of the business's credit for each tax accounting or
47 privilege period of the business, beginning with the **[tax period]**

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

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

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

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

42 In addition, as used in this section:

43 "Equipment supply coordination agreement" means an agreement
44 between a business and equipment manufacturer, supplier, installer,
45 and operator that supports a qualified offshore wind project, or other
46 wind energy project as determined by the authority, and that indicates
47 the number of new, full-time jobs to be created by the agreement

1 participants towards the employment requirement as set forth in
2 paragraph (2) of subsection a. of this section.

3 "Minimum number of new, full-time employees" means:

4 (1) for the first award, at least a cumulative 100 new, full-time
5 employees compared to the number of full-time employees at the
6 time of application;

7 (2) for the second award, for a privilege period or taxable year
8 following the first award, at least a cumulative 150 new, full-time
9 employees compared to the number of full-time employees at the
10 time of application;

11 (3) for the third award, for a privilege period or taxable year
12 following the second award, at least a cumulative 200 new, full-time
13 employees compared to the number of full-time employees at the
14 time of application; and

15 (4) for the fourth award, for a privilege period or taxable year
16 following the third award, at least a cumulative 300 new, full-time
17 employees compared to the number of full-time employees at the
18 time of application.

19 "Qualified offshore wind project" shall have the same meaning as
20 provided in section 3 of P.L.1999, c.23 (C.48:3-51).

21 "Qualified wind energy facility" means any building, complex of
22 buildings, or structural components of buildings, including water
23 access infrastructure, and all machinery and equipment used in the
24 manufacturing, assembly, development or administration of
25 component parts that support the development and operation of a
26 qualified offshore wind project, or other wind energy project as
27 determined by the authority **],** and that are located in a wind energy
28 zone**].**

29 **["Wind energy zone" means property located in the South Jersey**
30 **Port District established pursuant to "The South Jersey Port**
31 **Corporation Act," P.L.1968, c.60 (C.12:11A-1 et seq.).]**
32 (cf: P.L.2018, c.17, s.7)

33
34 110. Section 1 of P.L.2018, c.56 (C.54:10A-5.39b) is amended to
35 read as follows:

36 1. a. (1) A taxpayer, upon approval of an application to the
37 authority and the director, shall be allowed a credit against the tax
38 imposed pursuant to section 5 of P.L.1945, c.162 (C.54:10A-5) in an
39 amount equal to 30 percent of the qualified film production expenses
40 of the taxpayer during a privilege period commencing on or after July
41 1, 2018 but before July 1, 2028, provided that:

42 (a) at least 60 percent of the total film production expenses,
43 exclusive of post-production costs, of the taxpayer are incurred for
44 services performed, and goods purchased through vendors authorized
45 to do business, in New Jersey, or the qualified film production
46 expenses of the taxpayer during the privilege period exceed
47 \$1,000,000 per production;

1 (b) principal photography of the film commences within the
2 earlier of 180 days from the date of the original application for the
3 tax credit, or 150 days from the date of approval of the application
4 for the tax credit;

5 (c) the film includes, when determined to be appropriate by the
6 commission, at no cost to the State, marketing materials promoting
7 this State as a film and entertainment production destination, which
8 materials shall include placement of a "Filmed in New Jersey" or
9 "Produced in New Jersey" statement, or an approved logo approved
10 by the commission, in the end credits of the film;

11 (d) the taxpayer submits a tax credit verification report prepared
12 by an independent certified public accountant licensed in this State
13 in accordance with subsection f. of this section; and

14 (e) the taxpayer complies with the withholding requirements
15 provided for payments to loan out companies and independent
16 contractors in accordance with subsection g. of this section.

17 (2) Notwithstanding the provisions of paragraph (1) of subsection
18 a. of this section to the contrary, the tax credit allowed pursuant to
19 this subsection against the tax imposed pursuant to section 5 of
20 P.L.1945, c.162 (C.54:10A-5) shall be in an amount equal to 35
21 percent of the qualified film production expenses of the taxpayer
22 during a privilege period that are incurred for services performed and
23 tangible personal property purchased through vendors whose primary
24 place of business is located in Atlantic, Burlington, Camden, Cape
25 May, Cumberland, Gloucester, Mercer or Salem County.

26 b. (1) A taxpayer, upon approval of an application to the
27 authority and the director, shall be allowed a credit against the tax
28 imposed pursuant to section 5 of P.L.1945, c.162 (C.54:10A-5) in an
29 amount equal to 20 percent of the qualified digital media content
30 production expenses of the taxpayer during a privilege period
31 commencing on or after July 1, 2018 but before July 1, 2028,
32 provided that:

33 (a) at least \$2,000,000 of the total digital media content
34 production expenses of the taxpayer are incurred for services
35 performed, and goods purchased through vendors authorized to do
36 business, in New Jersey;

37 (b) at least 50 percent of the qualified digital media content
38 production expenses of the taxpayer are for wages and salaries paid
39 to full-time or full-time equivalent employees in New Jersey;

40 (c) the taxpayer submits a tax credit verification report prepared
41 by an independent certified public accountant licensed in this State
42 in accordance with subsection f. of this section; and

43 (d) the taxpayer complies with the withholding requirements
44 provided for payments to loan out companies and independent
45 contractors in accordance with subsection g. of this section.

46 (2) Notwithstanding the provisions of paragraph (1) of subsection
47 b. of this section to the contrary, the tax credit allowed pursuant to
48 this subsection against the tax imposed pursuant to section 5 of

1 P.L.1945, c.162 (C.54:10A-5) shall be in an amount equal to 25
2 percent of the qualified digital media content production expenses of
3 the taxpayer during a privilege period that are incurred for services
4 performed and tangible personal property purchased through vendors
5 whose primary place of business is located in Atlantic, Burlington,
6 Camden, Cape May, Cumberland, Gloucester, Mercer, or Salem
7 County.

8 c. No tax credit shall be allowed pursuant to this section for any
9 costs or expenses included in the calculation of any other tax credit
10 or exemption granted pursuant to a claim made on a tax return filed
11 with the director, or included in the calculation of an award of
12 business assistance or incentive, for a period of time that coincides
13 with the privilege period for which a tax credit authorized pursuant
14 to this section is allowed. The order of priority in which the tax credit
15 allowed pursuant to this section and any other tax credits allowed by
16 law may be taken shall be as prescribed by the director. The amount
17 of the tax credit applied under this section against the tax imposed
18 pursuant to section 5 of P.L.1945, c.162 (C.54:10A-5), for a privilege
19 period, when taken together with any other payments, credits,
20 deductions, and adjustments allowed by law shall not reduce the tax
21 liability of the taxpayer to an amount less than the statutory minimum
22 provided in subsection (e) of section 5 of P.L.1945, c.162 (C.54:10A-
23 5). The amount of the tax credit otherwise allowable under this
24 section which cannot be applied for the privilege period due to the
25 limitations of this subsection or under other provisions of P.L.1945,
26 c.162 (C.54:10A-1 et seq.) may be carried forward, if necessary, to
27 the seven privilege periods following the privilege period for which
28 the tax credit was allowed.

29 d. A taxpayer, with an application for a tax credit provided for
30 in subsection a. or subsection b. of this section, may apply to the
31 authority and the director for a tax credit transfer certificate in lieu
32 of the taxpayer being allowed any amount of the tax credit against
33 the tax liability of the taxpayer. The tax credit transfer certificate,
34 upon receipt thereof by the taxpayer from the authority and the
35 director, may be sold or assigned, in full or in part, to any other
36 taxpayer that may have a tax liability under the "Corporation
37 Business Tax Act (1945)," P.L.1945, c.162 (C.54:10A-1 et seq.), or
38 the "New Jersey Gross Income Tax Act," N.J.S.54A:1-1 et seq., in
39 exchange for private financial assistance to be provided by the
40 purchaser or assignee to the taxpayer that has applied for and been
41 granted the tax credit. The tax credit transfer certificate provided to
42 the taxpayer shall include a statement waiving the taxpayer's right to
43 claim that amount of the tax credit against the tax imposed pursuant
44 to section 5 of P.L.1945, c.162 (C.54:10A-5) that the taxpayer has
45 elected to sell or assign. The sale or assignment of any amount of a
46 tax credit transfer certificate allowed under this section shall not be
47 exchanged for consideration received by the taxpayer of less than 75
48 percent of the transferred tax credit amount. Any amount of a tax

1 credit transfer certificate used by a purchaser or assignee against a
2 tax liability under P.L.1945, c.162 (C.54:10A-1 et seq.) shall be
3 subject to the same limitations and conditions that apply to the use of
4 a tax credit pursuant to subsection c. of this section. Any amount of
5 a tax credit transfer certificate obtained by a purchaser or assignee
6 under subsection a. or subsection b. of this section may be applied
7 against the purchaser's or assignee's tax liability under N.J.S.54A:1-
8 1 et seq. and shall be subject to the same limitations and conditions
9 that apply to the use of a credit pursuant to subsections c. and d. of
10 section 2 of P.L.2018, c.56 (C.54A:4-12b).

11 e. (1) The value of tax credits, including tax credits allowed
12 through the granting of tax credit transfer certificates, approved by
13 the director and the authority pursuant to subsection a. of this section
14 and pursuant to subsection a. of section 2 of P.L.2018, c.56 (C.54A:4-
15 12b) to taxpayers, other than New Jersey film partners and New
16 Jersey film-lease partners, shall not exceed a cumulative total of
17 \$100,000,000 in fiscal year 2019 and in each fiscal year thereafter
18 prior to fiscal year 2029 to apply against the tax imposed pursuant to
19 section 5 of P.L.1945, c.162 (C.54:10A-5) and the tax imposed
20 pursuant to the "New Jersey Gross Income Tax Act," N.J.S.54A:1-1
21 et seq. In addition to the \$100,000,000 limitation on the value of tax
22 credits approved by the director for New Jersey film-lease partners
23 and the \$100,000,000 limitation on the value of tax credits approved
24 by the director for other taxpayers imposed by this paragraph, the
25 value of tax credits, including tax credits allowed through the
26 granting of tax credit transfer certificates, approved by the director
27 and the authority pursuant to subsection a. of this section and
28 pursuant to subsection a. of section 2 of P.L.2018, c.56 (C.54A:4-
29 12b) to New Jersey film partners shall not exceed a cumulative total
30 of \$100,000,000 in fiscal year 2021 and in each fiscal year thereafter
31 prior to fiscal year 2029 to apply against the tax imposed pursuant to
32 section 5 of P.L.1945, c.162 (C.54:10A-5) and the tax imposed
33 pursuant to the "New Jersey Gross Income Tax Act," N.J.S.54A:1-1
34 et seq. In addition to the \$100,000,000 limitation on the value of tax
35 credits approved by the director for New Jersey film partners and the
36 \$100,000,000 limitation on the value of tax credits approved by the
37 director for other taxpayers imposed by this paragraph, the value of
38 tax credits, including tax credits allowed through the granting of tax
39 credit transfer certificates, approved by the director and the authority
40 pursuant to subsection a. of this section and pursuant to subsection a.
41 of section 2 of P.L.2018, c.56 (C.54A:4-12b) to New Jersey film-
42 lease partners shall not exceed a cumulative total of \$100,000,000 in
43 fiscal year 2021 and in each fiscal year thereafter prior to fiscal year
44 2029 to apply against the tax imposed pursuant to section 5 of
45 P.L.1945, c.162 (C.54:10A-5) and the tax imposed pursuant to the
46 "New Jersey Gross Income Tax Act," N.J.S.54A:1-1 et seq.

47 If the cumulative total amount of tax credits, and tax credit transfer
48 certificates, allowed to taxpayers for privilege periods or taxable

1 years commencing during a single fiscal year under subsection a. of
2 this section and subsection a. of section 2 of P.L.2018, c.56
3 (C.54A:4-12b) exceeds the amount of tax credits available in that
4 fiscal year, then taxpayers who have first applied for and have not
5 been allowed a tax credit or tax credit transfer certificate amount for
6 that reason shall be allowed, in the order in which they have
7 submitted an application, the amount of tax credit or tax credit
8 transfer certificate on the first day of the next succeeding fiscal year
9 in which tax credits and tax credit transfer certificates under
10 subsection a. of this section and subsection a. of section 2 of
11 P.L.2018, c.56 (C.54A:4-12b) are not in excess of the amount of
12 credits available.

13 Notwithstanding any provision of paragraph (1) of this subsection
14 to the contrary, for any fiscal year in which the amount of tax credits
15 approved pursuant to this paragraph is less than the cumulative total
16 amount of tax credits permitted to be approved in that fiscal year, the
17 authority shall certify the amount of the remaining tax credits
18 available for approval in that fiscal year, and shall increase the
19 cumulative total amount of tax credits permitted to be approved in
20 the subsequent fiscal year by the certified amount remaining from the
21 prior fiscal year. The authority shall also certify, for each fiscal year,
22 the amount of tax credits that were previously approved, but that the
23 taxpayer is not able to redeem or transfer to another taxpayer under
24 this section, and shall increase the cumulative total amount of tax
25 credits permitted to be approved in the subsequent fiscal year by the
26 amount of tax credits previously approved, but not subject to
27 redemption or transfer. The combined increase to the cumulative
28 total permitted to be approved in a subsequent fiscal year pursuant to
29 this paragraph shall not exceed \$50,000,000.

30 (2) The value of tax credits, including tax credits allowed through
31 the granting of tax credit transfer certificates, approved by the
32 authority and the director pursuant to subsection b. of this section and
33 pursuant to subsection b. of section 2 of P.L.2018, c.56 (C.54A:4-
34 12b) shall not exceed a cumulative total of \$10,000,000 in fiscal year
35 2019 and in each fiscal year thereafter prior to fiscal year 2029 to
36 apply against the tax imposed pursuant to section 5 of P.L.1945,
37 c.162 (C.54:10A-5) and the tax imposed pursuant to the "New Jersey
38 Gross Income Tax Act," N.J.S.54A:1-1 et seq.

39 If the total amount of tax credits and tax credit transfer certificates
40 allowed to taxpayers for privilege periods or taxable years
41 commencing during a single fiscal year under subsection b. of this
42 section and subsection b. of section 2 of P.L.2018, c.56 (C.54A:4-
43 12.b) exceeds the amount of tax credits available in that year, then
44 taxpayers who have first applied for and have not been allowed a tax
45 credit or tax credit transfer certificate amount for that reason shall be
46 allowed, in the order in which they have submitted an application,
47 the amount of tax credit or tax credit transfer certificate on the first
48 day of the next succeeding fiscal year in which tax credits and tax

1 credit transfer certificates under subsection b. of this section and
2 subsection b. of section 2 of P.L.2018, c.56 (C.54A:4-12.b) are not
3 in excess of the amount of credits available.

4 Notwithstanding any provision of this paragraph to the contrary,
5 for any fiscal year in which the amount of tax credits approved
6 pursuant to this paragraph is less than the cumulative total amount of
7 tax credits permitted to be approved in that fiscal year, the authority
8 shall certify the amount of the remaining tax credits available for
9 approval in that fiscal year, and shall increase the cumulative total
10 amount of tax credits permitted to be approved in the subsequent
11 fiscal year by the certified amount remaining from the prior fiscal
12 year. The authority shall also certify, for each fiscal year, the amount
13 of tax credits that were previously approved, but that the taxpayer is
14 not able to redeem or transfer to another taxpayer under this section,
15 and shall increase the cumulative total amount of tax credits
16 permitted to be approved in the subsequent fiscal year by the amount
17 of tax credits previously approved, but not subject to redemption or
18 transfer.

19 f. A taxpayer shall submit to the authority and the director a
20 report prepared by an independent certified public accountant
21 licensed in this State to verify the taxpayer's tax credit claim
22 following the completion of the production. The report shall be
23 prepared by the independent certified public accountant pursuant to
24 agreed upon procedures prescribed by the authority and the director,
25 and shall include such information and documentation as shall be
26 determined to be necessary by the authority and the director to
27 substantiate the qualified film production expenses or the qualified
28 digital media content production expenses of the taxpayer. A single
29 report with attachments deemed necessary by the authority shall be
30 submitted electronically. Upon receipt of the report, the authority
31 and the director shall review the findings of the independent certified
32 public accountant's report, and shall make a determination as to the
33 qualified film production expenses or the qualified digital media
34 content production expenses of the taxpayer. The determination shall
35 be provided in writing to the taxpayer, and a copy of the written
36 determination shall be included in the filing of a return that includes
37 a claim for a tax credit allowed pursuant to this section.

38 g. A taxpayer shall withhold from each payment to a loan out
39 company or to an independent contractor an amount equal to 6.37
40 percent of the payment otherwise due. The amounts withheld shall
41 be deemed to be withholding of liability pursuant to the "New Jersey
42 Gross Income Tax Act," N.J.S.54A:1-1 et seq., and the taxpayer shall
43 be deemed to have the rights, duties, and responsibilities of an
44 employer pursuant to chapter 7 of Title 54A of the New Jersey
45 Statutes. The director shall allocate the amounts withheld for a
46 taxable year to the accounts of the individuals who are employees of
47 a loan out company in proportion to the employee's payment by the
48 loan out company in connection with a trade, profession, or

1 occupation carried on in this State or for the rendition of personal
2 services performed in this State during the taxable year. A loan out
3 company that reports its payments to employees in connection with
4 a trade, profession, or occupation carried on in this State or for the
5 rendition of personal services performed in this State during a taxable
6 year shall be relieved of its duties and responsibilities as an employer
7 pursuant to chapter 7 of Title 54A of the New Jersey Statutes for the
8 taxable year for any payments relating to the payments on which the
9 taxpayer withheld.

10 h. As used in this section:

11 "Authority" means the New Jersey Economic Development
12 Authority.

13 "Business assistance or incentive" means "business assistance or
14 incentive" as that term is defined pursuant to section 1 of P.L.2007,
15 c.101 (C.54:50-39).

16 "Commission" means the Motion Picture and Television
17 Development Commission.

18 "Digital media content" means any data or information that is
19 produced in digital form, including data or information created in
20 analog form but reformatted in digital form, text, graphics,
21 photographs, animation, sound, and video content. "Digital media
22 content" shall not mean content offerings generated by the end user
23 (including postings on electronic bulletin boards and chat rooms);
24 content offerings comprised primarily of local news, events, weather,
25 or local market reports; public service content; electronic commerce
26 platforms (such as retail and wholesale websites); websites or content
27 offerings that contain obscene material as defined pursuant to
28 N.J.S.2C:34-2 and N.J.S.2C:34-3; websites or content that are
29 produced or maintained primarily for private, industrial, corporate,
30 or institutional purposes; or digital media content acquired or
31 licensed by the taxpayer for distribution or incorporation into the
32 taxpayer's digital media content.

33 "Film" means a feature film, a television series, or a television
34 show of 22 minutes or more in length, intended for a national
35 audience, or a television series or a television show of 22 minutes or
36 more in length intended for a national or regional audience,
37 including, but not limited to, a game show, award show, or other gala
38 event filmed and produced at a nonprofit arts and cultural venue
39 receiving State funding. "Film" shall not include a production
40 featuring news, current events, weather, and market reports or public
41 programming, talk show, or sports event, a production that solicits
42 funds, a production containing obscene material as defined under
43 N.J.S.2C:34-2 and N.J.S.2C:34-3, or a production primarily for
44 private, industrial, corporate, or institutional purposes, or a reality
45 show, except if the production company of the reality show owns,
46 leases, or otherwise occupies a production facility of no less than
47 20,000 square feet of real property for a minimum term of 24 months,
48 and invests no less than \$3,000,000 in such a facility within a

1 designated enterprise zone established pursuant to the "New Jersey
2 Urban Enterprise Zones Act," P.L.1983, c.303 (C.52:27H-60 et al.),
3 or a UEZ-impacted business district established pursuant to section
4 3 of P.L.2001, c.347 (C.52:27H-66.2). "Film" shall not include an
5 award show or other gala event that is not filmed and produced at a
6 nonprofit arts and cultural venue receiving State funding.

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

23 "Highly compensated individual" means an individual who
24 directly or indirectly receives compensation in excess of \$500,000
25 for the performance of services used directly in a production. An
26 individual receives compensation indirectly when the taxpayer pays
27 a loan out company that, in turn, pays the individual for the
28 performance of services.

29 "Independent contractor" means an individual treated as an
30 independent contractor for federal and State tax purposes who is
31 contracted with by the taxpayer for the performance of services used
32 directly in a production.

33 "Loan out company" means a personal service corporation or other
34 entity that is contracted with by the taxpayer to provide specified
35 individual personnel, such as artists, crew, actors, producers, or
36 directors for the performance of services used directly in a
37 production. "Loan out company" shall not include entities contracted
38 with by the taxpayer to provide goods or ancillary contractor services
39 such as catering, construction, trailers, equipment, or transportation.

40 "New Jersey film partner" means a film production company that
41 has made a commitment to produce films or commercial audiovisual
42 products in New Jersey and has developed, purchased, or executed a
43 10-year contract to lease a production facility of 250,000 square feet
44 or more as a "transformative project" pursuant to section 65 of P.L. ,
45 c. (C.) (pending before the Legislature as this bill). No more
46 than five film production companies may be designated as a New
47 Jersey film partner.

1 “New Jersey film-lease partner” means a taxpayer, including any
2 taxpayer that is a member of a combined group under P.L.2018, c.131
3 (C:54:10A-4.11), that has made a commitment to lease or acquire a
4 New Jersey production facility with an aggregate square footage of
5 at least 50,000 square feet, which includes a sound stage and
6 production support space such as production offices or a backlot, for
7 a period of five or more successive years and commits to spend, on a
8 separate-entity basis or in the aggregate with other members of the
9 taxpayer’s combined group, an annual average of \$50,000,000 of
10 qualified film production expenses over the period of at least five but
11 not to exceed 10 years. The authority shall be permitted to recapture
12 any credits awarded to a New Jersey film-lease partner if the New
13 Jersey film-lease partner, or any member of the New Jersey film-
14 lease partner’s combined group fails to maintain a New Jersey
15 production facility during the period prescribed or if the New Jersey
16 film-lease partner, on a separate-entity basis or in the aggregate with
17 other members of the New Jersey film-lease partner’s combined
18 group, fails to spend an annual average of \$50,000,000 of qualified
19 film production expenses over the prescribed period.

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

22 "Post-production costs" means the costs of the phase of production
23 of a film that follows principal photography, in which raw footage is
24 cut and assembled into a finished film with sound synchronization
25 and visual effects.

26 "Pre-production costs" means the costs of the phase of production
27 of a film that precedes principal photography, in which a detailed
28 schedule and budget for the production is prepared, the script and
29 location is finalized, and contracts with vendors are negotiated.

30 "Qualified digital media content production expenses" means an
31 expense incurred in New Jersey for the production of digital media
32 content. "Qualified digital media content production expenses" shall
33 include but not be limited to: wages and salaries of individuals
34 employed in the production of digital media content on which the tax
35 imposed by the "New Jersey Gross Income Tax Act," N.J.S.54A:1-1
36 et seq. has been paid or is due; and the costs of computer software
37 and hardware, data processing, visualization technologies, sound
38 synchronization, editing, and the rental of facilities and equipment.
39 Payment made to a loan out company or to an independent contractor
40 shall not be deemed a "qualified digital media content production
41 expense" unless the payment is made in connection with a trade,
42 profession, or occupation carried on in this State or for the rendition
43 of personal services performed in this State and the taxpayer has
44 made the withholding required pursuant to subsection g. of this
45 section. "Qualified digital media content production expenses" shall
46 not include expenses incurred in marketing, promotion, or
47 advertising digital media or other costs not directly related to the
48 production of digital media content. Costs related to the acquisition

1 or licensing of digital media content by the taxpayer for distribution
2 or incorporation into the taxpayer's digital media content shall not be
3 deemed "qualified digital media content production expenses."

4 "Qualified film production expenses" means an expense incurred
5 in New Jersey for the production of a film including pre-production
6 costs and post-production costs incurred in New Jersey. "Qualified
7 film production expenses" shall include but not be limited to: wages
8 and salaries of individuals employed in the production of a film on
9 which the tax imposed by the "New Jersey Gross Income Tax Act,"
10 N.J.S.54A:1-1 et seq. has been paid or is due; and the costs for
11 tangible personal property used, and services performed, directly and
12 exclusively in the production of a film, such as expenditures for film
13 production facilities, props, makeup, wardrobe, film processing,
14 camera, sound recording, set construction, lighting, shooting, editing,
15 and meals. Payment made to a loan out company or to an
16 independent contractor shall not be deemed a "qualified film
17 production expense" unless the payment is made in connection with
18 a trade, profession, or occupation carried on in this State or for the
19 rendition of personal services performed in this State and the
20 taxpayer has made the withholding required pursuant to subsection
21 g. of this section. "Qualified film production expenses" shall not
22 include: expenses incurred in marketing or advertising a film; and
23 payment in excess of \$500,000 to a highly compensated individual
24 for costs for a story, script, or scenario used in the production of a
25 film and wages or salaries or other compensation for writers,
26 directors, including music directors, producers, and performers, other
27 than background actors with no scripted lines, except as follows:

28 (1) for a New Jersey film partner that incurs more than
29 \$30,000,000, but less than \$100,000,000, in qualified film production
30 expenses in the State, an amount, not to exceed \$15,000,000, of the
31 wages or salaries or other compensation for writers, directors,
32 including music directors, producers, and performers, other than
33 background actors with no scripted lines, shall constitute qualified
34 film production expenses;

35 (2) for a New Jersey film partner that incurs \$100,000,000 or
36 more, but less than \$150,000,000, in qualified film production
37 expenses in the State, an amount, not to exceed \$30,000,000, of the
38 wages or salaries or other compensation for writers, directors,
39 including music directors, producers, and performers, other than
40 background actors with no scripted lines, shall constitute qualified
41 film production expenses; and

42 (3) for a New Jersey film partner that incurs \$150,000,000 or more
43 in qualified film production expenses in the State, an amount, not to
44 exceed \$60,000,000, of the wages or salaries or other compensation
45 for writers, directors, including music directors, producers, and
46 performers, other than background actors with no scripted lines, shall
47 constitute qualified film production expenses.

1 "Total digital media content production expenses" means costs for
2 services performed and property used or consumed in the production
3 of digital media content.

4 "Total film production expenses" means costs for services
5 performed and tangible personal property used or consumed in the
6 production of a film.

7 i. A business that is not a "taxpayer" as defined and used in the
8 "Corporation Business Tax Act (1945)," P.L.1945, c.162 (C.54:10A-
9 1 et seq.) and therefore is not directly allowed a credit under this
10 section, but is a business entity that is classified as a partnership for
11 federal income tax purposes and is ultimately owned by a business
12 entity that is a "corporation" as defined in subsection (c) of section 4
13 of P.L.1945, c.162 (C.54:10A-4), or a limited liability company
14 formed under the "Revised Uniform Limited Liability Company
15 Act," P.L.2012, c.50 (C.42:2C-1 et seq.), or qualified to do business
16 in this State as a foreign limited liability company, with one member,
17 and is wholly owned by the business entity that is a "corporation" as
18 defined in subsection (c) of section 4 of P.L.1945, c.162 (C.54:10A-
19 4), but otherwise meets all other requirements of this section, shall
20 be considered an eligible applicant and "taxpayer" as that term is used
21 in this section.

22 (cf: P.L.2019, c.506, s.1)

23

24 111. Section 2 of P.L.2018, c.56 (C.54A:4-12b) is amended to
25 read as follows:

26 2. a. (1) A taxpayer, upon approval of an application to the
27 authority and the director, shall be allowed a credit against the tax
28 otherwise due for the taxable year under the "New Jersey Gross
29 Income Tax Act," N.J.S.54A:1-1 et seq., in an amount equal to 30
30 percent of the qualified film production expenses of the taxpayer
31 during a taxable year commencing on or after July 1, 2018 but before
32 July 1, 2028, provided that:

33 (a) at least 60 percent of the total film production expenses,
34 exclusive of post-production costs, of the taxpayer are incurred for
35 services performed, and goods purchased through vendors authorized
36 to do business, in New Jersey, or the qualified film production
37 expenses of the taxpayer during the taxable year exceed \$1,000,000
38 per production;

39 (b) principal photography of the film commences within the
40 earlier of 180 days from the date of the original application for the
41 tax credit, or 150 days from the date of approval of the application
42 for the tax credit;

43 (c) the film includes, when determined to be appropriate by the
44 commission, at no cost to the State, marketing materials promoting
45 this State as a film and entertainment production destination, which
46 materials shall include placement of a "Filmed in New Jersey" or
47 "Produced in New Jersey" statement, or an appropriate logo approved
48 by the commission, in the end credits of the film;

1 (d) the taxpayer submits a tax credit verification report prepared
2 by an independent certified public accountant licensed in this State
3 in accordance with subsection g. of this section; and

4 (e) the taxpayer complies with the withholding requirements
5 provided for payments to loan out companies and independent
6 contractors in accordance with subsection h. of this section.

7 (2) Notwithstanding the provisions of paragraph (1) of subsection
8 a. of this section to the contrary, the tax credit allowed pursuant to
9 this subsection against the tax otherwise due for the taxable year
10 under the "New Jersey Gross Income Tax Act," N.J.S.54A:1-1 et
11 seq., shall be in an amount equal to 35 percent of the qualified film
12 production expenses of the taxpayer during a taxable year that are
13 incurred for services performed and tangible personal property
14 purchased through vendors whose primary place of business is
15 located in Atlantic, Burlington, Camden, Cape May, Cumberland,
16 Gloucester, Mercer, or Salem County.

17 b. (1) A taxpayer, upon approval of an application to the
18 authority and the director, shall be allowed a credit against the tax
19 otherwise due for the taxable year under the "New Jersey Gross
20 Income Tax Act," N.J.S.54A:1-1 et seq., in an amount equal to 20
21 percent of the qualified digital media content production expenses of
22 the taxpayer during a taxable year commencing on or after July 1,
23 2018 but before July 1, 2028, provided that:

24 (a) at least \$2,000,000 of the total digital media content
25 production expenses of the taxpayer are incurred for services
26 performed, and goods purchased through vendors authorized to do
27 business, in New Jersey;

28 (b) at least 50 percent of the qualified digital media content
29 production expenses of the taxpayer are for wages and salaries paid
30 to full-time or full-time equivalent employees in New Jersey;

31 (c) the taxpayer submits a tax credit verification report prepared
32 by an independent certified public accountant licensed in this State
33 in accordance with subsection g. of this section; and

34 (d) the taxpayer complies with the withholding requirements
35 provided for payments to loan out companies and independent
36 contractors in accordance with subsection h. of this section.

37 (2) Notwithstanding the provisions of paragraph (1) of subsection
38 b. of this section to the contrary, the tax credit allowed pursuant to
39 this subsection against the tax otherwise due for the taxable year
40 under the "New Jersey Gross Income Tax Act," N.J.S.54A:1-1 et
41 seq., shall be in an amount equal to 25 percent for the qualified digital
42 media content production expenses of the taxpayer during a taxable
43 year that are incurred for services performed and tangible personal
44 property purchased through vendors whose primary place of business
45 is located in Atlantic, Burlington, Camden, Cape May, Cumberland,
46 Gloucester, Mercer, or Salem County.

47 c. No tax credit shall be allowed pursuant to this section for any
48 costs or expenses included in the calculation of any other tax credit

1 or exemption granted pursuant to a claim made on a tax return filed
2 with the director, or included in the calculation of an award of
3 business assistance or incentive, for a period of time that coincides
4 with the taxable year for which a tax credit authorized pursuant to
5 this section is allowed. The order of priority in which the tax credit
6 allowed pursuant to this section and any other tax credits allowed by
7 law may be taken shall be as prescribed by the director. The amount
8 of the tax credit applied under this section against the tax otherwise
9 due under the "New Jersey Gross Income Tax Act," N.J.S.54A:1-1 et
10 seq., for a taxable year, when taken together with any other payments,
11 credits, deductions, and adjustments allowed by law shall not reduce
12 the tax liability of the taxpayer to an amount less than zero. The
13 amount of the tax credit otherwise allowable under this section which
14 cannot be applied for the taxable year due to the limitations of this
15 subsection or under other provisions of N.J.S.54A:1-1 et seq., may
16 be carried forward, if necessary, to the seven taxable years following
17 the taxable year for which the tax credit was allowed.

18 d. (1) A business entity that is classified as a partnership for
19 federal income tax purposes shall not be allowed a tax credit pursuant
20 to this section directly, but the amount of tax credit of a taxpayer in
21 respect of a distributive share of entity income, shall be determined
22 by allocating to the taxpayer that proportion of the tax credit acquired
23 by the entity that is equal to the taxpayer's share, whether or not
24 distributed, of the total distributive income or gain of the entity for
25 its taxable year ending within or with the taxpayer's taxable year.

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

34 A business entity that is not a gross income "taxpayer" as defined
35 and used in the "New Jersey Gross Income Tax Act," N.J.S.54A:1-1
36 et seq., and therefore is not directly allowed a credit under this
37 section, but otherwise meets all the other requirements of this section,
38 shall be considered an eligible applicant and "taxpayer" as that term
39 is used in this section, and the application of an otherwise allowed
40 credit amount shall be distributed to appropriate gross income
41 taxpayers pursuant to the other requirements of this subsection.

42 e. A taxpayer, with an application for a tax credit provided for
43 in subsection a. or subsection b. of this section, may apply to the
44 authority and the director for a tax credit transfer certificate in lieu
45 of the taxpayer being allowed any amount of the tax credit against
46 the tax liability of the taxpayer. The tax credit transfer certificate,
47 upon receipt thereof by the taxpayer from the authority and the
48 director, may be sold or assigned, in full or in part, to any other

1 taxpayer that may have a tax liability under the "New Jersey Gross
2 Income Tax Act," N.J.S.54A:1-1 et seq., or the "Corporation
3 Business Tax Act (1945)," P.L.1945, c.162 (C.54:10A-1 et seq.), in
4 exchange for private financial assistance to be provided by the
5 purchaser or assignee to the taxpayer that has applied for and been
6 granted the tax credit. The tax credit transfer certificate provided to
7 the taxpayer shall include a statement waiving the taxpayer's right to
8 claim that amount of the tax credit against the tax imposed pursuant
9 to N.J.S.54A:1-1 et seq. that the taxpayer has elected to sell or assign.
10 The sale or assignment of any amount of a tax credit transfer
11 certificate allowed under this section shall not be exchanged for
12 consideration received by the taxpayer of less than 75 percent of the
13 transferred tax credit amount. Any amount of a tax credit transfer
14 certificate used by a purchaser or assignee against a tax liability under
15 N.J.S.54A:1-1 et seq. shall be subject to the same limitations and
16 conditions that apply to the use of a tax credit pursuant to subsections
17 c. and d. of this section. Any amount of a tax credit transfer
18 certificate obtained by a purchaser or assignee under subsection e. of
19 this section may be applied against the purchaser's or assignee's tax
20 liability under P.L.1945, c.162 (C.54:10A-1 et seq.) and shall be
21 subject to the same limitations and conditions that apply to the use of
22 a credit pursuant to subsection c. of section 1 of P.L.2018, c.56
23 (C.54:10A-5.39b).

24 f. (1) The value of tax credits, including tax credits allowed
25 through the granting of tax credit transfer certificates, approved by
26 the director and the authority pursuant to subsection a. of this section
27 and pursuant to subsection a. of section 1 of P.L.2018, c.56
28 (C.54:10A-5.39b) to taxpayers, other than New Jersey film partners
29 and New Jersey film-lease partners, shall not exceed a cumulative
30 total of \$100,000,000 in fiscal year 2019 and in each fiscal year
31 thereafter prior to fiscal year 2029 to apply against the tax imposed
32 pursuant to the "New Jersey Gross Income Tax Act," N.J.S.54A:1-1
33 et seq., and pursuant to section 5 of P.L.1945, c.162 (C.54:10A-5).
34 In addition to the \$100,000,000 limitation on the value of tax credits
35 approved by the director for New Jersey film-lease partners and the
36 \$100,000,000 limitation on the value of tax credits approved by the
37 director for other taxpayers imposed by this paragraph, the value of
38 tax credits, including tax credits allowed through the granting of tax
39 credit transfer certificates, approved by the director and the authority
40 pursuant to subsection a. of this section and pursuant to subsection a.
41 of section 2 of P.L.2018, c.56 (C.54A:4-12b) to New Jersey film
42 partners shall not exceed a cumulative total of \$100,000,000 in fiscal
43 year 2021 and in each fiscal year thereafter prior to fiscal year 2029
44 to apply against the tax imposed pursuant to section 5 of P.L.1945,
45 c.162 (C.54:10A-5) and the tax imposed pursuant to the "New Jersey
46 Gross Income Tax Act," N.J.S.54A:1-1 et seq. In addition to the
47 \$100,000,000 limitation on the value of tax credits approved by the
48 director for New Jersey film partners and the \$100,000,000 limitation

1 on the value of tax credits approved by the director for other
2 taxpayers imposed by this paragraph, the value of tax credits,
3 including tax credits allowed through the granting of tax credit
4 transfer certificates, approved by the director and the authority
5 pursuant to subsection a. of this section and pursuant to subsection a.
6 of section 1 of P.L.2018, c.56 (C.54A:4-12b) to New Jersey film-
7 lease partners shall not exceed a cumulative total of \$100,000,000 in
8 fiscal year 2021 and in each fiscal year thereafter prior to fiscal year
9 2029 to apply against the tax imposed pursuant to section 5 of
10 P.L.1945, c.162 (C.54:10A-5) and the tax imposed pursuant to the
11 "New Jersey Gross Income Tax Act," N.J.S.54A:1-1 et seq.

12 If the cumulative total amount of tax credits, and tax credit transfer
13 certificates, allowed to taxpayers for taxable years or privilege
14 periods commencing during a single fiscal year under subsection a.
15 of this section and subsection a. of section 1 of P.L.2018, c.56
16 (C.54:10A-5.39b) exceeds the amount of tax credits available in that
17 fiscal year, then taxpayers who have first applied for and have not
18 been allowed a tax credit or tax credit transfer certificate amount for
19 that reason shall be allowed, in the order in which they have
20 submitted an application, the amount of tax credit or tax credit
21 transfer certificate on the first day of the next succeeding fiscal year
22 in which tax credits and tax credit transfer certificates under
23 subsection a. of this section and subsection a. of section 1 of
24 P.L.2018, c.56 (C.54:10A-5.39b) are not in excess of the amount of
25 credits available.

26 Notwithstanding any provision of paragraph (1) of this subsection
27 to the contrary, for any fiscal year in which the amount of tax credits
28 approved pursuant to this paragraph is less than the cumulative total
29 amount of tax credits permitted to be approved in that fiscal year, the
30 authority shall certify the amount of the remaining tax credits
31 available for approval in that fiscal year, and shall increase the
32 cumulative total amount of tax credits permitted to be approved in
33 the subsequent fiscal year by the certified amount remaining from the
34 prior fiscal year. The authority shall also certify, for each fiscal year,
35 the amount of tax credits that were previously approved, but that the
36 taxpayer is not able to redeem or transfer to another taxpayer under
37 this section, and shall increase the cumulative total amount of tax
38 credits permitted to be approved in the subsequent fiscal year by the
39 amount of tax credits previously approved, but not subject to
40 redemption or transfer. The combined increase to the cumulative
41 total permitted to be approved in a subsequent fiscal year pursuant to
42 this paragraph shall not exceed \$50,000,000.

43 (2) The value of tax credits, including tax credits allowed through
44 the granting of tax credit transfer certificates, approved by the
45 authority and the director pursuant to subsection b. of this section and
46 pursuant to subsection b. of section 1 of P.L.2018, c.56 (C.54:10A-
47 5.39b) shall not exceed a cumulative total of \$10,000,000 in fiscal
48 year 2019 and in each fiscal year thereafter prior to fiscal year 2029

1 to apply against the tax imposed pursuant to the "New Jersey Gross
2 Income Tax Act," N.J.S.54A:1-1 et seq. and the tax imposed pursuant
3 to section 5 of P.L.1945, c.162 (C.54:10A-5).

4 If the total amount of tax credits and tax credit transfer certificates
5 allowed to taxpayers for taxable years or privilege periods
6 commencing during a single fiscal year under subsection b. of this
7 section and subsection b. of section 1 of P.L.2018, c.56 (C.54:10A-
8 5.39b) exceeds the amount of tax credits available in that year, then
9 taxpayers who have first applied for and have not been allowed a tax
10 credit or tax credit transfer certificate amount for that reason shall be
11 allowed, in the order in which they have submitted an application,
12 the amount of tax credit or tax credit transfer certificate on the first
13 day of the next succeeding fiscal year in which tax credits and tax
14 credit transfer certificates under subsection b. of this section and
15 subsection b. of section 1 of P.L.2018, c.56 (C.54:10A-5.39b) are not
16 in excess of the amount of credits available.

17 Notwithstanding any provision of this paragraph to the contrary,
18 for any fiscal year in which the amount of tax credits approved
19 pursuant to this paragraph is less than the cumulative total amount of
20 tax credits permitted to be approved in that fiscal year, the authority
21 shall certify the amount of the remaining tax credits available for
22 approval in that fiscal year, and shall increase the cumulative total
23 amount of tax credits permitted to be approved in the subsequent
24 fiscal year by the certified amount remaining from the prior fiscal
25 year. The authority shall also certify, for each fiscal year, the amount
26 of tax credits that were previously approved, but that the taxpayer is
27 not able to redeem or transfer to another taxpayer under this section,
28 and shall increase the cumulative total amount of tax credits
29 permitted to be approved in the subsequent fiscal year by the amount
30 of tax credits previously approved, but not subject to redemption or
31 transfer.

32 g. A taxpayer shall submit to the authority and the director a
33 report prepared by an independent certified public accountant
34 licensed in this State to verify the taxpayer's tax credit claim
35 following the completion of the production. The report shall be
36 prepared by the independent certified public accountant pursuant to
37 agreed upon procedures prescribed by the authority and the director,
38 and shall include such information and documentation as shall be
39 determined to be necessary by the authority and the director to
40 substantiate the qualified film production expenses or the qualified
41 digital media content production expenses of the taxpayer. A single
42 report with attachments deemed necessary by the authority shall be
43 submitted electronically. Upon receipt of the report, the authority
44 and the director shall review the findings of the independent certified
45 public accountant's report, and shall make a determination as to the
46 qualified film production expenses or the qualified digital media
47 content production expenses of the taxpayer. The determination shall
48 be provided in writing to the taxpayer, and a copy of the written

1 determination shall be included in the filing of a return that includes
2 a claim for a tax credit allowed pursuant to this section.

3 h. A taxpayer shall withhold from each payment to a loan out
4 company or to an independent contractor an amount equal to 6.37
5 percent of the payment otherwise due. The amounts withheld shall
6 be deemed to be withholding of liability pursuant to the "New Jersey
7 Gross Income Tax Act," N.J.S.54A:1-1 et seq., and the taxpayer shall
8 be deemed to have the rights, duties, and responsibilities of an
9 employer pursuant to chapter 7 of Title 54A of the New Jersey
10 Statutes. The director shall allocate the amounts withheld for a
11 taxable year to the accounts of the individuals who are employees of
12 a loan out company in proportion to the employee's payment by the
13 loan out company in connection with a trade, profession, or
14 occupation carried on in this State or for the rendition of personal
15 services performed in this State during the taxable year. A loan out
16 company that reports its payments to employees in connection with
17 a trade, profession, or occupation carried on in this State or for the
18 rendition of personal services performed in this State during a taxable
19 year shall be relieved of its duties and responsibilities as an employer
20 pursuant to chapter 7 of Title 54A of the New Jersey Statutes for the
21 taxable year for any payments relating to the payments on which the
22 taxpayer withheld.

23 i. As used in this section:

24 "Authority" means the New Jersey Economic Development
25 Authority.

26 "Business assistance or incentive" means "business assistance or
27 incentive" as that term is defined pursuant to section 1 of P.L.2007,
28 c.101 (C.54:50-39).

29 "Commission" means the Motion Picture and Television
30 Development Commission.

31 "Digital media content" means any data or information that is
32 produced in digital form, including data or information created in
33 analog form but reformatted in digital form, text, graphics,
34 photographs, animation, sound, and video content. "Digital media
35 content" shall not mean content offerings generated by the end user
36 (including postings on electronic bulletin boards and chat rooms);
37 content offerings comprised primarily of local news, events, weather
38 or local market reports; public service content; electronic commerce
39 platforms (such as retail and wholesale websites); websites or content
40 offerings that contain obscene material as defined pursuant to
41 N.J.S.2C:34-2 and N.J.S.2C:34-3; websites or content that are
42 produced or maintained primarily for private, industrial, corporate,
43 or institutional purposes; or digital media content acquired or
44 licensed by the taxpayer for distribution or incorporation into the
45 taxpayer's digital media content.

46 "Film" means a feature film, a television series, or a television
47 show of 22 minutes or more in length, intended for a national
48 audience, or a television series or a television show of 22 minutes or

1 more in length intended for a national or regional audience,
2 including, but not limited to, a game show, award show, or other gala
3 event filmed and produced at a nonprofit arts and cultural venue
4 receiving State funding. "Film" shall not include a production
5 featuring news, current events, weather, and market reports or public
6 programming, talk show, sports event, or reality show, a production
7 that solicits funds, a production containing obscene material as
8 defined under N.J.S.2C:34-2 and N.J.S.2C:34-3, or a production
9 primarily for private, industrial, corporate, or institutional purposes.
10 "Film" shall not include an award show or other gala event that is not
11 filmed and produced at a nonprofit arts and cultural venue receiving
12 State funding.

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

29 "Highly compensated individual" means an individual who
30 directly or indirectly receives compensation in excess of \$500,000
31 for the performance of services used directly in a production. An
32 individual receives compensation indirectly when the taxpayer pays
33 a loan out company that, in turn, pays the individual for the
34 performance of services.

35 "Independent contractor" means an individual treated as an
36 independent contractor for federal and State tax purposes who is
37 contracted with by the taxpayer for the performance of services used
38 directly in a production.

39 "Loan out company" means a personal service corporation or other
40 entity that is contracted with by the taxpayer to provide specified
41 individual personnel, such as artists, crew, actors, producers, or
42 directors for the performance of services used directly in a
43 production. "Loan out company" shall not include entities contracted
44 with by the taxpayer to provide goods or ancillary contractor services
45 such as catering, construction, trailers, equipment, or transportation.

46 "New Jersey film partner" means a film production company that
47 has made a commitment to produce films or commercial audiovisual
48 products in New Jersey and has developed, purchased, or executed a

1 10-year contract to lease a production facility of 250,000 square feet
2 or more as a “transformative project” pursuant to section 65 of P.L. ,
3 c. (C.) (pending before the Legislature as this bill). No more
4 than five film production companies may be designated as a New
5 Jersey film partner.

6 “New Jersey film-lease partner” means a taxpayer, including any
7 taxpayer that is a member of a combined group under P.L.2018, c.131
8 (C:54:10A-4.11), that has made a commitment to lease or acquire a
9 New Jersey production facility with an aggregate square footage of
10 at least 50,000 square feet, which includes a sound stage and
11 production support space such as production offices or a backlot, for
12 a period of five or more successive years and commits to spend, on a
13 separate-entity basis or in the aggregate with other members of the
14 taxpayer’s combined group, an annual average of \$50,000,000 of
15 qualified film production expenses over the period of at least five but
16 not to exceed 10 years. The authority shall be permitted to recapture
17 any credits awarded to a New Jersey film-lease partner if the New
18 Jersey film-lease partner, or any member of the New Jersey film-
19 lease partner’s combined group fails to maintain a New Jersey
20 production facility during the period prescribed or if the New Jersey
21 film-lease partner, on a separate-entity basis or in the aggregate with
22 other members of the New Jersey film-lease partner’s combined
23 group, fails to spend an annual average of \$50,000,000 of qualified
24 film production expenses over the prescribed period.

25 "Partnership" means an entity classified as a partnership for
26 federal income tax purposes.

27 "Post-production costs" means the costs of the phase of production
28 of a film that follows principal photography, in which raw footage is
29 cut and assembled into a finished film with sound synchronization
30 and visual effects.

31 "Pre-production costs" means the costs of the phase of production
32 of a film that precedes principal photography, in which a detailed
33 schedule and budget for the production is prepared, the script and
34 location is finalized, and contracts with vendors are negotiated.

35 "Qualified digital media content production expenses" means an
36 expense incurred in New Jersey for the production of digital media
37 content. "Qualified digital media content production expenses" shall
38 include but not be limited to: wages and salaries of individuals
39 employed in the production of digital media content on which the tax
40 imposed by the "New Jersey Gross Income Tax Act," N.J.S.54A:1-1
41 et seq. has been paid or is due; and the costs of computer software
42 and hardware, data processing, visualization technologies, sound
43 synchronization, editing, and the rental of facilities and equipment.
44 Payment made to a loan out company or to an independent contractor
45 shall not be deemed a "qualified digital media content production
46 expense" unless the payment is made in connection with a trade,
47 profession, or occupation carried on in this State or for the rendition
48 of personal services performed in this State and the taxpayer has

1 made the withholding required pursuant to subsection h. of this
2 section. "Qualified digital media content production expenses" shall
3 not include expenses incurred in marketing, promotion, or
4 advertising digital media or other costs not directly related to the
5 production of digital media content. Costs related to the acquisition
6 or licensing of digital media content by the taxpayer for distribution
7 or incorporation into the taxpayer's digital media content shall not be
8 deemed "qualified digital media content production expenses."

9 "Qualified film production expenses" means an expense incurred
10 in New Jersey for the production of a film including pre-production
11 costs and post-production costs incurred in New Jersey. "Qualified
12 film production expenses" shall include but not be limited to: wages
13 and salaries of individuals employed in the production of a film on
14 which the tax imposed by the "New Jersey Gross Income Tax Act,"
15 N.J.S.54A:1-1 et seq. has been paid or is due; and the costs for
16 tangible personal property used, and services performed, directly and
17 exclusively in the production of a film, such as expenditures for film
18 production facilities, props, makeup, wardrobe, film processing,
19 camera, sound recording, set construction, lighting, shooting, editing,
20 and meals. Payment made to a loan out company or to an
21 independent contractor shall not be deemed a "qualified film
22 production expense" unless the payment is made in connection with
23 a trade, profession, or occupation carried on in this State or for the
24 rendition of personal services performed in this State and the
25 taxpayer has made the withholding required by subsection h. of this
26 section. "Qualified film production expenses" shall not include:
27 expenses incurred in marketing or advertising a film; and payment in
28 excess of \$500,000 to a highly compensated individual for costs for
29 a story, script, or scenario used in the production of a film and wages
30 or salaries or other compensation for writers, directors, including
31 music directors, producers, and performers, other than background
32 actors with no scripted lines, except as follows:

33 (1) for a New Jersey film partner that incurs more than
34 \$30,000,000, but less than \$100,000,000, in qualified film production
35 expenses in the State, an amount, not to exceed \$15,000,000, of the
36 wages or salaries or other compensation for writers, directors,
37 including music directors, producers, and performers, other than
38 background actors with no scripted lines, shall constitute qualified
39 film production expenses;

40 (2) for a New Jersey film partner that incurs \$100,000,000 or
41 more, but less than \$150,000,000, in qualified film production
42 expenses in the State, an amount, not to exceed \$30,000,000, of the
43 wages or salaries or other compensation for writers, directors,
44 including music directors, producers, and performers, other than
45 background actors with no scripted lines, shall constitute qualified
46 film production expenses; and

47 (3) for a New Jersey film partner that incurs \$150,000,000 or more
48 in qualified film production expenses in the State, an amount, not to

1 exceed \$60,000,000, of the wages or salaries or other compensation
2 for writers, directors, including music directors, producers, and
3 performers, other than background actors with no scripted lines, shall
4 constitute qualified film production expenses.

5 "Total digital media content production expenses" means costs for
6 services performed and property used or consumed in the production
7 of digital media content.

8 "Total film production expenses" means costs for services
9 performed and tangible personal property used or consumed in the
10 production of a film.

11 (cf: P.L.2019, c.506, s.2)

12

13 112. Section 1 of P.L.1979, c.303 (C.34:1b-5.1) is amended to
14 read as follows:

15 1. a. The New Jersey Economic Development Authority shall
16 adopt rules and regulations requiring that not less than the prevailing
17 wage rate be paid to workers employed in the performance of any
18 construction contract, including contracts for millwork fabrication,
19 undertaken in connection with authority financial assistance or any
20 of its projects, those projects which it undertakes pursuant to
21 P.L.2002, c.43 (C.52:27BBB-1 et al.), or undertaken to fulfill any
22 condition of receiving authority financial assistance, including the
23 performance of any contract to construct, renovate or otherwise
24 prepare a facility for operations which are necessary for the receipt
25 of authority financial assistance, unless the work performed under the
26 contract is performed on a facility owned by a landlord of the entity
27 receiving the assistance and less than 55% of the facility is leased by
28 the entity at the time of the contract and under any agreement to
29 subsequently lease the facility. The prevailing wage rate shall be the
30 rate determined by the Commissioner of Labor and Workforce
31 Development pursuant to the provisions of P.L.1963, c.150 (C.34:11-
32 56.25 et seq.). For the purposes of this section, "authority financial
33 assistance" means any loan, loan guarantee, grant, incentive, tax
34 exemption or other financial assistance that is approved, funded,
35 authorized, administered or provided by the authority to any entity
36 and is provided before, during or after completion of a project,
37 including but not limited to, all authority financial assistance
38 received by the entity pursuant to the "Business Employment
39 Incentive Program Act," P.L.1996, c.26 (C.34:1B-124 et al.) that
40 enables the entity to engage in a construction contract, but this
41 section shall not be construed as requiring the payment of the
42 prevailing wage for construction commencing more than two years
43 after an entity has executed with the authority a commitment letter
44 regarding authority financial assistance and the first payment or other
45 provision of the assistance is received.

46 b. The New Jersey Economic Development Authority shall
47 adopt rules and regulations requiring that not less than the prevailing
48 wage rate be paid to workers employed in the performance of any

1 contract, for construction, demolition, remediation, removal of
2 hazardous substances, alteration, custom fabrication, repair work, or
3 maintenance work, including painting and decorating, or excavation,
4 grading, pile driving, concrete form, or other types of foundation
5 work in connection with the "New Jersey Aspire Program Act,"
6 sections 54 through 67 of P.L. , c. (C.) (pending before the
7 Legislature as this bill) and the "New Jersey Community-Anchored
8 Development Act," sections 43 through 53 of P.L. , c. (C.)
9 (pending before the Legislature as this bill). The requirements of this
10 subsection shall apply to any site preparation work performed 24
11 months prior to and during the incentive eligibility period of any
12 project receiving tax credits under the "New Jersey Aspire Program
13 Act," sections 54 through 67 of P.L. , c. (C.) (pending before
14 the Legislature as this bill) and the "New Jersey Community-
15 Anchored Development Act," sections 43 through 53 of P.L. ,
16 c. (C.) (pending before the Legislature as this bill), in which
17 there is a continuity of ownership in the site of the redevelopment
18 project, including work undertaken to fulfill any condition of
19 receiving tax credits under the programs. Work that is subject to the
20 requirements of this subsection shall include the performance of any
21 contract for construction, demolition, remediation, removal of
22 hazardous substances, alteration, custom fabrication, repair work, or
23 maintenance work, including painting and decorating, or excavation,
24 grading, pile driving, concrete form, or other types of foundation
25 work undertaken on a facility for operations which are necessary for
26 the receipt of tax credits under the "New Jersey Aspire Program Act,"
27 sections 54 through 67 of P.L. , c. (C.) (pending before the
28 Legislature as this bill) and the "New Jersey Community-Anchored
29 Development Act," sections 43 through 53 of P.L. , c. (C.)
30 (pending before the Legislature as this bill), unless the work
31 performed under the contract is performed on a facility owned by a
32 landlord of the entity receiving the tax credit and less than 35 percent
33 of the facility is leased by the entity at the time of the contract and
34 under any agreement to subsequently lease the facility. The
35 prevailing wage rate shall be the rate determined by the
36 Commissioner of Labor and Workforce Development pursuant to the
37 provisions of P.L.1963, c.150 (C.34:11-56.25 et seq.), and all
38 contractors and subcontractors subject to the prevailing wage
39 requirement set forth in this section shall be registered with the
40 Department of Labor and Workforce Development pursuant to the
41 provisions of section 5 of P.L.1999, c.238 (C.34:11-56.52). An
42 applicant for tax credits under the "New Jersey Aspire Program Act,"
43 sections 54 through 67 of P.L. , c. (C.) (pending before the
44 Legislature as this bill) and the "New Jersey Community-Anchored
45 Development Act," sections 43 through 53 of P.L. , c. (C.)
46 (pending before the Legislature as this bill), shall certify under
47 penalty of perjury as part of its application that all construction
48 contracts undertaken on any project in connection with an award

1 under the programs comply with the prevailing wage requirements of
2 this subsection. If at any time the authority determines that the
3 developer made a material misrepresentation regarding compliance
4 with the provisions of this subsection on the developer's application,
5 the developer shall forfeit 35 percent of the tax credits allowed under
6 the programs, and pay to the affected workers back wages in an
7 amount that compensates the workers at the prevailing wage rate for
8 the work performed.

9 (cf: P.L.2007, c.245, s.1)

10
11 113. Section 1 of P.L.1997, c. 334 (C.34:1B-7.42a) is amended to
12 read as follows:

13 1. a. The New Jersey Economic Development Authority shall
14 establish within the New Jersey Emerging Technology and
15 Biotechnology Financial Assistance Program established pursuant to
16 P.L.1995, c.137 (C.34:1B-7.37 et seq.), a corporation business tax
17 benefit certificate transfer program to allow new or expanding
18 emerging technology and biotechnology companies in this State with
19 unused amounts of research and development tax credits otherwise
20 allowable which cannot be applied for the credit's tax year due to the
21 limitations of subsection b. of section 1 of P.L.1993, c.175
22 (C.54:10A-5.24) and unused net operating loss carryover pursuant to
23 subparagraph (B) of paragraph (6) of subsection (k) of section 4 of
24 P.L.1945, c.162 (C.54:10A-4), to surrender those tax benefits for use
25 by other corporation business taxpayers in this State, provided that
26 the taxpayer receiving the surrendered tax benefits is not affiliated
27 with a corporation that is surrendering its tax benefits under the
28 program established under P.L.1997, c.334. For the purposes of this
29 section, the test of affiliation is whether the same entity directly or
30 indirectly owns or controls 5% or more of the voting rights or 5% or
31 more of the value of all classes of stock of both the taxpayer receiving
32 the benefits and a corporation that is surrendering the benefits. The
33 tax benefits may be used on the corporation business tax returns to
34 be filed by those taxpayers in exchange for private financial
35 assistance to be provided by the corporation business taxpayer that is
36 the recipient of the corporation business tax benefit certificate to
37 assist in the funding of costs incurred by the new or expanding
38 emerging technology and biotechnology company.

39 b. The authority, in cooperation with the Division of Taxation in
40 the Department of the Treasury, shall review and approve
41 applications by new or expanding emerging technology and
42 biotechnology companies in this State with unused but otherwise
43 allowable carryover of research and development tax credits pursuant
44 to section 1 of P.L.1993, c.175 (C.54:10A-5.24), and unused but
45 otherwise allowable net operating loss carryover pursuant to
46 paragraph (6) of subsection (k) of section 4 of P.L.1945, c.162
47 (C.54:10A-4), to surrender those tax benefits in exchange for private
48 financial assistance to be made by the corporation business taxpayer

1 that is the recipient of the corporation business tax benefit certificate
2 in an amount equal to at least 80% of the amount of the surrendered
3 tax benefit. Provided that the amount of the surrendered tax benefit
4 for a surrendered research and development tax credit carryover is
5 the amount of the credit, and provided that the amount of the
6 surrendered tax benefit for a surrendered net operating loss carryover
7 is the amount of the loss multiplied by the new or expanding
8 emerging technology or biotechnology company's anticipated
9 allocation factor, as determined pursuant to section 6 of P.L.1945,
10 c.162 (C.54:10A-6) for the tax year in which the benefit is transferred
11 and subsequently multiplied by the corporation business tax rate
12 provided pursuant to subsection (c) of section 5 of P.L.1945, c.162
13 (C.54:10A-5). The authority shall be authorized to approve the
14 transfer of no more than ~~【\$60,000,000】~~ \$75,000,000 of tax benefits
15 in a State fiscal year. If the total amount of transferable tax benefits
16 requested to be surrendered by approved applicants exceeds
17 ~~【\$60,000,000】~~ \$75,000,000 for a State fiscal year, the authority, in
18 cooperation with the Division of Taxation in the Department of the
19 Treasury, shall not be authorized to approve the transfer of more than
20 ~~【\$60,000,000】~~ \$75,000,000 for that State fiscal year and shall
21 allocate the transfer of tax benefits by approved companies using the
22 following method:

23 (1) an eligible applicant with \$250,000 or less of transferable tax
24 benefits shall be authorized to surrender the entire amount of its
25 transferable tax benefits;

26 (2) an eligible applicant with more than \$250,000 of transferable
27 tax benefits shall be authorized to surrender a minimum of \$250,000
28 of its transferable tax benefits;

29 (3) (Deleted by amendment, P.L.2009, c.90.)

30 (4) an eligible applicant with more than \$250,000 shall also be
31 authorized to surrender additional transferable tax benefits
32 determined by multiplying the applicant's transferable tax benefits
33 less the minimum transferable tax benefits that company is
34 authorized to surrender under paragraph (2) of this subsection by a
35 fraction, the numerator of which is the total amount of transferable
36 tax benefits that the authority is authorized to approve less the total
37 amount of transferable tax benefits approved under paragraphs (1),
38 (2), and (5) of this subsection and the denominator of which is the
39 total amount of transferable tax benefits requested to be surrendered
40 by all eligible applicants less the total amount of transferable tax
41 benefits approved under paragraphs (1), (2), and (5) of this
42 subsection;

43 (5) The authority shall establish the boundaries for three
44 innovation zones to be geographically distributed in the northern,
45 central, and southern portions of this State. Of the ~~【\$60,000,000】~~
46 \$75,000,000 of transferable tax benefits authorized for each State
47 fiscal year, \$10,000,000 shall be allocated for the surrender of

1 transferable tax benefits exclusively by new and expanding emerging
2 technology and biotechnology companies that operate within the
3 boundaries of the innovation zones, except that any portion of the
4 \$10,000,000 that is not so approved shall be available for that State
5 fiscal year for the surrender of transferable tax benefits by new and
6 expanding emerging technology and biotechnology companies that
7 do not operate within the boundaries of an innovation zone.

8 If the total amount of transferable tax benefits that would be
9 authorized using the above method exceeds **[\$60,000,000]**
10 \$75,000,000 for a State fiscal year, then the authority, in cooperation
11 with the Division of Taxation in the Department of the Treasury, shall
12 limit the total amount of tax benefits authorized to be transferred to
13 **[\$60,000,000]** \$75,000,000 by applying the above method on an
14 apportioned basis.

15 For purposes of this section transferable tax benefits include an
16 eligible applicant's unused but otherwise allowable carryover of net
17 operating losses multiplied by the applicant's anticipated allocation
18 factor as determined pursuant to section 6 of P.L.1945, c.162
19 (C.54:10A-6) for the tax year in which the benefit is transferred and
20 subsequently multiplied by the corporation business tax rate as
21 provided in subsection (c) of section 5 of P.L.1945, c.162 (C.54:10A-
22 5) plus the total amount of the applicant's unused but otherwise
23 allowable carryover of research and development tax credits. An
24 eligible applicant's transferable tax benefits shall be limited to net
25 operating losses and research and development tax credits that the
26 applicant requests to surrender in its application to the authority and
27 shall not, in total, exceed the maximum amount of tax benefits that
28 the applicant is eligible to surrender.

29 No application for a corporation business tax benefit transfer
30 certificate shall be approved in which the new or expanding emerging
31 technology or biotechnology company (1) has demonstrated positive
32 net operating income in any of the two previous full years of ongoing
33 operations as determined on its financial statements issued according
34 to generally accepted accounting standards endorsed by the Financial
35 Accounting Standards Board; or (2) is directly or indirectly at least
36 50 percent owned or controlled by another corporation that has
37 demonstrated positive net operating income in any of the two
38 previous full years of ongoing operations as determined on its
39 financial statements issued according to generally accepted
40 accounting standards endorsed by the Financial Accounting
41 Standards Board or is part of a consolidated group of affiliated
42 corporations, as filed for federal income tax purposes, that in the
43 aggregate has demonstrated positive net operating income in any of
44 the two previous full years of ongoing operations as determined on
45 its combined financial statements issued according to generally
46 accepted accounting standards endorsed by the Financial Accounting
47 Standards Board.

1 The maximum lifetime value of surrendered tax benefits that a
2 corporation shall be permitted to surrender pursuant to the program
3 is ~~【\$15,000,000】~~ \$20,000,000. Applications must be received on or
4 before June 30 of each State fiscal year.

5 The authority, in consultation with the Division of Taxation, shall
6 establish rules for the recapture of all, or a portion of, the amount of
7 a grant of a corporation business tax benefit certificate from the new
8 or emerging technology and biotechnology company having
9 surrendered tax benefits pursuant to this section in the event the
10 taxpayer fails to use the private financial assistance received for the
11 surrender of tax benefits as required by this section or fails to
12 maintain a headquarters or a base of operation in this State during the
13 five years following receipt of the private financial assistance; except
14 if the failure to maintain a headquarters or a base of operation in this
15 State is due to the liquidation of the new or expanding emerging
16 technology and biotechnology company.

17 c. The authority, in cooperation with the Division of Taxation in
18 the Department of the Treasury, shall review and approve
19 applications by taxpayers under the Corporation Business Tax Act
20 (1945), P.L.1945, c.162 (C.54:10A- 1 et seq.), to acquire surrendered
21 tax benefits approved pursuant to subsection b. of this section which
22 shall be issued in the form of corporation business tax benefit transfer
23 certificates, in exchange for private financial assistance to be made
24 by the taxpayer in an amount equal to at least 80% of the amount of
25 the surrendered tax benefit of an emerging technology or
26 biotechnology company in the State. A corporation business tax
27 benefit transfer certificate shall not be issued unless the applicant
28 certifies that as of the date of the exchange of the corporation
29 business tax benefit certificate it is operating as a new or expanding
30 emerging technology or biotechnology company and has no current
31 intention to cease operating as a new or expanding emerging
32 technology or biotechnology company.

33 The private financial assistance shall assist in funding expenses
34 incurred in connection with the operation of the new or expanding
35 emerging technology or biotechnology company in the State,
36 including but not limited to the expenses of fixed assets, such as the
37 construction and acquisition and development of real estate,
38 materials, start-up, tenant fit-out, working capital, salaries, research
39 and development expenditures and any other expenses determined by
40 the authority to be necessary to carry out the purposes of the New
41 Jersey Emerging Technology and Biotechnology Financial
42 Assistance Program.

43 The authority shall require a corporation business taxpayer that
44 acquires a corporation business tax benefit certificate to enter into a
45 written agreement with the new or expanding emerging technology
46 or biotechnology company concerning the terms and conditions of
47 the private financial assistance made in exchange for the certificate.
48 The written agreement may contain terms concerning the

1 maintenance by the new or expanding emerging technology or
2 biotechnology company of a headquarters or a base of operation in
3 this State.

4 d. (Deleted by amendment, P.L.2009, c.90.)
5 (cf: P.L.2009, c.90, s.29)

6
7 114. Section 1 of P.L.1999, c.140 (C.34:1B-7.42b) is amended to
8 read as follows:

9 1. As used in P.L.1997, c.334 (C.34:1B-7.42a et al.):

10 “Authority” means the New Jersey Economic Development
11 Authority established pursuant to section 4 of P.L.1974, c.80
12 (C.34:1B-4).

13 “Biotechnology” means the continually expanding body of
14 fundamental knowledge about the functioning of biological systems
15 from the macro level to the molecular and sub-atomic levels, as well
16 as novel products, services, technologies and sub-technologies
17 developed as a result of insights gained from research advances that
18 add to that body of fundamental knowledge. This definition may be
19 modified by regulation to conform to definitions in other programs
20 administered by the authority.

21 “Biotechnology company” means an emerging corporation that
22 has its headquarters or base of operations in this State; that owns, has
23 filed for, or has a valid license to use protected, proprietary
24 intellectual property; and that is engaged in the research,
25 development, production, or provision of biotechnology for the
26 purpose of developing or providing products or processes for specific
27 commercial or public purposes, including but not limited to, medical,
28 pharmaceutical, nutritional, and other health-related purposes,
29 agricultural purposes, and environmental purposes. This definition
30 may be modified by regulation to conform to definitions in other
31 programs administered by the authority.

32 “Full-time employee” means a person employed by a new or
33 expanding emerging technology or biotechnology company for
34 consideration for at least 35 hours a week, or who renders any other
35 standard of service generally accepted by custom or practice as full-
36 time employment and whose wages are subject to withholding as
37 provided in the “New Jersey Gross Income Tax Act,” N.J.S.54A:1-1
38 et seq., or who is a partner of a new or expanding emerging
39 technology or biotechnology company who works for the partnership
40 for at least 35 hours a week, or who renders any other standard of
41 service generally accepted by custom or practice as full-time
42 employment, and whose distributive share of income, gain, loss, or
43 deduction, or whose guaranteed payments, or any combination
44 thereof, is subject to the payment of estimated taxes, as provided in
45 the “New Jersey Gross Income Tax Act,” N.J.S.54A:1-1 et seq. To
46 qualify as a “full-time employee,” an employee shall also receive
47 from the new or expanding emerging technology or biotechnology
48 company health benefits under [a group health plan as defined under

1 section 14 of P.L.1997, c.146 (C.17B:27-54), a health benefits plan
2 as defined under section 1 of P.L.1992, c.162 (C.17B:27A-17), or a
3 policy or contract of health insurance covering more than one person
4 issued pursuant to Article 2 **【N.J.S.17B:27-26 et seq.】** of chapter 27
5 of Title 17B of the New Jersey Statutes **】** a health benefits plan
6 authorized pursuant to State or federal law. “Full-time employee”
7 shall not include any person who works as an independent contractor
8 or on a consulting basis for the new or expanding emerging
9 technology or biotechnology company.

10 “New or expanding” means a technology or biotechnology
11 company that (1) on June 30 of the year in which the company files
12 an application for surrender of unused but otherwise allowable tax
13 benefits under P.L.1997, c.334 (C.34:1B-7.42a et al.) and on the date
14 of the exchange of the corporation business tax benefit certificate,
15 has fewer than 225 employees in the United States of America; (2)
16 on June 30 of the year in which the company files such an application,
17 has at least one full-time employee working in this State if the
18 company has been incorporated for less than three years, has at least
19 five full-time employees working in this State if the company has
20 been incorporated for more than three years but less than five years,
21 and has at least 10 full-time employees working in this State if the
22 company has been incorporated for more than five years; and (3) on
23 the date of the exchange of the corporation business tax benefit
24 certificate, the company has the requisite number of full-time
25 employees in New Jersey that were required on June 30 as set forth
26 in part (2) of this definition.

27 “Technology company” means an emerging corporation that has
28 its headquarters or base of operations in this State; that owns, has
29 filed for, or has a valid license to use protected, proprietary
30 intellectual property; and that employs some combination of the
31 following: highly educated or trained managers and workers, or both,
32 employed in this State who use sophisticated scientific research
33 service or production equipment, processes or knowledge to
34 discover, develop, test, transfer or manufacture a product or service.
35 This definition may be modified by regulation to conform to
36 definitions in other programs administered by the authority.
37 (cf: P.L.2010, c.10, s.2)

38
39 115. Section 5 of P.L.1974, c.80 (C.34:1B-5) is amended to read
40 as follows:

- 41 5. The authority shall have the following powers:
- 42 a. To adopt bylaws for the regulation of its affairs and the
43 conduct of its business;
 - 44 b. To adopt and have a seal and to alter the same at pleasure;
 - 45 c. To sue and be sued;
 - 46 d. To acquire in the name of the authority by purchase or
47 otherwise, on such terms and conditions and such manner as it may
48 deem proper, or by the exercise of the power of eminent domain in

1 the manner provided by the "Eminent Domain Act of 1971,"
2 P.L.1971, c.361 (C.20:3-1 et seq.), any lands or interests therein or
3 other property which it may determine is reasonably necessary for
4 any project; provided, however, that the authority in connection with
5 any project shall not take by exercise of the power of eminent domain
6 any real property except upon consent thereto given by resolution of
7 the governing body of the municipality in which such real property
8 is located; and provided further that the authority shall be limited in
9 its exercise of the power of eminent domain in connection with any
10 project in qualifying municipalities as defined under the provisions
11 of P.L.1978, c.14 (C.52:27D-178 et seq.), or to municipalities which
12 had a population, according to the latest federal decennial census, in
13 excess of 10,000;

14 e. To enter into contracts with a person upon such terms and
15 conditions as the authority shall determine to be reasonable,
16 including, but not limited to, reimbursement for the planning,
17 designing, financing, construction, reconstruction, improvement,
18 equipping, furnishing, operation and maintenance of the project and
19 to pay or compromise any claims arising therefrom;

20 f. To establish and maintain reserve and insurance funds with
21 respect to the financing of the project or the school facilities project
22 and any project financed pursuant to the "Municipal Rehabilitation
23 and Economic Recovery Act," P.L.2002, c.43 (C.52:27BBB-1 et al.);

24 g. To sell, convey or lease to any person all or any portion of a
25 project for such consideration and upon such terms as the authority
26 may determine to be reasonable;

27 h. To mortgage, pledge or assign or otherwise encumber all or
28 any portion of a project, or revenues, whenever it shall find such
29 action to be in furtherance of the purposes of this act, P.L.2000, c.72
30 (C.18A:7G-1 et al.), the "Municipal Rehabilitation and Economic
31 Recovery Act," P.L.2002, c.43 (C.52:27BBB-1 et al.), P.L.2007,
32 c.137 (C.52:18A-235 et al.), and sections 3 through 18 of P.L.2009,
33 c.90 (C.52:27D-489c et al.);

34 i. To grant options to purchase or renew a lease for any of its
35 projects on such terms as the authority may determine to be
36 reasonable;

37 j. To contract for and to accept any gifts or grants or loans of
38 funds or property or financial or other aid in any form from the
39 United States of America or any agency or instrumentality thereof,
40 or from the State or any agency, instrumentality or political
41 subdivision thereof, or from any other source and to comply, subject
42 to the provisions of P.L.1974, c.80 (C.34:1B-1 et seq.), section 6 of
43 P.L.2001, c.401 (C.34:1B-4.1), P.L.2000, c.72 (C.18A:7G-1 et al.),
44 the "Municipal Rehabilitation and Economic Recovery Act,"
45 P.L.2002, c.43 (C.52:27BBB-1 et al.), and P.L.2007, c.137
46 (C.52:18A-235 et al.), with the terms and conditions thereof;

47 k. In connection with any action undertaken by the authority in
48 the performance of its duties and any application for assistance or

- 1 commitments therefor and modifications thereof, to require and
2 collect such fees and charges as the authority shall determine to be
3 reasonable, including but not limited to fees and charges for the
4 authority's administrative, organizational, insurance, operating,
5 legal, and other expenses;
- 6 l. To adopt, amend and repeal regulations to carry out the
7 provisions of P.L.1974, c.80 (C.34:1B-1 et seq.), section 6 of
8 P.L.2001, c.401 (C.34:1B-4.1), P.L.2000, c.72 (C.18A:7G-1 et al.),
9 the "Municipal Rehabilitation and Economic Recovery Act,"
10 P.L.2002, c.43 (C.52:27BBB-1 et al.), and P.L.2007, c.137
11 (C.52:18A-235 et al.);
- 12 m. To acquire, purchase, manage and operate, hold and dispose
13 of real and personal property or interests therein, take assignments of
14 rentals and leases and make and enter into all contracts, leases,
15 agreements and arrangements necessary or incidental to the
16 performance of its duties;
- 17 n. To purchase, acquire and take assignments of notes,
18 mortgages and other forms of security and evidences of indebtedness;
- 19 o. To purchase, acquire, attach, seize, accept or take title to any
20 project or school facilities project by conveyance or by foreclosure,
21 and sell, lease, manage or operate any project or school facilities
22 project for a use specified in this act, P.L.2000, c.72 (C.18A:7G-1 et
23 al.), the "Municipal Rehabilitation and Economic Recovery Act,"
24 P.L.2002, c.43 (C.52:27BBB-1 et al.), P.L.2007, c.137 (C.52:18A-
25 235 et al.), and sections 3 through 18 of P.L.2009, c.90 (C.52:27D-
26 489c et al.);
- 27 p. To borrow money and to issue bonds of the authority and to
28 provide for the rights of the holders thereof, as provided in P.L.1974,
29 c.80 (C.34:1B-1 et seq.), section 6 of P.L.2001, c.401 (C.34:1B-4.1),
30 P.L.2000, c.72 (C.18A:7G-1 et al.), the "Municipal Rehabilitation
31 and Economic Recovery Act," P.L.2002, c.43 (C.52:27BBB-1 et al.),
32 P.L.2007, c.137 (C.52:18A-235 et al.), and sections 3 through 18 of
33 P.L.2009, c.90 (C.52:27D-489c et al.);
- 34 q. To extend credit or make loans to any person for the planning,
35 designing, acquiring, constructing, reconstructing, improving,
36 equipping and furnishing of a project or school facilities project,
37 which credits or loans may be secured by loan and security
38 agreements, mortgages, leases and any other instruments, upon such
39 terms and conditions as the authority shall deem reasonable,
40 including provision for the establishment and maintenance of reserve
41 and insurance funds, and to require the inclusion in any mortgage,
42 lease, contract, loan and security agreement or other instrument, of
43 such provisions for the construction, use, operation and maintenance
44 and financing of a project or school facilities project as the authority
45 may deem necessary or desirable;
- 46 r. To guarantee up to 90% of the amount of a loan to a person,
47 if the proceeds of the loan are to be applied to the purchase and

- 1 installation, in a building devoted to industrial or commercial
2 purposes, or in an office building, of an energy improvement system;
- 3 s. To employ consulting engineers, architects, attorneys, real
4 estate counselors, appraisers, and such other consultants and
5 employees as may be required in the judgment of the redevelopment
6 utility to carry out the purposes of P.L.1974, c.80 (C.34:1B-1 et seq.),
7 section 6 of P.L.2001, c.401 (C.34:1B-4.1), P.L.2000, c.72
8 (C.18A:7G-1 et al.), the "Municipal Rehabilitation and Economic
9 Recovery Act," P.L.2002, c.43 (C.52:27BBB-1 et al.), P.L.2007,
10 c.137 (C.52:18A-235 et al.), and sections 3 through 18 of P.L.2009,
11 c.90 (C.52:27D-489c et al.), and to fix and pay their compensation
12 from funds available to the redevelopment utility therefor, all without
13 regard to the provisions of Title 11A of the New Jersey Statutes;
- 14 t. To do and perform any acts and things authorized by
15 P.L.1974, c.80 (C.34:1B-1 et seq.), section 6 of P.L.2001, c.401
16 (C.34:1B-4.1), P.L.2000, c.72 (C.18A:7G-1 et al.), the "Municipal
17 Rehabilitation and Economic Recovery Act," P.L.2002, c.43
18 (C.52:27BBB-1 et al.), P.L.2007, c.137 (C.52:18A-235 et al.), and
19 sections 3 through 18 of P.L.2009, c.90 (C.52:27D-489c et al.),
20 under, through or by means of its own officers, agents and
21 employees, or by contract with any person;
- 22 u. To procure insurance against any losses in connection with its
23 property, operations or assets in such amounts and from such insurers
24 as it deems desirable;
- 25 v. To do any and all things necessary or convenient to carry out
26 its purposes and exercise the powers given and granted in P.L.1974,
27 c.80 (C.34:1B-1 et seq.), section 6 of P.L.2001, c.401 (C.34:1B-4.1),
28 P.L.2000, c.72 (C.18A:7G-1 et al.), the "Municipal Rehabilitation
29 and Economic Recovery Act," P.L.2002, c.43 (C.52:27BBB-1 et al.),
30 P.L.2007, c.137 (C.52:18A-235 et al.), and sections 3 through 18 of
31 P.L.2009, c.90 (C.52:27D-489c et al.);
- 32 w. To construct, reconstruct, rehabilitate, improve, alter, equip,
33 maintain or repair or provide for the construction, reconstruction,
34 improvement, alteration, equipping or maintenance or repair of any
35 development property and lot, award and enter into construction
36 contracts, purchase orders and other contracts with respect thereto,
37 upon such terms and conditions as the authority shall determine to be
38 reasonable, including, but not limited to, reimbursement for the
39 planning, designing, financing, construction, reconstruction,
40 improvement, equipping, furnishing, operation and maintenance of
41 any such development property and the settlement of any claims
42 arising therefrom and the establishment and maintenance of reserve
43 funds with respect to the financing of such development property;
- 44 x. When authorized by the governing body of a municipality
45 exercising jurisdiction over an urban growth zone, to construct, cause
46 to be constructed or to provide financial assistance to projects in an
47 urban growth zone which shall be exempt from the terms and
48 requirements of the land use ordinances and regulations, including,

- 1 but not limited to, the master plan and zoning ordinances, of such
2 municipality;
- 3 y. To enter into business employment incentive agreements as
4 provided in the "Business Employment Incentive Program Act,"
5 P.L.1996, c.26 (C.34:1B-124 et al.);
- 6 z. To enter into agreements or contracts, execute instruments,
7 and do and perform all acts or things necessary, convenient or
8 desirable for the purposes of the redevelopment utility to carry out
9 any power expressly provided pursuant to P.L.1974, c.80 (C.34:1B-
10 1 et seq.), P.L.2000, c.72 (C.18A:7G-1 et al.), and P.L.2007, c.137
11 (C.52:18A-235 et al.), including, but not limited to, entering into
12 contracts with the State Treasurer, the Commissioner of Education,
13 districts, the New Jersey Schools Development Authority, and any
14 other entity which may be required in order to carry out the
15 provisions of P.L.2000, c.72 (C.18A:7G-1 et al.), P.L.2007, c.137
16 (C.52:18A-235 et al.), and sections 3 through 18 of P.L.2009, c.90
17 (C.52:27D-489c et al.);
- 18 aa. (Deleted by amendment, P.L.2007, c.137);
- 19 bb. To make and contract to make loans to local units to finance
20 the cost of school facilities projects and to acquire and contract to
21 acquire bonds, notes or other obligations issued or to be issued by
22 local units to evidence the loans, all in accordance with the provisions
23 of P.L.2000, c.72 (C.18A:7G-1 et al.), and P.L.2007, c.137
24 (C.52:18A-235 et al.);
- 25 cc. Subject to any agreement with holders of its bonds issued to
26 finance a project or school facilities project, obtain as security or to
27 provide liquidity for payment of all or any part of the principal of and
28 interest and premium on the bonds of the authority or for the purchase
29 upon tender or otherwise of the bonds, lines of credit, letters of credit,
30 reimbursement agreements, interest rate exchange agreements,
31 currency exchange agreements, interest rate floors or caps, options,
32 puts or calls to hedge payment, currency, rate, spread or similar
33 exposure or similar agreements, float agreements, forward
34 agreements, insurance contract, surety bond, commitment to
35 purchase or sell bonds, purchase or sale agreement, or commitments
36 or other contracts or agreements, and other security agreements or
37 instruments in any amounts and upon any terms as the authority may
38 determine and pay any fees and expenses required in connection
39 therewith;
- 40 dd. To charge to and collect from local units, the State and any
41 other person, any fees and charges in connection with the authority's
42 actions undertaken with respect to school facilities projects,
43 including, but not limited to, fees and charges for the authority's
44 administrative, organization, insurance, operating and other expenses
45 incident to the financing of school facilities projects;
- 46 ee. To make loans to refinance solid waste facility bonds through
47 the issuance of bonds or other obligations and the execution of any
48 agreements with counties or public authorities to effect the refunding

1 or rescheduling of solid waste facility bonds, or otherwise provide
2 for the payment of all or a portion of any series of solid waste facility
3 bonds. Any county or public authority refunding or rescheduling its
4 solid waste facility bonds pursuant to this subsection shall provide
5 for the payment of not less than fifty percent of the aggregate debt
6 service for the refunded or rescheduled debt of the particular county
7 or public authority for the duration of the loan; except that, whenever
8 the solid waste facility bonds to be refinanced were issued by a public
9 authority and the county solid waste facility was utilized as a regional
10 county solid waste facility, as designated in the respective adopted
11 district solid waste management plans of the participating counties
12 as approved by the department prior to November 10, 1997, and the
13 utilization of the facility was established pursuant to tonnage
14 obligations set forth in their respective interdistrict agreements, the
15 public authority refunding or rescheduling its solid waste facility
16 bonds pursuant to this subsection shall provide for the payment of a
17 percentage of the aggregate debt service for the refunded or
18 rescheduled debt of the public authority not to exceed the percentage
19 of the specified tonnage obligation of the host county for the duration
20 of the loan. Whenever the solid waste facility bonds are the
21 obligation of a public authority, the relevant county shall execute a
22 deficiency agreement with the authority, which shall provide that the
23 county pledges to cover any shortfall and to pay deficiencies in
24 scheduled repayment obligations of the public authority. All costs
25 associated with the issuance of bonds pursuant to this subsection may
26 be paid by the authority from the proceeds of these bonds. Any
27 county or public authority is hereby authorized to enter into any
28 agreement with the authority necessary, desirable or convenient to
29 effectuate the provisions of this subsection.

30 The authority shall not issue bonds or other obligations to effect
31 the refunding or rescheduling of solid waste facility bonds after
32 December 31, 2002. The authority may refund its own bonds issued
33 for the purposes herein at any time;

34 ff. To pool loans for any local government units that are refunding
35 bonds and do and perform any and all acts or things necessary,
36 convenient or desirable for the purpose of the authority to achieve
37 more favorable interest rates and terms for those local governmental
38 units;

39 gg. To finance projects approved by the board, provide staff
40 support to the board, oversee and monitor progress on the part of the
41 board in carrying out the revitalization, economic development and
42 restoration projects authorized pursuant to the "Municipal
43 Rehabilitation and Economic Recovery Act," P.L.2002, c.43
44 (C.52:27BBB-1 et al.) and otherwise fulfilling its responsibilities
45 pursuant thereto;

46 hh. To offer financial assistance to qualified film production
47 companies as provided in the "New Jersey Film Production
48 Assistance Act," P.L.2003, c.182 (C.34:1B-178 et al.);

1 ii. To finance or develop private or public parking facilities or
 2 structures, which may include the use of solar photovoltaic
 3 equipment, in municipalities qualified to receive State aid pursuant
 4 to the provisions of P.L.1978, c.14 (C.52:27D-178 et seq.) and
 5 municipalities that contain areas designated pursuant to P.L.1985,
 6 c.398 (C.52:18A-196 et al.) as Planning Area 1 (Metropolitan),
 7 Planning Area 2 (Suburban), or a town center, and to provide
 8 appropriate assistance, including but not limited to, extensions of
 9 credit, loans, and guarantees, to municipalities qualified to receive
 10 State aid pursuant to the provisions of P.L.1978, c.14 (C.52:27D-178
 11 et seq.) and municipalities that contain areas designated pursuant to
 12 P.L.1985, c.398 (C.52:18A-196 et seq.) as Planning Area 1
 13 (Metropolitan), Planning Area 2 (Suburban), or a town center, and
 14 their agencies and instrumentalities or to private entities whose
 15 projects are located in those municipalities, in order to facilitate the
 16 financing and development of parking facilities or structures in such
 17 municipalities. The authority may serve as the issuing agent of bonds
 18 to finance the undertaking of a project for the purposes of this
 19 subsection; **[and]**

20 jj. To make grants for the planning, designing, acquiring,
 21 constructing, reconstructing, improving, equipping, and furnishing of
 22 a project, including, but not limited to, grants for working capital and
 23 meeting payroll requirements, upon such terms and conditions as the
 24 authority shall deem reasonable, during periods of emergency
 25 declared by the Governor and for the duration of economic
 26 disruptions due to the emergency;

27 kk. To purchase and lease real property at a nominal rate when it
 28 would result in a net economic benefit to the State, enhance access to
 29 employment and investment for underserved populations, or increase
 30 investment and employment in high-growth technology sectors; and
 31 (cf: P.L.2020, c.8, s.1)

32

33 116. Section 4 of P.L.1992, c.16 (C.34:1B-7.13) is amended to
 34 read as follows:

35 4. The authority may use the moneys in the fund to pay principal
 36 of, premium, if any, and interest on bonds or notes, which shall be
 37 entitled "Economic Recovery Fund Bonds or Notes," as appropriate,
 38 the proceeds, or net proceeds, of which shall be deposited into the
 39 fund, or used for purposes of the fund, and moneys in the fund,
 40 including money received from the sale of bonds shall, in such
 41 manner as is determined by the authority, and pursuant to subsections
 42 d., e., and f. of this section, be used for the financing of projects as
 43 set forth in section 3 of P.L.1974, c.80 (C.34:1B-3) and to establish:

44 a. an economic growth account for **[business]** programs and
 45 initiatives, which will support and invest in small and medium-size
 46 businesses and other entities engaged in economic, community, and
 47 workforce development that have the greatest potential for creating

- 1 jobs and stimulating economic growth through such elements **[as]**
2 including, but not limited to:
- 3 (1) a Statewide lending pool and guarantee pool for small
4 business, whether directly or through a community development
5 financial institution;
- 6 (2) a business composite bond guarantee **[.]** ;
- 7 (3) a fund to further supplement the export finance program of
8 the authority to provide direct loans and working capital necessary
9 for New Jersey businesses to compete in the global market, real estate
10 partnerships **[.]** ;
- 11 (4) a Statewide composite bond pool to assist municipalities in
12 acquiring needed financing for capital expenditures **[.]** ;
- 13 (5) **[community-based]** financial assistance to assist
14 municipalities **[in establishing local development corporations]** ,
15 municipal entities, counties, county entities, regional entities, State
16 instrumentalities, and not-for-profit local economic and community
17 development entities to execute programs and initiative to stimulate
18 community and economic development**[.]** ;
- 19 (6) a venture, seed, or angel capital fund for start-up costs for
20 businesses developing new concepts and inventions **[.]** ;
- 21 (7) a fund to assist businesses, either directly or through a not-
22 for-profit or for-profit entity with expansion or transition to a new
23 business model in such areas **[as]** including, but not limited to,
24 manufacturing retooling to improve quality, to reduce production
25 costs and to train employees to apply the latest technology **[, and]** ;
- 26 (8) a "Main Street Business Assistance Program" to provide
27 guarantees and loans to small and mid-size businesses and not-for-
28 profit **[corporations]** entities to stimulate the economy;
- 29 (9) in consultation with the Department of Labor and Workforce
30 Development and the Office of the Secretary of Higher Education, a
31 fund to support and invest in innovative workforce development
32 approaches and programs, including those that could benefit
33 individuals directly, either undertaken directly by the authority or
34 through a governmental, not-for-profit, or for-profit entity, that align
35 with targeted industries as defined by the authority's board or support
36 a high-demand occupation;
- 37 (10) a fund to provide grants, financing, or equity to collaborations
38 between large corporations, small-to-medium sized businesses,
39 academic institutions, government entities, or not-for-profit entities,
40 where one of the purposes of the collaboration is to stimulate
41 community or economic development;
- 42 (11) a fund to provide grants, financing, or equity in innovation
43 centers, research centers, incubators, and accelerators, and other
44 similar innovation-oriented entities, which are focused on the
45 targeted industries as defined by the authority's board or support
46 increasing diversity and inclusion within the state's entrepreneurial
47 economy; the fund may also be used to pay for membership fees, or

1 other similar arrangements, for the authority to join or participate in
2 such innovation-oriented entities;

3 (12) a fund to provide grants or competition prizes to fund
4 initiative-based activities which stimulate growth in targeted
5 industries as defined by the authority's board or supports increasing
6 diversity and inclusion within the state's entrepreneurial economy;
7 this fund may also support not-for-profit industry, trade, and labor
8 organization initiatives; and

9 (13) a fund to provide grants or competition prizes, either directly
10 or through a not-for-profit entity, that is consistent with economic
11 development priorities as defined by the authority's board, where
12 funds have been specifically allocated to the economic recovery fund
13 for this purpose, including but not limited to an appropriation or
14 transfer from another government entity).

15 The authority may promulgate rules and regulations for the
16 effective implementation of the "Main Street Business Assistance
17 Program." Notwithstanding any provision of the "Administrative
18 Procedure Act," P.L.1968, c.410 (C.52:14B-1 et seq.) to the contrary,
19 the authority may adopt, immediately upon filing with the Office of
20 Administrative Law, such regulations as are necessary to implement
21 the provisions of this act, which shall be effective for a period not to
22 exceed 12 months following enactment, and may thereafter be
23 amended, adopted, or readopted by the authority in accordance with
24 the requirements of the "Administrative Procedure Act," P.L.1968,
25 c.410 (C.52:14B-1 et seq.). **During periods of emergency declared**
26 **by the Governor and for the duration of economic disruptions due to**
27 **the emergency, the** The authority may use the economic growth
28 account for the planning, designing, acquiring, constructing,
29 reconstructing, improving, equipping, and furnishing by small and
30 medium-size businesses and not-for-profit corporations of a project
31 as defined in section 3 of P.L.1974, c. 80 (C.34:1B-3), including, but
32 not limited to, grants for working capital and meeting payroll
33 requirements, upon such terms and conditions as the authority shall
34 deem reasonable;

35 b. an economic development infrastructure program account,
36 which shall provide for the financing and development of
37 infrastructure and transportation projects, including but not limited
38 to ports, terminal and transit facilities, roads and airports, parking
39 facilities used in connection with transit facilities, and related
40 facilities, including public-private partnerships, that are integral to
41 economic growth;

42 c. an account for a cultural, recreational, fine and performing
43 arts, military and veterans memorial, historic preservation project
44 and tourism facilities and improvements program, which shall
45 provide for the financing and development of cultural, recreational,
46 fine and performing arts, military and veterans memorial, historic
47 preservation and tourism projects, including partnerships with public,
48 private and nonprofit entities;

1 d. an account, into which shall be deposited an amount not less
2 than \$45,000,000, out of the total amounts deposited or credited to
3 the fund from the proceeds of the sale of Economic Recovery Fund
4 Bonds or Notes, for the financing of capital facilities for primary and
5 secondary schools in the State for the purpose of the renovation,
6 repair or alteration of existing school buildings, the construction of
7 new school buildings or the conversion of existing school buildings
8 to other instructional purposes.

9 (1) Of the amount deposited in the account, not less than
10 \$25,000,000 shall be deposited in the "Public School Facilities Code
11 Compliance Loan Fund" established pursuant to section 4 of
12 P.L.1993, c.102 (C.34:1B-7.23).

13 (2) Of the amount deposited in the account, not less than
14 \$20,000,000 shall be deposited in the "Public School Facilities Loan
15 Assistance Fund" established pursuant to section 5 of P.L.1993, c.102
16 (C.34:1B-7.24);

17 e. an environmental cleanup assistance account, into which shall
18 be deposited an amount not less than \$10,000,000, out of the total
19 amounts deposited or credited to the fund from the proceeds of the
20 sale of Economic Recovery Fund Bonds or Notes, to provide
21 financial assistance to the persons and other entities entitled to apply
22 for financial assistance pursuant to P.L.1993, c.139; and

23 f. an account, into which shall be deposited an amount not less
24 than \$15,000,000, out of the total amounts deposited or credited to
25 the fund from the proceeds of the sale of Economic Recovery Fund
26 Bonds or Notes, for the financing of shore restoration, maintenance,
27 monitoring, protection and preservation projects pursuant to the
28 shore protection master plan prepared by the Department of
29 Environmental Protection pursuant to P.L.1978, c.157.

30 (cf: P.L.2020, c.8, s.2)

31
32 117. Section 2 of P.L.1997, c.349 (C.54:10A-5.29) is amended to
33 read as follows:

34 2. As used in sections 1 through 3 of P.L.1997, c.349 (C.54:10A-
35 5.28 through C.54:10A-5.30):

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

41 "Advanced materials" means materials with engineered properties
42 created through the development of specialized processing and
43 synthesis technology, including ceramics, high value-added metals,
44 electronic materials, composites, polymers, and biomaterials.

45 "Biotechnology" means the continually expanding body of
46 fundamental knowledge about the functioning of biological systems
47 from the macro level to the molecular and sub-atomic levels, as well
48 as novel products, services, technologies, and sub-technologies

1 developed as a result of insights gained from research advances
2 which add to that body of fundamental knowledge.

3 “Carbon footprint reduction technology” means a technology
4 using equipment for the commercial, institutional, and industrial
5 sectors that: increases energy efficiency; develops and delivers
6 renewable or non-carbon-emitting energy technologies; develops
7 innovative carbon emissions abatement with significant carbon
8 emissions reduction potential; or promotes measurable electricity
9 end-use energy efficiency.

10 “Control” with respect to a corporation means ownership, directly
11 or indirectly, of stock possessing 80 percent or more of the total
12 combined voting power of all classes of the stock of the corporation
13 entitled to vote; and “control” with respect to a trust means
14 ownership, directly or indirectly, of 80 percent or more of the
15 beneficial interest in the principal or income of the trust. The
16 ownership of stock in a corporation, of a capital or profits interest in
17 a partnership or association or of a beneficial interest in a trust shall
18 be determined in accordance with the rules for constructive
19 ownership of stock provided in subsection (c) of section 267 of the
20 federal Internal Revenue Code of 1986 (26 U.S.C. § 267), other than
21 paragraph (3) of subsection (c) of that section.

22 “Controlled group” means one or more chains of corporations
23 connected through stock ownership with a common parent
24 corporation if stock possessing at least 80 percent of the voting power
25 of all classes of stock of each of the corporations is owned directly
26 or indirectly by one or more of the corporations and the common
27 parent owns directly stock possessing at least 80 percent of the voting
28 power of all classes of stock of at least one of the other corporations.

29 “Director” means the Director of the Division of Taxation in the
30 Department of the Treasury.

31 “Diverse entrepreneur” means a New Jersey based business that
32 meets the criteria for a minority business or female business set forth
33 in section 2 of P.L.1983, c.482 (C.52:32-19).

34 “Electronic device technology” means a technology involving
35 microelectronics, semiconductors, electronic equipment and
36 instrumentation, radio frequency, microwave and millimeter
37 electronics, and optical and optic-electrical devices, or data and
38 digital communications and imaging devices.

39 “Information technology” means software publishing, motion
40 picture and video production, television production and post-
41 production services, telecommunications, data processing, hosting
42 and related services, custom computer programming services,
43 computer system design, computer facilities management services,
44 other computer related services, and computer training.

45 “Life sciences” means the production of medical equipment,
46 ophthalmic goods, medical or dental instruments, diagnostic
47 substances, biopharmaceutical products, or physical and biological
48 research.

1 “Medical device technology” means a technology involving any
2 medical equipment or product (other than a pharmaceutical product)
3 that has therapeutic value, diagnostic value, or both, and is regulated
4 by the federal Food and Drug Administration.

5 “Mobile communications technology” means a technology
6 involving the functionality and reliability of the transmission of voice
7 and multimedia data using a communication infrastructure via a
8 computer or a mobile device, that shall include, but not be limited to,
9 smartphones, electronic books and tablets, digital audio players,
10 motor vehicle electronics, home entertainment systems, and other
11 wireless appliances, without having connected to any physical or
12 fixed link.

13 “New Jersey based business” means a company with fewer than
14 225 employees, of whom at least 75 percent are filling a position in
15 New Jersey, that is doing business, employing or owning capital or
16 property, or maintaining an office in this State.

17 “New Jersey emerging technology business” means a company
18 with fewer than 225 employees, of whom at least 75 percent are
19 filling a position in New Jersey, that is doing business, employing or
20 owning capital or property, or maintaining an office in this State and:
21 has qualified research expenses paid or incurred for research
22 conducted in this State; conducts pilot scale manufacturing in this
23 State; or conducts technology commercialization in this State in the
24 fields of advanced computing, advanced materials, biotechnology,
25 carbon footprint reduction technology, electronic device technology,
26 information technology, life sciences, medical device technology,
27 mobile communications technology, or renewable energy
28 technology.

29 “New Jersey emerging technology business holding company”
30 means any corporation, association, firm, partnership, trust, or other
31 form of business organization, but not a natural person, which
32 directly or indirectly, owns, has the power or right to control, or has
33 the power to vote, a controlling share of the outstanding voting
34 securities of a corporation or other form of a New Jersey emerging
35 technology business.

36 “Partnership” means a syndicate, group, pool, joint venture, or
37 other unincorporated organization through or by means of which any
38 business, financial operation, or venture is carried on, and which is
39 not a trust or estate, a corporation, or a sole proprietorship.

40 “Pilot scale manufacturing” means the design, construction, and
41 testing of preproduction prototypes and models in the fields of
42 advanced computing, advanced materials, biotechnology, carbon
43 footprint reduction technology electronic device technology,
44 information technology, life sciences, medical device technology,
45 mobile communications technology, and renewable energy
46 technology, other than for commercial sale, excluding sales of
47 prototypes or sales for market testing if the total gross receipts, as
48 calculated in the manner provided in section 6 of P.L.1945, c.162

1 (C.54:10A-6), from the sales of the product, service, or process do
2 not exceed \$1,000,000.

3 “Qualified investment” means the non-refundable transfer of cash
4 to a New Jersey emerging technology business or to a New Jersey
5 emerging technology business holding company by a taxpayer that is
6 not a related person of the New Jersey emerging technology business
7 or the New Jersey emerging technology business holding company,
8 the transfer of which is in connection with either: a transaction
9 between or among the taxpayer and the New Jersey emerging
10 technology business or the New Jersey emerging technology holding
11 company or both in exchange for stock, interests in partnerships or
12 joint ventures, licenses (exclusive or non-exclusive), rights to use
13 technology, marketing rights, warrants, options, or any items similar
14 to those included herein, including, but not limited to, options or
15 rights to acquire any of the items included herein; or a purchase,
16 production, or research agreement between or among the taxpayer
17 and the New Jersey emerging technology business or the New Jersey
18 emerging technology holding company or both. “Qualified
19 investment” also means the non-refundable transfer of cash or
20 irrevocable contractual commitment to transfer cash to a qualified
21 venture fund.

22 “Qualified research expenses” means qualified research expenses,
23 as defined in section 41 of the federal Internal Revenue Code of 1986
24 (26 U.S.C. § 41), as in effect on June 30, 1992, in the fields of
25 advanced computing, advanced materials, biotechnology, carbon
26 footprint reduction technology, electronic device technology,
27 information technology, life sciences, medical device technology,
28 mobile communications technology, or renewable energy
29 technology.

30 “Qualified venture fund” means a venture fund required by
31 contract to invest a minimum of 50 percent of its funds in New Jersey
32 based businesses that the authority, in its sole discretion, based upon
33 the qualified venture fund’s investment history, if any, its private
34 placement memorandum and other relevant information, has
35 determined has the capacity to make the minimum investment.

36 “Related person” means:

37 a corporation, partnership, association or trust controlled by the
38 taxpayer;

39 an individual, corporation, partnership, association or trust that is
40 in the control of the taxpayer;

41 a corporation, partnership, association or trust controlled by an
42 individual, corporation, partnership, association or trust that is in the
43 control of the taxpayer; or

44 a member of the same controlled group as the taxpayer.

45 “Renewable energy technology” means a technology involving
46 the generation of electricity from solar energy; wind energy; wave or
47 tidal action; geothermal energy; the combustion of gas from the
48 anaerobic digestion of food waste and sewage sludge at a biomass

1 generating facility; the combustion of methane gas captured from a
2 landfill; and a fuel cell powered by methanol, ethanol, landfill gas,
3 digester gas, biomass gas, or other renewable fuel but not powered
4 by a fossil fuel.

5 “Tax year” means the fiscal or calendar accounting period of a
6 taxpayer.

7 “Venture fund” means a partnership, corporation, trust, or limited
8 liability company that invests cash in a business during the early or
9 expansion stages of a business in exchange for an equity stake in the
10 business in,” which the investment is made. Venture firm may
11 include a venture capital fund, a family office fund, or a corporate
12 investor fund, provided that a professional manager administers the
13 venture firm.

14 “Verified transfer of funds” means a non-refundable transfer of
15 funds equal to 100 percent of the taxpayer’s qualified investment in
16 the New Jersey emerging technology business holding company to a
17 New Jersey emerging technology business by the New Jersey
18 emerging technology business holding company that is accompanied
19 by documentation, as required by the New Jersey Economic
20 Development Authority, which provides proof of a cash transaction
21 originating with a taxpayer and concluding with a New Jersey
22 emerging technology business, provided that the transactions from
23 origin to destination occur within the same tax year.

24 The definitions of “advanced computing,” “advanced materials,”
25 “biotechnology,” carbon footprint reduction technology,” “electronic
26 device technology,” “information technology,”” life sciences,””
27 medical device technology,” mobile communications technology,””
28 “New Jersey emerging technology business,” “pilot scale
29 manufacturing,” and “renewable energy technology may be
30 modified by regulation to conform to definitions in other programs
31 administered by the authority.

32 (cf: P.L.2017, c.40, s.1)

33

34 118. Section 3 of P.L.1997, c.349 (C.54:10A-5.30) is amended to
35 read as follows:

36 3. a. (1) A taxpayer, upon approval of the taxpayer’s
37 application therefor by the New Jersey Economic Development
38 Authority and in consultation with the director, shall be allowed a
39 credit against the tax imposed pursuant to section 5 of P.L.1945,
40 c.162 (C.54:10A-5), in an amount equal to 20 percent of the qualified
41 investment made by the taxpayer in a New Jersey emerging
42 technology business, **[or]** in a New Jersey emerging technology
43 business holding company that makes a verified transfer of funds to
44 a New Jersey emerging technology business, or in a qualified venture
45 fund; provided, however, a taxpayer may be allowed a tax credit in
46 an amount equal to 25 percent of the qualified investment if the
47 taxpayer satisfies one of the requirements set forth in paragraph (2)
48 of this subsection. The value of tax credits allowed to a taxpayer

1 pursuant to this section shall not exceed \$500,000 for the privilege
2 period for each qualified investment made by the taxpayer.

3 (2) Subject to the limits established in paragraph (1) of this
4 subsection, the New Jersey Economic Development Authority, in
5 consultation with the director, shall increase the amount of a tax
6 credit allowed pursuant to this section by five percent if the taxpayer
7 makes a qualified investment in a New Jersey emerging technology
8 business, or in a New Jersey emerging technology business holding
9 company that makes a verified transfer of funds to a New Jersey
10 emerging technology business, or in a qualified venture fund, if the
11 New Jersey emerging technology business is **█**:

12 (a) **█** either located in a qualified opportunity zone pursuant to 26
13 U.S.C. § 1400Z-1, or a low-income community as defined in
14 subparagraph (e) of 26 U.S.C. § 45D **█**; **█** or

15 **█** **█** certified by the State as a minority business or a women's
16 business pursuant to P.L.1986, c.195 (C.52:27H-21.17 et seq.) and,
17 in the case of a qualified venture fund, if the qualified venture fund
18 commits by contract to invest 50 percent of its funds in diverse
19 entrepreneurs.

20 b. A credit shall not be allowed pursuant to section 1 of
21 P.L.1993, c.175 (C.54:10A-5.24), for expenses paid from funds for
22 which a credit is allowed, or which are includable in the calculation
23 of a credit allowed, under this section.

24 Notwithstanding any other provision of law, the order of priority in
25 which the credit allowed by this section and any other credits allowed
26 by law may be taken shall be as prescribed by the director.

27 c. Except as provided in subsection d. of this section, the amount
28 of credit otherwise allowable under this section which cannot be
29 applied for the privilege period against tax liability otherwise due for
30 that privilege period may either be carried over, if necessary, to the
31 15 privilege periods following the privilege period for which the
32 credit was allowed or, at the election of the taxpayer, be claimed as
33 and treated as an overpayment for the purposes of R.S.54:49-15,
34 provided, however, that section 7 of P.L.1992, c.175 (C.54:49-15.1)
35 shall not apply.

36 d. A taxpayer may not carry over any amount of credit allowed
37 under subsection a. of this section to a privilege period during which
38 a corporate acquisition with respect to which the taxpayer was a
39 target corporation occurred or during which the taxpayer was a party
40 to a merger or a consolidation, or to any subsequent privilege period,
41 if the credit was allowed for a privilege period prior to the year of
42 acquisition, merger or consolidation, except that if in the case of a
43 corporate merger or corporate consolidation the taxpayer can
44 demonstrate, through the submission of a copy of the plan of merger
45 or consolidation and such other evidence as may be required by the
46 director, the identity of the constituent corporation which was the
47 acquiring person, a credit allowed to the acquiring person may be

1 carried over by the taxpayer. As used in this subsection, “acquiring
2 person” means the constituent corporation the stockholders of which
3 own the largest proportion of the total voting power in the surviving
4 or consolidated corporation after the merger or consolidation.

5 e. The Executive Director of the New Jersey Economic
6 Development Authority, in consultation with the director, shall
7 adopt, pursuant to the “Administrative Procedure Act,” P.L.1968,
8 c.410 (C.52:14B-1 et seq.), rules and regulations that are necessary
9 to implement sections 1 through 3 of P.L.1997, c.349 (C.54:10A-5.28
10 through C.54:10A-5.30) and section 4 of P.L.2013, c.14 (C.54A:4-
11 13), including, but not limited to: examples of and the determination
12 of qualified investments of which applicants shall provide
13 documentation with their tax credit application; the promulgation of
14 procedures and forms necessary to apply for a credit; provisions for
15 recapture in the event a taxpayer receives a credit on the basis of its
16 commitment to transfer cash to a qualified venture fund and it does
17 not fund its commitment; and provisions for credit applicants to be
18 charged an initial application fee and ongoing service fees to cover
19 the administrative costs related to the credit.

20 The amount of credits approved by the Executive Director of the
21 New Jersey Economic Development Authority, and in consultation
22 with the director, pursuant to subsection a. of this section and
23 pursuant to section 4 of P.L.2013, c.14 (C.54A:4-13), shall not
24 exceed a cumulative total of **[\$25,000,000]** \$35,000,000 in any
25 calendar year to apply against the tax imposed pursuant to section 5
26 of P.L.1945, c.162 (C.54:10A-5) and the tax imposed pursuant to the
27 “New Jersey Gross Income Tax Act,” N.J.S.54A:1-1 et seq. If the
28 cumulative amount of credits allowed to taxpayers in a calendar year
29 exceeds the amount of credits available in that year, then taxpayers
30 who have first applied for and have not been allowed a credit amount
31 for that reason shall be allowed, in the order in which they have
32 submitted an application, the amount of the tax credit on the first day
33 of the next succeeding calendar year in which tax credits under this
34 section and section 4 of P.L.2013, c.14 (C.54A:4-13) are not in
35 excess of the amount of credits available.

36 (cf: P.L.2017, c.40, s.2)

37

38 119. Section 4 of P.L.2013, c.14 (C.54A:4-13) is amended to read
39 as follows:

40 4. a. (1) A taxpayer, upon approval of the taxpayer's application
41 therefor by the New Jersey Economic Development Authority, and
42 in consultation with the director, shall be allowed a credit against the
43 tax otherwise due for the taxable year under the "New Jersey Gross
44 Income Tax Act," N.J.S.54A:1-1 et seq., in an amount equal to 20
45 percent of the qualified investment made by the taxpayer in a New
46 Jersey emerging technology business, **[or]** in a New Jersey emerging
47 technology business holding company that makes a verified transfer
48 of funds to a New Jersey emerging technology business, or in a

1 qualified venture fund; provided, however, a taxpayer may be
2 allowed a tax credit in an amount equal to 25 percent of the qualified
3 investment if the taxpayer satisfies one of the requirements set forth
4 in paragraph (2) of this subsection. The value of tax credits allowed
5 to a taxpayer pursuant to this section shall not exceed \$500,000 for
6 the taxable year for each qualified investment made by the taxpayer.

7 (2) Subject to the limits established in paragraph (1) of this
8 subsection, the New Jersey Economic Development Authority, in
9 consultation with the director, shall increase the amount of a tax
10 credit allowed pursuant to this section by five percent if the taxpayer
11 makes a qualified investment in a New Jersey emerging technology
12 business, **[or]** in a New Jersey emerging technology business
13 holding company that makes a verified transfer of funds to a New
14 Jersey emerging technology business, or in a qualified venture fund,
15 if the New Jersey emerging technology business is **[**:

16 (a) **[** either located in a qualified opportunity zone pursuant to 26
17 U.S.C. § 1400Z-1, or a low-income community as defined in
18 subparagraph (e) of 26 U.S.C. § 45D **;** **]** or

19 **[**(b)**]** certified by the State as a minority business or a women's
20 business pursuant to P.L.1986, c.195 (C.52:27H-21.17 et seq.) and,
21 in the case of a qualified venture fund, if the qualified venture fund
22 commits by contract to invest 50 percent of its funds in diverse
23 entrepreneurs.

24 b. The amount of the credit allowed pursuant to this section shall
25 be applied against the tax otherwise due under the "New Jersey Gross
26 Income Tax Act," N.J.S.54A:1-1 et seq., after all other credits and
27 payments. If the credit exceeds the amount of tax liability otherwise
28 due, that amount of excess shall be an overpayment for the purposes
29 of N.J.S.54A:9-7, provided, however, that subsection (f) of
30 N.J.S.54A:9-7 shall not apply.

31 c. (1) A partnership shall not be allowed a credit under this
32 section directly, but the amount of credit of a taxpayer in respect of
33 a distributive share of partnership income under the "New Jersey
34 Gross Income Tax Act," N.J.S.54A:1-1 et seq., shall be determined
35 by allocating to the taxpayer that proportion of the credit acquired by
36 the partnership that is equal to the taxpayer's share, whether or not
37 distributed, of the total distributive income or gain of the partnership
38 for its taxable year ending within or with the taxpayer's taxable year.
39 For the purposes of subsection b. of this section, the amount of tax
40 liability that would be otherwise due of a taxpayer is that proportion
41 of the total liability of the taxpayer that the taxpayer's share of the
42 partnership income or gain included in gross income bears to the total
43 gross income of the taxpayer.

44 (2) The credit for a corporation that has made a valid election as
45 a New Jersey S corporation pursuant to section 3 of P.L.1993, c.173
46 (C.54:10A-5.22) may be applied by the shareholders of the S
47 corporation against the tax liability otherwise due under the "New

1 Jersey Gross Income Tax Act," N.J.S.54A:1-1 et seq., provided that
2 the amount of credit that may be used by a shareholder of the S
3 corporation shall be determined by allocating to each shareholder of
4 the S corporation that proportion of the tax credit of the S corporation
5 that is equal to the shareholder's proportionate share of the S
6 corporation, whether or not distributed, of the total distributive
7 income or gain of the S corporation for its tax period ending with or
8 within the shareholder's tax period, and the credit may be applied by
9 the shareholders against the tax liability otherwise due pursuant to
10 the "New Jersey Gross Income Tax Act," N.J.S.54A:1-1 et seq.

11 d. The Executive Director of the New Jersey Economic
12 Development Authority, in consultation with the director, shall
13 adopt, pursuant to the "Administrative Procedure Act," P.L.1968,
14 c.410 (C.52:14B-1 et seq.), rules and regulations that are necessary
15 to implement sections 1 through 3 of P.L.1997, c.349 (C.54:10A-5.28
16 through C.54:10A-5.30) and this section, including, but not limited
17 to: examples of and the determination of qualified investments of
18 which applicants shall provide documentation with their tax credit
19 application; the promulgation of procedures and forms necessary to
20 apply for a credit; provisions for recapture in the event a taxpayer
21 receives a credit on the basis of its commitment to transfer cash to a
22 qualified venture fund and it does not fund its commitment; and
23 provisions for credit applicants to be charged an initial application
24 fee and ongoing service fees to cover the administrative costs related
25 to the credit.

26 The amount of credits approved by the Executive Director of the
27 New Jersey Economic Development Authority and the Director of
28 the Division of Taxation in the Department of the Treasury, pursuant
29 to subsection a. of this section and pursuant to section 3 of P.L.1997,
30 c.349 (C.54:10A-5.30), shall not exceed a cumulative total of
31 **【\$25,000,000】** \$35,000,000 in any calendar year to apply against the
32 tax imposed pursuant to section 5 of P.L.1945, c.162 (C.54:10A-5),
33 and the tax imposed pursuant to the "New Jersey Gross Income Tax
34 Act," N.J.S.54A:1-1 et seq. If the cumulative amount of credits
35 allowed to taxpayers in a calendar year exceeds the amount of credits
36 available in that year, then taxpayers who have first applied for and
37 have not been allowed a credit amount for that reason shall be
38 allowed, in the order in which they have submitted an application,
39 the amount of the tax credit on the first day of the next succeeding
40 calendar year in which tax credits under this section and section 3 of
41 P.L.1997, c.349 (C.54:10A-5.30) are not in excess of the amount of
42 credits available.

43 e. As used in this section:

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

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

5 "Biotechnology" means the continually expanding body of
6 fundamental knowledge about the functioning of biological systems
7 from the macro level to the molecular and sub-atomic levels, as well
8 as novel products, services, technologies, and sub-technologies
9 developed as a result of insights gained from research advances
10 which add to that body of fundamental knowledge.

11 "Carbon footprint reduction technology" means a technology
12 using equipment for the commercial, institutional, and industrial
13 sectors that: increases energy efficiency; develops and delivers
14 renewable or non-carbon-emitting energy technologies; develops
15 innovative carbon emissions abatement with significant carbon
16 emissions reduction potential; or promotes measurable electricity
17 end-use energy efficiency.

18 "Control" with respect to a corporation, means ownership, directly
19 or indirectly, of stock possessing 80 percent or more of the total
20 combined voting power of all classes of the stock of the corporation
21 entitled to vote; and "control," with respect to a trust, means
22 ownership, directly or indirectly, of 80 percent or more of the
23 beneficial interest in the principal or income of the trust. The
24 ownership of stock in a corporation, of a capital or profits interest in
25 a partnership or association or of a beneficial interest in a trust shall
26 be determined in accordance with the rules for constructive
27 ownership of stock provided in subsection (c) of section 267 of the
28 federal Internal Revenue Code of 1986 (26 U.S.C. s.267), other than
29 paragraph (3) of subsection (c) of that section.

30 "Controlled group" means one or more chains of corporations
31 connected through stock ownership with a common parent
32 corporation if stock possessing at least 80 percent of the voting power
33 of all classes of stock of each of the corporations is owned directly
34 or indirectly by one or more of the corporations and the common
35 parent owns directly stock possessing at least 80 percent of the voting
36 power of all classes of stock of at least one of the other corporations.

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

39 "Diverse entrepreneur" means a New Jersey based business that
40 meets the criteria for a minority business or female business set forth
41 in section 2 of P.L.1983, c.482 (C.52:32-19).

42 "Electronic device technology" means a technology involving
43 microelectronics, semiconductors, electronic equipment and
44 instrumentation, radio frequency, microwave and millimeter
45 electronics, and optical and optic-electrical devices, or data and
46 digital communications and imaging devices.

47 "Information technology" means software publishing, motion
48 picture and video production, television production and post-

1 production services, telecommunications, data processing, hosting
2 and related services, custom computer programming services,
3 computer system design, computer facilities management services,
4 other computer related services, and computer training.

5 "Life sciences" means the production of medical equipment,
6 ophthalmic goods, medical or dental instruments, diagnostic
7 substances, biopharmaceutical products, or physical and biological
8 research.

9 "Medical device technology" means a technology involving any
10 medical equipment or product (other than a pharmaceutical product)
11 that has therapeutic value, diagnostic value, or both, and is regulated
12 by the federal Food and Drug Administration.

13 "Mobile communications technology" means a technology
14 involving the functionality and reliability of the transmission of voice
15 and multimedia data using a communication infrastructure via a
16 computer or a mobile device, that shall include, but not be limited to,
17 smartphones, electronic books and tablets, digital audio players,
18 motor vehicle electronics, home entertainment systems, and other
19 wireless appliances, without having connected to any physical or
20 fixed link.

21 "New Jersey based business" means a company with fewer than
22 225 employees, of whom at least 75 percent are filling a position in
23 New Jersey, that is doing business, employing or owning capital or
24 property, or maintaining an office in this State.

25 "New Jersey emerging technology business" means a company
26 with fewer than 225 employees, of whom at least 75 percent are
27 filling a position in New Jersey, that is doing business, employing or
28 owning capital or property, or maintaining an office in this State and:
29 has qualified research expenses paid or incurred for research
30 conducted in this State; conducts pilot scale manufacturing in this
31 State; or conducts technology commercialization in this State in the
32 fields of advanced computing, advanced materials, biotechnology,
33 carbon footprint reduction technology, electronic device technology,
34 information technology, life sciences, medical device technology,
35 mobile communications technology, or renewable energy
36 technology.

37 "New Jersey emerging technology business holding company"
38 means any corporation, association, firm, partnership, trust or other
39 form of business organization, but not a natural person, which
40 directly or indirectly, owns, has the power or right to control, or has
41 the power to vote, a controlling share of the outstanding voting
42 securities of a corporation or other form of a New Jersey emerging
43 technology business.

44 "Partnership" means a syndicate, group, pool, joint venture, or
45 other unincorporated organization through or by means of which any
46 business, financial operation, or venture is carried on, and which is
47 not a trust or estate, a corporation, or a sole proprietorship.

1 "Pilot scale manufacturing" means design, construction, and
2 testing of preproduction prototypes and models in the fields of
3 advanced computing, advanced materials, biotechnology, carbon
4 footprint reduction technology electronic device technology,
5 information technology, life sciences, medical device technology,
6 mobile communications technology, or renewable energy
7 technology, other than for commercial sale, excluding sales of
8 prototypes or sales for market testing if the total gross receipts, as
9 calculated in the manner provided in section 6 of P.L.1945, c.162
10 (C.54:10A-6), from the sales of the product, service, or process do
11 not exceed \$1,000,000.

12 "Qualified investment" means the non-refundable transfer of cash
13 to a New Jersey emerging technology business or to a New Jersey
14 emerging technology business holding company by a taxpayer that is
15 not a related person of the New Jersey emerging technology business
16 or the New Jersey emerging technology business holding company,
17 the transfer of which is in connection with either: a transaction
18 between or among the taxpayer and the New Jersey emerging
19 technology business or the New Jersey emerging technology holding
20 company or both in exchange for stock, interests in partnerships or
21 joint ventures, licenses (exclusive or non-exclusive), rights to use
22 technology, marketing rights, warrants, options, or any items similar
23 to those included herein, including, but not limited to, options or
24 rights to acquire any of the items included herein; or a purchase,
25 production, or research agreement between or among the taxpayer
26 and the New Jersey emerging technology business or the New Jersey
27 emerging technology holding company or both. "Qualified
28 investment" also means the non-refundable transfer of cash or
29 irrevocable contractual commitment to transfer cash to a qualified
30 venture fund.

31 "Qualified research expenses" means qualified research expenses,
32 as defined in section 41 of the federal Internal Revenue Code of 1986
33 (26 U.S.C. s.41), as in effect on June 30, 1992, in the fields of
34 advanced computing, advanced materials, biotechnology, electronic
35 device technology, information technology, life sciences, medical
36 device technology, mobile communications technology, or
37 renewable energy technology.

38 "Qualified venture fund" means a venture fund required by
39 contract to invest a minimum of 50 percent of its funds in New Jersey
40 based businesses that the authority, in its sole discretion, based upon
41 the qualified venture fund's investment history, if any, its private
42 placement memorandum and other relevant information, has
43 determined has the capacity to make the minimum investment.

44 "Related person" means:

45 a corporation, partnership, association or trust controlled by the
46 taxpayer;

47 an individual, corporation, partnership, association or trust that is
48 in the control of the taxpayer;

1 a corporation, partnership, association or trust controlled by an
2 individual, corporation, partnership, association or trust that is in the
3 control of the taxpayer; or

4 a member of the same controlled group as the taxpayer.

5 "Renewable energy technology" means a technology involving the
6 generation of electricity from solar energy; wind energy; wave or
7 tidal action; geothermal energy; the combustion of gas from the
8 anaerobic digestion of food waste and sewage sludge at a biomass
9 generating facility; the combustion of methane gas captured from a
10 landfill; and a fuel cell powered by methanol, ethanol, landfill gas,
11 digester gas, biomass gas, or other renewable fuel but not powered
12 by a fossil fuel.

13 "Venture fund" means a partnership, corporation, trust, or limited
14 liability company that invests cash in a business during the early or
15 expansion stages of a business in exchange for an equity stake in the
16 business in," which the investment is made. Venture firm may
17 include a venture capital fund, a family office fund, or a corporate
18 investor fund, provided that a professional manager administers the
19 venture firm.

20 "Verified transfer of funds" means a non-refundable transfer of
21 funds equal to 100 percent of the taxpayer's qualified investment in
22 the New Jersey emerging technology business holding company to a
23 New Jersey emerging technology business by the New Jersey
24 emerging technology business holding company that is accompanied
25 by documentation, as required by the New Jersey Economic
26 Development Authority, which provides proof of a cash transaction
27 originating with a taxpayer and concluding with a New Jersey
28 emerging technology business, provided that the transactions from
29 origin to destination occur within the same taxable year.

30 The definitions of "advanced computing," "advanced materials,"
31 "biotechnology," carbon footprint reduction technology," "electronic
32 device technology," "information technology,"" life sciences,""
33 medical device technology," mobile communications technology,""
34 "New Jersey emerging technology business," "pilot scale
35 manufacturing," and "renewable energy technology may be
36 modified by regulation to conform to definitions in other programs
37 administered by the authority.

38 (cf: P.L.2019, c.145, s.3)

39
40 120. Section 2 of P.L.2011, c.149 (C.34:1B-243) is amended to
41 read as follows:

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

43 "Affiliate" means an entity that directly or indirectly controls, is
44 under common control with, or is controlled by the business. Control
45 exists in all cases in which the entity is a member of a controlled
46 group of corporations as defined pursuant to section 1563 of the
47 Internal Revenue Code of 1986 (26 U.S.C. s.1563) or the entity is an
48 organization in a group of organizations under common control as

1 defined pursuant to subsection (b) or (c) of section 414 of the Internal
2 Revenue Code of 1986 (26 U.S.C. s.414). A taxpayer may establish
3 by clear and convincing evidence, as determined by the Director of
4 the Division of Taxation in the Department of the Treasury, that
5 control exists in situations involving lesser percentages of ownership
6 than required by those statutes. An affiliate of a business may
7 contribute to meeting either the qualified investment or full-time
8 employee requirements of a business that applies for a credit under
9 section 3 of P.L.2007, c.346 (C.34:1B-209).

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

12 "Aviation district" means all areas within the boundaries of the
13 "Atlantic City International Airport," established pursuant to section
14 24 of P.L.1991, c.252 (C.27:25A-24), and the Federal Aviation
15 Administration William J. Hughes Technical Center and the area
16 within a one-mile radius of the outermost boundary of the "Atlantic
17 City International Airport" and the Federal Aviation Administration
18 William J. Hughes Technical Center.

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

21 a corporation that is subject to the tax imposed pursuant to section
22 5 of P.L.1945, c.162 (C.54:10A-5);

23 a corporation that is subject to the tax imposed pursuant to sections
24 2 and 3 of P.L.1945, c.132 (C.54:18A-2 and C.54:18A-3), section 1
25 of P.L.1950, c.231 (C.17:32-15) or N.J.S.17B:23-5;

26 a partnership;

27 an S corporation;

28 a limited liability company; or

29 a non-profit corporation.

30 If the business or tenant is a cooperative or part of a cooperative,
31 then the cooperative may qualify for credits by counting the full-time
32 employees and capital investments of its member organizations, and
33 the cooperative may distribute credits to its member organizations.
34 If the business or tenant is a cooperative that leases to its member
35 organizations, the lease shall be treated as a lease to an affiliate or
36 affiliates.

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

40 "Capital investment" in a qualified business facility means
41 expenses by a business or any affiliate of the business incurred after
42 application for:

43 a. site preparation and construction, repair, renovation,
44 improvement, equipping, or furnishing on real property or of a
45 building, structure, facility, or improvement to real property;

46 b. obtaining and installing furnishings and machinery,
47 apparatus, or equipment, including but not limited to material goods
48 subject to bonus depreciation under sections 168 and 179 of the

1 federal Internal Revenue Code (26 U.S.C. s.168 and s.179), for the
2 operation of a business on real property or in a building, structure,
3 facility, or improvement to real property;

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

7 d. any of the foregoing.

8 In addition to the foregoing, in a Garden State Growth Zone, the
9 following qualify as a capital investment: any development,
10 redevelopment, and relocation costs, including, but not limited to,
11 site acquisition if made within 24 months of application to the
12 authority, engineering, legal, accounting, and other professional
13 services required; and relocation, environmental remediation, and
14 infrastructure improvements for the project area, including, but not
15 limited to, on- and off-site utility, road, pier, wharf, bulkhead, or
16 sidewalk construction or repair.

17 In addition to the foregoing, if a business acquires or leases a
18 qualified business facility, the capital investment made or acquired
19 by the seller or owner, as the case may be, if pertaining primarily to
20 the premises of the qualified business facility, shall be considered a
21 capital investment by the business and, if pertaining generally to the
22 qualified business facility being acquired or leased, shall be allocated
23 to the premises of the qualified business facility on the basis of the
24 gross leasable area of the premises in relation to the total gross
25 leasable area in the qualified business facility. The capital
26 investment described herein may include any capital investment
27 made or acquired within 24 months prior to the date of application so
28 long as the amount of capital investment made or acquired by the
29 business, any affiliate of the business, or any owner after the date of
30 application equals at least 50 percent of the amount of capital
31 investment, allocated to the premises of the qualified business facility
32 being acquired or leased on the basis of the gross leasable area of the
33 premises in relation to the total gross leasable area in the qualified
34 business facility made or acquired prior to the date of application.

35 "College or university" means a county college, an independent
36 institution of higher education, a public research university, or a State
37 college.

38 "Commitment period" means the period of time that is 1.5 times
39 the eligibility period.

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

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

1 "Disaster recovery project" means a project located on property
2 that has been wholly or substantially damaged or destroyed as a result
3 of a federally-declared disaster which, after utilizing all disaster
4 funds available from federal, State, county, and local funding
5 sources, demonstrates to the satisfaction of the authority that access
6 to additional funding authorized pursuant to the "New Jersey
7 Economic Opportunity Act of 2013," P.L.2013, c.161 (C.52:27D-
8 489p et al.), is necessary to complete the redevelopment project, and
9 which is located within the qualified incentive area and has been
10 determined by the authority to be in an area appropriate for
11 development and in need of economic development incentive
12 assistance.

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

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

26 "Eligibility period" means the period in which a business may
27 claim a tax credit under the Grow New Jersey Assistance Program,
28 beginning with the tax period in which the authority accepts
29 certification of the business that it has met the capital investment and
30 employment requirements of the Grow New Jersey Assistance
31 Program and extending thereafter for a term of not more than 10
32 years, with the term to be determined solely at the discretion of the
33 applicant.

34 "Eligible position" or "full-time job" means a full-time position in
35 a business in this State which the business has filled with a full-time
36 employee.

37 "Full-time employee" means a person:

38 a. who is employed by a business for consideration for at least
39 35 hours a week, or who renders any other standard of service
40 generally accepted by custom or practice as full-time employment;
41 or

42 b. who is employed by a professional employer organization
43 pursuant to an employee leasing agreement between the business and
44 the professional employer organization, in accordance with
45 P.L.2001, c.260 (C.34:8-67 et seq.) for at least 35 hours a week, or
46 who renders any other standard of service generally accepted by
47 custom or practice as full-time employment, and whose wages are

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

3 c. who is a resident of another State but whose income is not
4 subject to the "New Jersey Gross Income Tax Act," N.J.S.54A:1-1 et
5 seq. or who is a partner of a business who works for the partnership
6 for at least 35 hours a week, or who renders any other standard of
7 service generally accepted by custom or practice as full-time
8 employment, and whose distributive share of income, gain, loss, or
9 deduction, or whose guaranteed payments, or any combination
10 thereof, is subject to the payment of estimated taxes, as provided in
11 the "New Jersey Gross Income Tax Act," N.J.S.54A:1-1 et seq.; and

12 d. who, except for purposes of the Statewide workforce, is
13 provided, by the business, with employee health benefits under a
14 health benefits plan authorized pursuant to State or federal law.

15 With respect to a logistics, manufacturing, energy, defense,
16 aviation, or maritime business, excluding primarily warehouse or
17 distribution operations, located in a port district having a container
18 terminal:

19 the requirement that employee health benefits are to be provided
20 shall be deemed to be satisfied if the benefits are provided in
21 accordance with industry practice by a third party obligated to
22 provide such benefits pursuant to a collective bargaining agreement;

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

26 35 hours of employment per week at a qualified business facility
27 shall constitute one "full-time employee," regardless of whether or
28 not the hours of work were performed by one or more persons.

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

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

45 Full-time employee shall also not include any person who at the
46 time of project application works in New Jersey for consideration for
47 at least 35 hours per week, or who renders any other standard of
48 service generally accepted by custom or practice as full-time

1 employment but who prior to project application was not provided,
2 by the business, with employee health benefits under a health benefits
3 plan authorized pursuant to State or federal law.

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

9 "Garden State Growth Zone" or "growth zone" means the four
10 New Jersey cities with the lowest median family income based on the
11 2009 American Community Survey from the US Census, (Table 708.
12 Household, Family, and Per Capita Income and Individuals, and
13 Families Below Poverty Level by City: 2009); a municipality which
14 contains a Tourism District as established pursuant to section 5 of
15 P.L.2011, c.18 (C.5:12-219) and regulated by the Casino
16 Reinvestment Development Authority; or an aviation district.

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

23 "Incentive agreement" means the contract between the business
24 and the authority, which sets forth the terms and conditions under
25 which the business shall be eligible to receive the incentives
26 authorized pursuant to the program.

27 "Incentive effective date" means the date **【the authority issues a**
28 **tax credit based on】** a business submits the documentation
29 **【submitted by a business】** required pursuant to paragraph (1) of
30 subsection b. of section 6 of P.L.2011, c.149 (C.34:1B-247) in a form
31 satisfactory to the authority.

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

45 "Major rail station" means a railroad station located within a
46 qualified incentive area which provides access to the public to a
47 minimum of six rail passenger service lines operated by the New
48 Jersey Transit Corporation.

1 "Mega project" means:

2 a. a qualified business facility located in a port district housing
3 a business in the logistics, manufacturing, energy, defense, or
4 maritime industries, either:

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

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

10 b. a qualified business facility located in an aviation district
11 housing a business in the aviation industry, in a Garden State Growth
12 Zone, or in a priority area housing the United States headquarters and
13 related facilities of an automobile manufacturer, either:

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

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

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

23 d. a project located in an area designated in need of
24 redevelopment, pursuant to P.L.1992, c.79 (C.40A:12A-1 et al.) prior
25 to the enactment of P.L.2014, c.63 (C.34:1B-251 et al.) within
26 Atlantic, Burlington, Camden, Cape May, Cumberland, Gloucester,
27 Ocean, or Salem counties having a capital investment in excess of
28 \$20,000,000, and at which more than 150 full-time employees of the
29 business are created or retained; or

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

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

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

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

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

8 "Municipal Revitalization Index" means the 2007 index by the
9 Office for Planning Advocacy within the Department of State
10 measuring or ranking municipal distress.

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

16 "Other eligible area" means the portions of the qualified incentive
17 area that are not located within a distressed municipality, or the
18 priority area.

19 "Partnership" means an entity classified as a partnership for
20 federal income tax purposes.

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

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

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

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

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

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

43 c. are the proposed site of a disaster recovery project, a qualified
44 incubator facility, a highlands development credit receiving area or
45 redevelopment area, a tourism destination project, or transit oriented
46 development; or

47 d. contain: a vacant commercial building having over 400,000
48 square feet of office, laboratory, or industrial space available for

1 occupancy for a period of over one year; or a site that has been
2 negatively impacted by the approval of a "qualified business
3 facility," as defined pursuant to section 2 of P.L.2007, c.346
4 (C.34:1B-208).

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

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

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

12 "Qualified business facility" means any building, complex of
13 buildings or structural components of buildings, and all machinery
14 and equipment located within a qualified incentive area, used in
15 connection with the operation of a business that is not engaged in
16 final point of sale retail business at that location unless the building,
17 complex of buildings or structural components of buildings, and all
18 machinery and equipment located within a qualified incentive area,
19 are used in connection with the operation of:

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

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

27 "Qualified incentive area" means:

28 a. an aviation district;

29 b. a port district;

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

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

33 (a) Planning Area 1 (Metropolitan);

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

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

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

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

47 (4) located within a regional growth area, rural development area
48 zoned for industrial use as of the effective date of P.L.2016, c.75,

1 town, village, or a military and federal installation area designated in
2 the comprehensive management plan prepared and adopted by the
3 Pinelands Commission pursuant to the "Pinelands Protection Act,"
4 P.L.1979, c.111 (C.13:18A-1 et seq.);

5 (5) located within the planning area of the Highlands Region as
6 defined in section 3 of P.L.2004, c.120 (C.13:20-3) or a highlands
7 development credit receiving area or redevelopment area;

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

9 (7) located within land approved for closure under any federal
10 Commission on Base Realignment and Closure action; or

11 (8) located only within the following portions of the areas
12 designated pursuant to the "State Planning Act," P.L.1985, c.398
13 (C.52:18A-196 et seq.), as Planning Area 4A (Rural Planning Area),
14 Planning Area 4B (Rural/Environmentally Sensitive) or Planning
15 Area 5 (Environmentally Sensitive) if Planning Area 4A (Rural
16 Planning Area), Planning Area 4B (Rural/Environmentally Sensitive)
17 or Planning Area 5 (Environmentally Sensitive) is located within:

18 (a) a designated center under the State Development and
19 Redevelopment Plan;

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

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

28 (d) any area on which a structure exists or previously existed
29 including any desired expansion of the footprint of the existing or
30 previously existing structure provided the expansion otherwise
31 complies with all applicable federal, State, county, and local permits
32 and approvals;

33 (e) the planning area of the Highlands Region as defined in
34 section 3 of P.L.2004, c.120 (C.13:20-3) or a highlands development
35 credit receiving area or redevelopment area; or

36 (f) any area on which an existing tourism destination project is
37 located.

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

41 "Qualified incubator facility" means a commercial building
42 located within a qualified incentive area: which contains 50,000 or
43 more square feet of office, laboratory, or industrial space; which is
44 located near, and presents opportunities for collaboration with, a
45 research institution, teaching hospital, college, or university; and
46 within which, at least 50 percent of the gross leasable area is
47 restricted for use by one or more technology startup companies
48 during the commitment period.

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

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

23 "SDA municipality" means a municipality in which an SDA
24 district is situate.

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

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

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

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

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

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

11 "Urban transit hub municipality" means a municipality: a. which
12 qualifies for State aid pursuant to P.L.1978, c.14 (C.52:27D-178 et
13 seq.), or which has continued to be a qualified municipality
14 thereunder pursuant to P.L.2007, c.111; and b. in which 30 percent
15 or more of the value of real property was exempt from local property
16 taxation during tax year 2006. The percentage of exempt property
17 shall be calculated by dividing the total exempt value by the sum of
18 the net valuation which is taxable and that which is tax exempt.
19 (cf: P.L.2018, c.120, s.1)

20

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

23 4. The authority shall require an eligible business to enter into
24 an incentive agreement prior to the issuance of tax credits. The
25 incentive agreement shall include, but shall not be limited to, the
26 following:

27 a. A detailed description of the proposed project which will
28 result in job creation or retention, and the number of new or retained
29 full-time jobs that are approved for tax credits.

30 b. The eligibility period of the tax credits, including the first year
31 for which the tax credits may be claimed.

32 c. Personnel information that will enable the authority to
33 administer the program.

34 d. A requirement that the applicant maintain the project at a
35 location in New Jersey for the commitment period, with at least the
36 minimum number of full-time employees as required by this
37 program, except as otherwise agreed to pursuant to subsection h. of
38 section 6 of P.L.2011, c.159 (C.34:1B-247) and a provision to permit
39 the authority to recapture all or part of any tax credits awarded, at its
40 discretion, if the business does not remain in compliance with this
41 provision for the required term, and in the instance of the business
42 terminating an existing incentive agreement in order to participate in
43 an incentive agreement authorized pursuant to the "New Jersey
44 Economic Opportunity Act of 2013," P.L.2013, c.161 (C.52:27D-
45 489p et al.), such permitted recapture may be calculated to recognize
46 the period of time that the business was in compliance prior to
47 termination.

1 e. A method for the business to certify that it has met the capital
2 investment and employment requirements of the program pursuant to
3 paragraph (1) of subsection a. of section 3 of P.L.2011, c.149
4 (C.34:1B-244) and to report annually to the authority the number of
5 full-time employees for which the tax credits are to be made.

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

8 g. A provision which permits the authority to amend the
9 agreement.

10 h. A provision establishing the conditions under which the
11 agreement may be terminated.

12 (cf: P.L.2013, c.161, s.9)

13

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

16 5. a. The New Jersey Economic Development Authority, in
17 consultation with the State Treasurer, shall establish an Economic
18 Redevelopment and Growth Grant program for the purpose of
19 encouraging redevelopment projects in qualifying economic
20 redevelopment and growth grant incentive areas that do not qualify
21 as such areas solely by virtue of being a transit village, through the
22 provision of incentive grants to reimburse developers for certain
23 project financing gap costs.

24 b. (1) A developer shall submit an application for a State
25 incentive grant prior to July 1, 2019, except: (a) a developer of a
26 qualified residential project or a mixed use parking project seeking
27 an award of credits toward the funding of its incentive grant for a
28 project restricted under category (viii) of subparagraph (b) of
29 paragraph (3) of subsection b. of section 6 of P.L.2009, c.90
30 (C.52:27D-489f) shall submit an incentive grant application prior to
31 December 31, 2021 and (b) a developer seeking an award of credits
32 toward the funding of its incentive grant under subparagraphs (f) and
33 (g) of paragraph (3) of subsection b. of section 6 of P.L.2009, c.90
34 (C.52:27D-489f) shall submit an incentive grant application prior to
35 December 31, 2021. A developer that submits an application for a
36 State incentive grant shall indicate on the application whether it is
37 also applying for a local incentive grant. Tax credits awarded to
38 developers who apply after the effective date of P.L. _____,
39 c. (C. _____)(pending before the Legislature as this bill) under
40 subparagraphs (f) and (g) of paragraph (3) of subsection b. of section
41 6 of P.L.2009, c.90 (C.52:27D-489f) shall not exceed \$200,000,000
42 subject to the limitations of subparagraphs (f) and (g) of that
43 paragraph.

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

1 c. An application for a State incentive grant shall be reviewed
2 and approved by the authority. The authority shall not approve an
3 application for a State incentive grant unless the application was
4 submitted prior to July 1, 2019, except: (1) the authority shall not
5 approve an application for a State incentive grant by a developer of
6 a qualified residential project or a mixed use parking project seeking
7 an award of credits toward the funding of its incentive grant for a
8 project restricted under category (viii) of subparagraph (b) of
9 paragraph (3) of subsection b. of section 6 of P.L.2009, c.90
10 (C.52:27D-489f) unless the application was submitted prior to
11 December 31, 2021 and (2) the authority shall not approve an
12 application for a State incentive grant by a developer under
13 subparagraphs (f) and (g) of paragraph (3) of subsection b. of section
14 6 of P.L.2009, c.90 (C.52:27D-489f) unless the application was
15 submitted prior to December 31, 2021.

16 d. A developer shall not be required to purchase pinelands
17 development credits under the "Pinelands Protection Act," P.L.1979,
18 c.111 (C.13:18A-1 et seq.), the pinelands comprehensive
19 management plan, or any other rule or regulation adopted pursuant to
20 that act in connection with any approval or relief obtained related to
21 a redevelopment project located in an aviation district on or after the
22 effective date of P.L.2018, c.120, except if seeking to develop in
23 permanently protected open space pursuant to the Pinelands
24 Protection Act. The provisions of this subsection shall not apply to
25 a developer of a qualified residential project.

26 (cf: P.L.2018, c.120, s.6)

27

28 123. Section 6 of P.L.2009, c.90 (C.52:27D-489f) is amended to
29 read as follows:

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

1 pursuant to section 12 of P.L.1999, c.23 (C.48:3-60), any charges
2 paid for compliance with the "Global Warming Response Act,"
3 P.L.2007, c.112 (C.26:2C-37 et seq.), transitional energy facility
4 assessment unit taxes paid pursuant to section 67 of P.L.1997, c.162
5 (C.48:2-21.34), and the sales and use taxes on public utility and cable
6 television services and commodities, the tax derived from net profits
7 from business, a distributive share of partnership income, or a pro
8 rata share of S corporation income under the "New Jersey Gross
9 Income Tax Act," N.J.S.54A:1-1 et seq., the tax derived from a
10 business at the site of a redevelopment project that is required to
11 collect the tax pursuant to the "Sales and Use Tax Act," P.L.1966,
12 c.30 (C.54:32B-1 et seq.), the tax imposed pursuant to P.L.1966, c.30
13 (C.54:32B-1 et seq.) from the purchase of furniture, fixtures and
14 equipment, or materials for the remediation, the construction of new
15 structures at the site of a redevelopment project, the hotel and motel
16 occupancy fee imposed pursuant to section 1 of P.L.2003, c.114
17 (C.54:32D-1), or the portion of the fee imposed pursuant to section 3
18 of P.L.1968, c.49 (C.46:15-7) derived from the sale of real property
19 at the site of the redevelopment project and paid to the State Treasurer
20 for use by the State, that is not credited to the "Shore Protection
21 Fund" or the "Neighborhood Preservation Nonlapsing Revolving
22 Fund" ("New Jersey Affordable Housing Trust Fund") pursuant to
23 section 4 of P.L.1968, c.49 (C.46:15-8). Any developer shall be
24 allowed to assign their ability to apply for the tax credit under this
25 subsection to a non-profit organization with a mission dedicated to
26 attracting investment and completing development and
27 redevelopment projects in a Garden State Growth Zone. The non-
28 profit organization may make an application on behalf of a developer
29 which meets the requirements for the tax credit, or a group of non-
30 qualifying developers, such that these will be considered a unified
31 project for the purposes of the incentives provided under this section.

32 b. (1) Up to an average of 75 percent of the projected annual
33 incremental revenues or 85 percent of the projected annual
34 incremental revenues in a Garden State Growth Zone may be pledged
35 towards the State portion of an incentive grant.

36 (2) In the case of a qualified residential project or a project
37 involving university infrastructure, if the authority determines that
38 the estimated amount of incremental revenues pledged towards the
39 State portion of an incentive grant is inadequate to fully fund the
40 amount of the State portion of the incentive grant, then in lieu of an
41 incentive grant based on the incremental revenues, the developer
42 shall be awarded tax credits equal to the full amount of the incentive
43 grant.

44 (3) In the case of a mixed use parking project, if the authority
45 determines that the estimated amount of incremental revenues
46 pledged towards the State portion of an incentive grant is inadequate
47 to fully fund the amount of the State portion of the incentive grant,
48 then, in lieu of an incentive grant based on the incremental revenues,

1 the developer shall be awarded tax credits equal to the full amount of
2 the incentive grant.

3 The value of all credits approved by the authority pursuant to
4 paragraphs (2) and (3) of this subsection shall not exceed
5 ~~【\$823,000,000】~~ \$1,043,000,000, of which:

6 (a) \$250,000,000 shall be restricted to qualified residential
7 projects within Atlantic, Burlington, Camden, Cape May,
8 Cumberland, Gloucester, Ocean, and Salem counties, of which
9 \$175,000,000 of the credits shall be restricted to the following
10 categories of projects: (i) qualified residential projects located in a
11 Garden State Growth Zone located within the aforementioned
12 counties; and (ii) mixed use parking projects located in a Garden
13 State Growth Zone or urban transit hub located within the
14 aforementioned counties; (iii) and \$75,000,000 of the credits shall be
15 restricted to qualified residential projects in municipalities with a
16 2007 Municipal Revitalization Index of 400 or higher as of the date
17 of enactment of the "New Jersey Economic Opportunity Act of
18 2013," P.L.2013, c.161 (C.52:27D-489p et al.) and located within the
19 aforementioned counties;

20 (b) \$395,000,000 shall be restricted to the following categories of
21 projects: (i) qualified residential projects located in urban transit hubs
22 that are commuter rail in nature that otherwise do not qualify under
23 subparagraph (a) of this paragraph; (ii) qualified residential projects
24 located in Garden State Growth Zones that do not qualify under
25 subparagraph (a) of this paragraph; (iii) mixed use parking projects
26 located in urban transit hubs or Garden State Growth Zones that do
27 not qualify under subparagraph (a) of this paragraph, provided
28 however, an urban transit hub shall be allocated no more than
29 \$25,000,000 for mixed use parking projects; (iv) qualified residential
30 projects which are disaster recovery projects that otherwise do not
31 qualify under subparagraph (a) of this paragraph; (v) qualified
32 residential projects in SDA municipalities located in Hudson County
33 that were awarded State Aid in State Fiscal Year 2013 through the
34 Transitional Aid to Localities program and otherwise do not qualify
35 under subparagraph (a) of this paragraph; (vi) \$25,000,000 of credits
36 shall be restricted to mixed use parking projects in Garden State
37 Growth Zones which have a population in excess of 125,000 and do
38 not qualify under subparagraph (a) of this paragraph; (vii)
39 \$40,000,000 of credits shall be restricted to qualified residential
40 projects that include a theater venue for the performing arts and do
41 not qualify under subparagraph (a) of this paragraph, which projects
42 are located in a municipality with a population of less than 100,000
43 according to the latest federal decennial census, and within which
44 municipality is located an urban transit hub and a campus of a public
45 research university, as defined in section 1 of P.L.2009, c.308
46 (C.18A:3B-46); and (viii) ~~【\$105,000,000】~~ \$125,000,000 of credits
47 shall be restricted to qualified residential projects and mixed use
48 parking projects in Garden State Growth Zones having a population

1 in excess of 125,000 and do not qualify under subparagraph (a) of
2 this paragraph;

3 (c) \$87,000,000 shall be restricted to the following categories of
4 projects: (i) qualified residential projects located in distressed
5 municipalities, deep poverty pockets, highlands development credit
6 receiving areas or redevelopment areas, otherwise not qualifying
7 pursuant to subparagraph (a) or (b) of this paragraph; and (ii) mixed
8 use parking projects that do not qualify under subparagraph (a) or (b)
9 of this paragraph, and which are used by an independent institution
10 of higher education, a school of medicine, a nonprofit hospital
11 system, or any combination thereof; provided, however, that
12 \$20,000,000 of the \$87,000,000 shall be allocated to mixed use
13 parking projects that do not qualify under subparagraph (a) or (b) of
14 this paragraph;

15 (d) (i) \$16,000,000 shall be restricted to qualified residential
16 projects that are located within a qualifying economic redevelopment
17 and growth grant incentive area otherwise not qualifying under
18 subparagraph (a), (b), or (c) of this paragraph; and

19 (ii) an additional \$50,000,000 shall be restricted to qualified
20 residential projects which, as of the effective date of P.L.2016, c.51,
21 are located in a city of the first class with a population in excess of
22 270,000, are subject to a Renewal Contract for a Section 8 Mark-Up-
23 To-Market Project from the United States Department of Housing
24 and Urban Development, and for which an application for the award
25 of tax credits under this subsection was submitted prior to January 1,
26 2016; **【and】**

27 (e) \$25,000,000 shall be restricted to projects involving university
28 infrastructure;

29 (f) \$150,000,000 shall be restricted to applications submitted after
30 the effective date of P.L. , c. (C.)(pending before the
31 Legislature as this bill) for projects which are predominantly
32 commercial and contain 100,000 or more square feet of office and
33 retail space, or industrial space for purchase or lease and may include
34 a parking component; and

35 (g) \$50,000,000 shall be restricted to applications submitted after
36 the effective date of P.L. , c. (C.)(pending before the
37 Legislature as this bill) for residential projects in any county of the
38 State.

39 **【(f)】** **(h)** For subparagraphs (a) through (d) of this paragraph, not
40 more than \$40,000,000 of credits shall be awarded to any qualified
41 residential project in a deep poverty pocket or distressed municipality
42 and not more than \$20,000,000 of credits shall be awarded to any
43 other qualified residential project. The developer of a qualified
44 residential project seeking an award of credits towards the funding of
45 its incentive grant shall submit an incentive grant application prior to
46 July 1, 2016 and if approved after September 18, 2013, the effective
47 date of P.L.2013, c.161 (C.52:27D-489p et al.) shall submit a
48 temporary certificate of occupancy for the project no later than **【July**

1 28, 2021】 December 31, 2023. The developer of a mixed use parking
2 project seeking an award of credits towards the funding of its
3 incentive grant pursuant to subparagraph (c) of this paragraph and if
4 approved after the effective date of P.L.2015, c.217, shall submit a
5 temporary certificate of occupancy for the project no later than 【July
6 28, 2021】 December 31, 2023. The developer of a qualified
7 residential project or a mixed use parking project seeking an award
8 of credits toward the funding of its incentive grant for a project
9 restricted under categories (vi) and (viii) of subparagraph (b) of this
10 paragraph shall submit an incentive grant application prior to July 1,
11 2019 or, in the case of a project restricted under category (viii) of
12 subparagraph (b) of this paragraph, December 31, 2021, and if
13 approved after the effective date of P.L.2017, c.59, shall submit a
14 temporary certificate of occupancy for the project no later than 【July
15 28, 2022】 December 31, 2023 provided that the municipality in
16 which the project is located shall have submitted to the chief
17 executive officer of the authority a letter of support identifying up to
18 six projects prior to July 1, 2018. The letter of support is to contain a
19 project scope for each of the projects and may be supplemented or
20 amended from time to time until July 1, 2019 or, in the case of a
21 project restricted under category (viii) of subparagraph (b) of this
22 paragraph, December 31, 2021. Applications for tax credits pursuant
23 to this subsection relating to an ancillary infrastructure project or
24 infrastructure improvement in the public right-of-way, or both, shall
25 be accompanied with a letter of support relating to the project or
26 improvement by the governing body or agency in which the project
27 is located. Credits awarded to a developer pursuant to this subsection
28 shall be subject to the same financial and related analysis by the
29 authority, the same term of the grant, and the same mechanism for
30 administering the credits, and shall be utilized or transferred by the
31 developer as if the credits had been awarded to the developer
32 pursuant to section 35 of P.L.2009, c.90 (C.34:1B-209.3) for
33 qualified residential projects thereunder. No portion of the revenues
34 pledged pursuant to the "New Jersey Economic Opportunity Act of
35 2013," P.L.2013, c.161 (C.52:27D-489p et al.) shall be subject to
36 withholding or retainage for adjustment, in the event the developer
37 or taxpayer waives its rights to claim a refund thereof.

38 (i) The developer of a project seeking an award of credits for a
39 project restricted under subparagraphs (f) and (g) of this paragraph
40 shall submit an incentive grant application prior to December 31,
41 2021, and if approved after the effective date of P.L. _____,
42 c. (C. _____)(pending before the Legislature as this bill), shall submit
43 a temporary certificate of occupancy for the project no later than
44 December 31, 2024. In addition to the requirements for an award of
45 credits set forth in P.L.2009, c.90 (C.52:27D-489a et al.), a developer
46 shall be eligible to receive an award of credits for a project restricted
47 under subparagraphs (f) and (g) of this paragraph only if the

1 developer demonstrates to the authority at that time of application
2 that: (i) the project shall comply with minimum environmental and
3 sustainability standards; (ii) the project shall comply with the
4 authority's affirmative action requirements, adopted pursuant to
5 section 4 of P.L.1979, c.303 (C.34:1B-5.4); (iii) each worker
6 employed by the developer or subcontractor of a developer working
7 at the project shall be paid not less than \$15 per hour or 120 percent
8 of the minimum wage fixed under subsection a. of section 5 of
9 P.L.1966, c.113 (C.34:11-56a4), whichever is higher; and (iv) during
10 the eligibility period, each worker employed to perform construction
11 work or building services work at the project shall be paid not less
12 than the prevailing wage rate for the worker's craft or trade, as
13 determined by the Commissioner of Labor and Workforce
14 Development pursuant to P.L.1963, c.150 (C.34:11-56.25 et seq.) and
15 P.L.2005, c.379 (C.34:11-56.58 et seq.).

16 Prior to the board considering an application submitted by a
17 developer for a project restricted under subparagraphs (f) and (g) of
18 this paragraph, the Department of Labor and Workforce
19 Development, the Department of Environmental Protection, and the
20 Department of the Treasury shall each report to the chief executive
21 officer of the authority whether the developer is in substantial good
22 standing with the respective department, or has entered into an
23 agreement with the respective department that includes a practical
24 corrective action plan for the developer. The developer, or an
25 authorized agent of the developer, shall certify to the authority that
26 all factual assertions made in the developer's application are true
27 under the penalty of perjury. If at any time the authority determines
28 that the developer made a material misrepresentation on the
29 developer's application, the developer shall forfeit the award of
30 credits and the authority shall recapture any tax credits awarded to
31 the developer.

32 (4) A developer may apply to the Director of the Division of
33 Taxation in the Department of the Treasury and the chief executive
34 officer of the authority for a tax credit transfer certificate, if the
35 developer is awarded a tax credit pursuant to paragraph (2) or
36 paragraph (3) of this subsection, covering one or more years, in lieu
37 of the developer being allowed any amount of the credit against the
38 tax liability of the developer. The tax credit transfer certificate, upon
39 receipt thereof by the developer from the director and the chief
40 executive officer of the authority, may be sold or assigned, in full or
41 in part, to any other person who may have a tax liability pursuant to
42 section 5 of P.L.1945, c.162 (C.54:10A-5), sections 2 and 3 of
43 P.L.1945, c.132 (C.54:18A-2 and C.54:18A-3), section 1 of
44 P.L.1950, c.231 (C.17:32-15), or N.J.S.17B:23-5. The certificate
45 provided to the developer shall include a statement waiving the
46 developer's right to claim that amount of the credit against the taxes
47 that the developer has elected to sell or assign. The sale or assignment
48 of any amount of a tax credit transfer certificate allowed under this

1 paragraph shall not be exchanged for consideration received by the
2 developer of less than 75 percent of the transferred credit amount
3 before considering any further discounting to present value that may
4 be permitted. Any amount of a tax credit transfer certificate used by
5 a purchaser or assignee against a tax liability shall be subject to the
6 same limitations and conditions that apply to the use of the credit by
7 the developer who originally applied for and was allowed the credit.

8 c. All administrative costs associated with the incentive grant
9 shall be assessed to the applicant and be retained by the State
10 Treasurer from the annual incentive grant payments.

11 d. The incremental revenue for the revenues listed in subsection
12 a. of this section shall be calculated as the difference between the
13 amount collected in any fiscal year from any eligible revenue source
14 included in the State redevelopment incentive grant agreement, less
15 the revenue increment base for that eligible revenue.

16 e. The municipality is authorized to collect any information
17 necessary to facilitate grants under this program and remit that
18 information in order to assist in the calculation of incremental
19 revenue.

20 (cf: P.L.2018, c.44, s.2)

21

22 124. Section 8 of P.L.2009, c.90 (C.52:27D-489h) is amended to
23 read as follows:

24 8. a. (1) The authority, in consultation with the State Treasurer,
25 shall promulgate an incentive grant application form and procedure
26 for the Economic Redevelopment and Growth Grant program.

27 (2) (a) The Local Finance Board, in consultation with the
28 authority, shall develop a minimum standard incentive grant
29 application form for municipal Economic Redevelopment and
30 Growth Grant programs.

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

38 b. Within each incentive grant application, a developer shall
39 certify information concerning:

40 (1) the status of control of the entire redevelopment project site;

41 (2) all required State and federal government permits that have
42 been issued for the redevelopment project, or will be issued pending
43 resolution of financing issues;

44 (3) local planning and zoning board approvals, as required, for
45 the redevelopment project;

46 (4) estimates of the revenue increment base, the eligible revenues
47 for the project, and the assumptions upon which those estimates are
48 made.

1 c. (1) With regard to State tax revenues proposed to be pledged
2 for an incentive grant the authority and the State Treasurer shall
3 review the project costs, evaluate and validate the project financing
4 gap estimated by the developer, and conduct a State fiscal impact
5 analysis to ensure that the overall public assistance provided to the
6 project, except with regards to a qualified residential project, a mixed
7 use parking project, or a project involving university infrastructure,
8 will result in net benefits to the State including, without limitation,
9 both direct and indirect economic benefits and non-financial
10 community revitalization objectives, including but not limited to, the
11 promotion of the use of public transportation in the case of the
12 ancillary infrastructure project portion of any transit project.

13 (2) With regard to local incremental revenues proposed to be
14 pledged for an incentive grant the authority and the Local Finance
15 Board shall review the project costs, and except with respect to an
16 application by a municipal redeveloper, evaluate and validate the
17 project financing gap projected by the developer, and conduct a local
18 fiscal impact analysis to ensure that the overall public assistance
19 provided to the project, except with regards to a qualified residential
20 project, a mixed use parking project, or a project involving university
21 infrastructure, will result in net benefits to the municipality wherein
22 the redevelopment project is located including, without limitation,
23 both direct and indirect economic benefits and non-financial
24 community revitalization objectives, including but not limited to, the
25 promotion of the use of public transportation in the case of the
26 ancillary infrastructure project portion of any transit project.

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

31 (4) The costs of the aforementioned reviews shall be assessed to
32 the applicant as an application fee, except for applications submitted
33 on or after January 1, 2018, but before June 30, 2018, which are
34 amended after the effective date of P.L. , c. (C.) (pending
35 before the Legislature as this bill), the authority may waive fees.

36 (5) A developer who has already applied for an incentive grant
37 award prior to the effective date of the "New Jersey Economic
38 Opportunity Act of 2013," P.L.2013, c.161 (C.52:27D-489p et al.),
39 but who has not yet been approved for the grant, or has not executed
40 an agreement with the authority, may proceed under that application
41 or seek to amend the application or reapply for an incentive grant
42 award for the same project or any part thereof for the purpose of
43 availing himself or herself of any more favorable provisions of the
44 Economic Redevelopment and Growth Grant program established
45 pursuant to the "New Jersey Economic Opportunity Act of 2013,"
46 P.L.2013, c.161 (C.52:27D-489p et al.), except that projects with
47 costs exceeding \$200,000,000 shall not be eligible for revised

1 percentage caps under subsection d. of section 19 of P.L.2013, c.161
2 (C.52:27D-489i).
3 (cf: P.L.2015, c.242, s.3)

4
5 125. R.S.54:50-8 is amended to read as follows:

6 54:50-8. a. The records and files of the director respecting the
7 administration of the State Uniform Tax Procedure Law or of any
8 State tax law shall be considered confidential and privileged and
9 neither the director nor any employee engaged in the administration
10 thereof or charged with the custody of any such records or files, nor
11 any former officer or employee, nor any person who may have
12 secured information therefrom under subsection d., e., f., g., p., [or]
13 q., or r. of R.S.54:50-9 or any other provision of State law, shall
14 divulge, disclose, use for their own personal advantage, or examine
15 for any reason other than a reason necessitated by the performance of
16 official duties any information obtained from the said records or files
17 or from any examination or inspection of the premises or property of
18 any person. Neither the director nor any employee engaged in such
19 administration or charged with the custody of any such records or
20 files shall be required to produce any of them for the inspection of
21 any person or for use in any action or proceeding except when the
22 records or files or the facts shown thereby are directly involved in an
23 action or proceeding under the provisions of the State Uniform Tax
24 Procedure Law or of the State tax law affected, or where the
25 determination of the action or proceeding will affect the validity or
26 amount of the claim of the State under some State tax law, or in any
27 lawful proceeding for the investigation and prosecution of any
28 violation of the criminal provisions of the State Uniform Tax
29 Procedure Law or of any State tax law.

30 b. The prohibitions of this section, against unauthorized
31 disclosure, use or examination by any present or former officer or
32 employee of this State or any other individual having custody of such
33 information obtained pursuant to the explicit authority of State law,
34 shall specifically include, without limitation, violations involving the
35 divulgence or examination of any information from or any copy of a
36 federal return or federal return information required by New Jersey
37 law to be attached to or included in any New Jersey return. Any
38 person violating this section by divulging, disclosing or using
39 information shall be guilty of a crime of the fourth degree. Any
40 person violating this section by examining records or files for any
41 reason other than a reason necessitated by the performance of official
42 duties shall be guilty of a disorderly persons offense.

43 c. Whenever records and files are used in connection with the
44 prosecution of any person for violating the provisions of this section
45 by divulging, disclosing or using records or files or examining
46 records and files for any reason other than a reason necessitated by
47 the performance of official duties, the defendant shall be given access
48 to those records and files. The court shall review such records and

1 files in camera, and that portion of the court record containing the
2 records and files shall be sealed by the court.

3 (cf: P.L.2019, c.367, s.1)

4

5 126. R.S.54:50-9 is amended to read as follows:

6 54:50-9. Nothing herein contained shall be construed to prevent:

7 a. The delivery to a taxpayer or the taxpayer's duly authorized
8 representative of a copy of any report or any other paper filed by the
9 taxpayer pursuant to the provisions of this subtitle or of any such
10 State tax law;

11 b. The publication of statistics so classified as to prevent the
12 identification of a particular report and the items thereof;

13 c. The director, in the director's discretion and subject to
14 reasonable conditions imposed by the director, from disclosing the
15 name and address of any licensee under any State tax law, unless
16 expressly prohibited by such State tax law;

17 d. The inspection by the Attorney General or other legal
18 representative of this State of the reports or files relating to the claim
19 of any taxpayer who shall bring an action to review or set aside any
20 tax imposed under any State tax law or against whom an action or
21 proceeding has been instituted in accordance with the provisions
22 thereof;

23 e. The examination of said records and files by the Comptroller,
24 State Auditor or State Commissioner of Finance, or by their
25 respective duly authorized agents;

26 f. The furnishing, at the discretion of the director, of any
27 information contained in tax reports or returns or any audit thereof or
28 the report of any investigation made with respect thereto, filed
29 pursuant to the tax laws, to the taxing officials of any other state, the
30 District of Columbia, the United States and the territories thereof,
31 providing said jurisdictions grant like privileges to this State and
32 providing such information is to be used for tax purposes only;

33 g. The furnishing, at the discretion of the director, of any
34 material information disclosed by the records or files to any law
35 enforcing authority of this State who shall be charged with the
36 investigation or prosecution of any violation of the criminal
37 provisions of this subtitle or of any State tax law;

38 h. The furnishing by the director to the State agency responsible
39 for administering the Child Support Enforcement program pursuant
40 to Title IV-D of the federal Social Security Act, Pub.L.93-647 (42
41 U.S.C. s.651 et seq.), with the names, home addresses, social security
42 numbers and sources of income and assets of all absent parents who
43 are certified by that agency as being required to pay child support,
44 upon request by the State agency and pursuant to procedures and in
45 a form prescribed by the director;

46 i. The furnishing by the director to the Board of Public Utilities
47 any information contained in tax information statements, reports or
48 returns or any audit thereof or a report of any investigation made with

- 1 respect thereto, as may be necessary for the administration of
2 P.L.1991, c.184 (C.54:30A-18.6 et al.) and P.L.1997, c.162
3 (C.54:10A-5.25 et al.);
- 4 j. The furnishing by the director to the Director of the Division
5 of Alcoholic Beverage Control in the Department of Law and Public
6 Safety any information contained in tax information statements,
7 reports or returns or any audit thereof or a report of any investigation
8 made with respect thereto, as may be relevant, in the discretion of the
9 director, in any proceeding conducted for the issuance, suspension or
10 revocation of any license authorized pursuant to Title 33 of the
11 Revised Statutes;
- 12 k. The inspection by the Attorney General or other legal
13 representative of this State of the reports or files of any tobacco
14 product manufacturer, as defined in section 2 of P.L.1999, c.148
15 (C.52:4D-2), for any period in which that tobacco product
16 manufacturer was not or is not in compliance with subsection a. of
17 section 3 of P.L.1999, c.148 (C.52:4D-3), or of any licensed
18 distributor as defined in section 102 of P.L.1948, c.65 (C.54:40A-2),
19 for the purpose of facilitating the administration of the provisions of
20 P.L.1999, c.148 (C.52:4D-1 et seq.);
- 21 l. The furnishing, at the discretion of the director, of
22 information as to whether a contractor or subcontractor holds a valid
23 business registration as defined in section 1 of P.L.2001, c.134
24 (C.52:32-44);
- 25 m. The furnishing by the director to a State agency as defined in
26 section 1 of P.L.1995, c.158 (C.54:50-24) the names of licensees
27 subject to suspension for non-payment of State tax indebtedness
28 pursuant to P.L.2004, c.58 (C.54:50-26.1 et al.);
- 29 n. The release to the United States Department of the Treasury,
30 Bureau of Financial Management Service, or its successor of relevant
31 taxpayer information for purposes of implementing a reciprocal
32 collection and offset of indebtedness agreement entered into between
33 the State of New Jersey and the federal government pursuant to
34 section 1 of P.L.2006, c.32 (C.54:49-12.7);
- 35 o. The examination of said records and files by the
36 Commissioner of Health and Senior Services, the Commissioner of
37 Human Services, the Medicaid Inspector General, or their respective
38 duly authorized agents, pursuant to section 5 of P.L.2007, c.217
39 (C.26:2H-18.60e), section 3 of P.L.1968, c.413 (C.30:4D-3), or
40 section 5 of P.L.2005, c.156 (C.30:4J-12);
- 41 p. The furnishing at the discretion of the director of employer
42 provided wage and tax withholding information contained in tax
43 reports or returns filed pursuant to N.J.S.54A:7-2, 54A:7-4 and
44 54A:7-7, to the designated municipal officer of a municipality
45 authorized to impose an employer payroll tax pursuant to the
46 provisions of Article 5 (Employer Payroll Tax) of the "Local Tax
47 Authorization Act," P.L.1970, c.326 (C.40:48C-14 et seq.), for the

1 limited purpose of verifying the payroll information reported by
2 employers subject to the employer payroll tax;

3 q. The furnishing by the director to the Commissioner of Labor
4 and Workforce Development of any information, including, but not
5 limited to, tax information statements, reports, audit files, returns, or
6 reports of any investigation for the purpose of labor market research
7 or assisting in investigations pursuant to any State wage, benefit or
8 tax law as enumerated in section 1 of P.L.2009, c.194 (C.34:1A-
9 1.11); or pursuant to P.L.1940, c.153 (C.34:2-21.1 et seq.).

10 r. The furnishing by the director to the New Jersey Economic
11 Development Authority any information contained in tax information
12 statements, reports or returns, or any audit thereof or a report of any
13 investigation made with respect thereto, as may be relevant to assist
14 the authority in the implementation of programs through which
15 grants, loans, tax credits, or other forms of financial assistance are
16 provided. The director shall provide to the New Jersey Economic
17 Development Authority, upon request, such information.

18

19 127. There is appropriated from the General Fund:

20 a. to the Main Street Recovery Fund, the sum of \$50,000,000 to
21 implement the provisions of sections 82 through 88 of P.L. ,
22 c. (C.) (pending before the Legislature as this bill)

23 b. to the Economic Development Authority, the sum of \$250,000
24 to implement the provisions of sections 99 through 105 of P.L. ,
25 c. (C.) (pending before the Legislature as this bill);

26 c. to the Economic Development Authority, the sum of \$250,000
27 to implement the provisions of sections 92 through 97 of P.L. ,
28 c. (C.) (pending before the Legislature as this bill); and

29 d. to the Economic Development Authority, the sum of
30 \$5,000,000 to be used to award competitive grants for zoning and
31 economic planning services in government-restricted municipalities
32 or economic redevelopment plans for distressed assets in other
33 municipalities.

34

35 128. This act shall take effect immediately.

36

37

38

STATEMENT

39

40 This bill, named the "New Jersey Economic Recovery Act of
41 2020" provides for administration of programs and policies related
42 to jobs, property development, food deserts, community partnerships,
43 small and early stage businesses, State procurement, wind energy,
44 and film production.

45 Sections 2-8 of the bill is the "Historic Property Reinvestment
46 Act" providing tax credits for part of the cost of rehabilitating historic
47 properties in this State.

1 Sections 9-19 of the bill is the "Brownfields Redevelopment
2 Incentive Program Act" providing tax credits to compensate
3 developers of redevelopment projects located on brownfield sites for
4 remediation costs.

5 Section 20-34 of the bill is the "New Jersey Innovation Evergreen
6 Act" auctioning tax credits for cash, which will be used to invest in
7 innovation as a catalyst for economic growth and to advance the
8 competitiveness of the State's businesses in the global economy.

9 Sections 35-42 of the bill is the "Food Desert Relief Act"
10 providing tax credits in order to incentivize businesses to establish
11 and retain new supermarkets and grocery stores in food desert
12 communities.

13 Sections 43-53 is the "New Jersey Community-Anchored
14 Development Act" providing tax credits to anchor institutions to
15 incentivize the expansion of targeted industries in the State and the
16 continued development of certain areas of the State.

17 Sections 54-67 is the "New Jersey Aspire Program Act" providing
18 tax credits to encourage redevelopment projects by covering certain
19 project financing gap costs.

20 Sections 68-81 is the "Emerge Program Act" providing tax credits
21 to encourage economic development, job creation, and the retention
22 of significant numbers of jobs in imminent danger of leaving the
23 State.

24 Sections 82-88 is the "Main Street Recovery Finance Program
25 Act" providing grants, loans, and loan guarantees to small businesses.

26 Sections 92-97 is the "New Jersey Ignite Act" a public-private
27 partnership providing start-up rent grants to collaborative
28 workspaces to support the early months of an early stage innovation
29 economy business's rent at the collaborative workspace.

30 Section 99-105 is the "Economic Development Authority
31 Integrity and Protection Act" to create an Office of the Economic
32 Development Inspector General, which will operate independent of
33 the oversight or management of the of the EDA, and to require
34 employment of Chief Compliance Officer to manage the Division of
35 Portfolio Management and Compliance in the EDA.

36 Sections 106-107 allow tax credits for new hires involved in the
37 manufacture of personal protective.

38 Sections 108-124 amend existing tax credit programs and
39 requirements.

ASSEMBLY APPROPRIATIONS COMMITTEE

STATEMENT TO

ASSEMBLY, No. 4

with committee amendments

STATE OF NEW JERSEY

DATED: DECEMBER 18, 2020

The Assembly Appropriations Committee reports favorably Assembly Bill No. 4, with committee amendments.

This bill, named the “New Jersey Economic Recovery Act of 2020,” provides for the administration of programs and policies related to jobs, property development, food deserts, community partnerships, small and early stage businesses, State procurement, wind energy, and film production, and makes an appropriation.

Sections 2-8 of the bill are the Historic Property Reinvestment program providing tax credits for part of the cost of rehabilitating historic properties in this State. Tax credits under this program are capped at \$50 million annually for six years.

Sections 9-19 of the bill are the Brownfields Redevelopment Incentive program providing tax credits to compensate developers of redevelopment projects located on brownfield sites for remediation costs. Tax credits under this program are capped at \$50 million annually for six years.

Section 20-34 of the bill are the New Jersey Innovation Evergreen program auctioning tax credits for cash, which will be used to invest in innovation as a catalyst for economic growth and to advance the competitiveness of the State’s businesses in the global economy. Tax credits under this program are capped at \$60 million annually for six years.

Sections 35-42 of the bill are the Food Desert Relief program providing tax credits in order to incentivize businesses to establish and retain new supermarkets and grocery stores in food desert communities. Tax credits under this program are capped at \$40 million annually for six years.

Sections 43-53 are the New Jersey Community-Anchored Development program providing tax credits to anchor institutions to incentivize the expansion of targeted industries in the State and the continued development of certain areas of the State. Tax credits under this program are capped at \$200 million annually for six years, but the \$200 million annual cap will be split so that up to \$130 million of tax credits will be for areas in the 13 northern counties of the State and \$70 million for areas in the eight southern counties.

Sections 54-67 are the New Jersey Aspire program providing tax credits to encourage redevelopment projects by covering certain project financing gap costs.

Sections 68-81 are the Emerge program providing tax credits to encourage economic development, job creation, and the retention of significant numbers of jobs in imminent danger of leaving the State.

Tax credits under the Aspire program combined with tax credits under the Emerge program are capped at \$1.1 billion annually for six years, but the \$1.1 billion annual cap will be split so that up to \$715 million of tax credits will be for projects located in the northern counties of the State and \$385 million for projects located in the southern counties. The \$1.1 billion cap does not apply to transformative projects. For transformative projects under the Aspire program and the Emerge program the combined credits over six years is capped at \$2.5 billion.

Sections 82-88 are the Main Street Recovery Finance program providing grants, loans, and loan guarantees to small businesses. The bill appropriates \$50 million for this program.

Section 89 allows the Director of Taxation to purchase unused tax credits.

Section 90 establishes a working group for the purpose of making recommendations for the establishment of entrepreneur zones throughout the State.

Section 91 grants preferences to businesses within the State with respect to bidders for a State contract to supply personal protective equipment.

Sections 92-97 are the New Jersey Ignite program, a public-private partnership providing start-up rent grants to collaborative workspaces to support the early months of an early stage innovation economy business's rent at the collaborative workspace. The bill appropriates \$250,000 for this program.

Section 98 sets the caps on tax credits for the programs in sections 2-81 of the bill, including an overall cap of \$11.5 billion for those programs, and allows a seventh year of tax credits under those programs for uncommitted credits.

Sections 99-105 create an Office of Economic Development Inspector General, and require employment of a Chief Compliance Officer to manage the Division of Portfolio Management and Compliance. The bill appropriates \$250,000 to implement these sections.

Sections 106-107 allow tax credits for hiring employees for the manufacture of personal protective equipment. Tax credits under these sections are capped at \$10 million annually for three years.

Section 108 allows deferrals, adjustments, and termination of incentive agreements for businesses affected by COVID-19.

Section 109 amends the Offshore Wind Economic Development Act, including to change eligibility requirements, disbursement of credits, and deadlines.

Sections 110-111 amend existing film tax credit provisions to include provisions for “New Jersey film partners” and “New Jersey film-lease partners,” and to allow an additional \$200 million of tax credits annually over 13 years.

Section 112 requires the Economic Development Authority (EDA) to adopt rules requiring that not less than the prevailing wage rate be paid to workers employed in connection with certain incentive programs.

Sections 113-114 make adjustments to the New Jersey Emerging Technology and Biotechnology Financial Assistance Program, including to increase the annual amount of tax benefits that the EDA may approve for transfer between corporations.

Section 115 allows the EDA to purchase and lease real property.

Section 116 modifies and expands what the EDA’s Economic Recovery Fund’s money may be used for.

Sections 117-119 make adjustments to the New Jersey Angel Investor Tax Credit Act, including to increase the annual tax credit cap from \$25 million to \$35 million and to add provisions for venture funds.

Sections 120-121 make adjustments to the Grow New Jersey Assistance Program, including to amend the definition of “incentive effective date.”

Section 122-124 amend the Economic Redevelopment and Growth Grant Program, including to extend deadlines and allow an additional \$220 million of tax credits to be awarded.

Sections 125-126 amend existing law to allow the Division of Taxation to share relevant taxpayer data with the EDA.

Section 127 appropriates \$55.5 million, which includes the appropriations mentioned above for implementing sections 82-88, 92-97, and 99-105, as well as \$5 million to award grants for zoning and economic planning services or economic redevelopment plans.

COMMITTEE AMENDMENTS:

The committee amended the bill to:

- adjust the cap structure set forth in section 98 for the programs in sections 2-81, including to allow for a seventh year of tax credits if the overall cap has not been met through six years, and to maintain the tax credit allocation between northern and southern counties over six years, instead of three, for the Community-Anchored Development, Aspire, and Emerge programs;
- change the wage requirements under various incentive programs;
- adjust the eligibility and factors considered for tax credits under the Brownfields program;
- require a commitment to accept benefits from federal nutrition assistance programs to be eligible for tax credits under the Food Desert Relief program, and to include supermarkets and grocery stores in the Food Desert Relief program;
- include partner anchor-institutions in the Community-Anchored Development program;

- modify the affordable housing requirements for a residential project to qualify for an incentive award under the Aspire program;
- modify the tax credit application process under the Aspire program;
- limit the requirement for developers to enter into community benefits agreements under the Aspire and Emerge programs to redevelopment projects costing \$10 million or more and have not submitted a copy of the project agreement certified by the municipality in which the project is located;
- increase the maximum number of transformative projects that may be awarded under the Aspire program from seven to 10;
- for the Emerge program: allow a bonus tax credit if one-third or more of the members of the developer's governing board or other governing body self-identify as members of an underrepresented community; include provisions for "enhanced areas" and modify the structure of the base tax credit award amounts; and modify the bonus credit for businesses that enter into a labor harmony agreement;
- adjust the film tax credits, including to extend annual tax credits allowed for "New Jersey film partners" and "New Jersey film-lease partners" to June 30, 2033 from June 30, 2028; and
- make other adjustments, including to modify some definitions and make technical corrections.

FISCAL IMPACT:

The Office of Legislative Services (OLS) notes that this bill authorizes: up to \$11.5 billion of tax credits over seven years for new incentive programs in sections 2-81; up to \$2.6 billion of film tax credits over 13 years in sections 110-111; up to \$220 million of tax credits under the Economic Redevelopment and Growth Grant program for certain project applications submitted prior to December 31, 2021 in sections 122-124; up to \$30 million over three years for hiring employees for the manufacture of personal protective equipment in sections 106-107. The bill also increases the angel investor tax credit cap from \$25 to \$35 million annually in sections 117-119. Finally, the OLS notes that the bill appropriates \$55.5 million to support various programs and administrative functions established by the bill.

LEGISLATIVE FISCAL ESTIMATE

[First Reprint]

ASSEMBLY, No. 4

STATE OF NEW JERSEY 219th LEGISLATURE

DATED: DECEMBER 24, 2020

SUMMARY

- Synopsis:** "New Jersey Economic Recovery Act of 2020"; provides for administration of programs and policies related to jobs, property development, food deserts, community partnerships, small and early stage businesses, State procurement, wind energy, and film production, and makes an appropriation.
- Type of Impact:** Indeterminate fiscal net impact on State General Fund and Property Tax Relief Fund; potential revenue increase to certain local governments.
- Agencies Affected:** Department of Agriculture.
Department of Community Affairs.
Department of Labor and Workforce Development.
Department of the Treasury.
New Jersey Economic Development Authority.
Certain Local Governments.

Office of Legislative Services Estimate

Fiscal Impact	Multi-Year Lifespan of Incentive Awards
State Expenditure Increase	\$55,500,000
Direct State Revenue Loss	Up to \$14,400,000,000
Indirect State Revenue Gain	Indeterminate
State Opportunity Cost	Indeterminate
Indirect Local Revenue Gain	Indeterminate
Local Opportunity Cost	Indeterminate

- The Office of Legislative Services (OLS) is unable to ascertain whether the bill will have a positive or negative fiscal net impact on the State because of imperfect information on the number and attributes of projects that will receive incentives as a result of the bill's enactment.

- The State fiscal net impact is calculated by adding the indeterminate direct revenue loss from awarding additional incentive amounts and their indeterminate opportunity costs (the fiscal benefits the State forgoes as spending is redirected from one economic activity to another) and subtracting from that sum the indeterminate indirect revenue gain that will accrue from additional economic activity that the additional incentive amounts will catalyze.
- The bill may produce a direct State revenue loss of as much as \$14.4 billion, over a multi-year period, from newly established incentive programs and enhancements to existing ones.
- State expenditures will increase by \$55.5 million reflecting appropriations to support certain programs and administrative operations.
- The bill might accrue an indeterminate revenue gain to certain local governments if the bill results in the New Jersey Economic Development Authority (EDA) extending financial assistance to projects that would not be undertaken absent the assistance and if the projects involve value-increasing improvements to taxable real estate.

BILL DESCRIPTION

This bill authorizes up to \$11.5 billion in new economic development incentives over a seven-year period, allocated among seven separate programs. The table below summarizes key fiscal aspects of each program.

Program	Historic Property Reinvestment	Brownfield Redevelopment Incentive Program	New Jersey Innovation Evergreen	Food Desert Relief	New Jersey Community-Anchored Development	New Jersey Aspire and Emerge Programs
Limits	\$50 million annually	\$50 million annually	\$60 million annually; \$300 million total	\$40 million annually	\$200 million annually	\$1.1 billion annually (split)
Refundability	Non-refundable	Non-refundable	Non-refundable	Non-refundable	N/A	Non-refundable
Carry Forward	9 years	None	7 years	10 years	None	Varies
Transfer Certificate	Yes	Yes	Yes	No	Yes	Yes
Net Benefit Test	No	No	N/A	No	Yes	Yes
Recapture of Credits	Yes	Yes	N/A	Yes	Yes	Yes
Reporting Requirements	Yes	Yes	Yes	Yes	Yes	Yes

The bill authorizes the Director of the Division of Taxation to purchase unused tax credits from these programs as well as certain Grow New Jersey Assistance Program and State Economic Redevelopment and Growth Grant program incentives.

The bill establishes the Main Street Recovery Finance program providing grants, loans, and loan guarantees to small businesses. The bill appropriates \$50 million for this program.

The bill establishes the New Jersey Ignite program, a public-private partnership providing start-up rent grants to collaborative workspaces to support the early months of an early-stage innovation economy business's rent at the collaborative workspace. The bill appropriates \$250,000 for this program.

The bill provides tax credits for hiring employees for the manufacture of personal protective equipment capped at \$10 million annually for three years.

The bill increase the film tax credit caps by \$2.6 billion over 13 fiscal years.

The bill extends Economic Redevelopment and Growth Grant Program deadlines and allows an additional \$220 million of tax credits to be awarded under that program.

The bill adjusts the New Jersey Emerging Technology and Biotechnology Financial Assistance Program, including to increase the annual amount of tax benefits that the EDA may approve for transfer between corporations. The bill also revises the New Jersey Angel Investor Tax Credit Act, including to increase the annual tax credit cap from \$25 million to \$35 million and to add provisions for venture funds.

The bill establishes a working group for the purpose of making recommendations for the establishment of entrepreneur zones throughout the State.

The bill creates an Office of Economic Development Inspector General, requires employment of a Chief Compliance Officer to manage the Division of Portfolio Management and Compliance, and appropriates \$250,000 for these purposes.

The bill appropriates \$5 million to the EDA to fund zoning and planning grants in government-restricted municipalities and economic development plans for distressed assets in other municipalities.

The bill makes various changes to existing incentive programs, including, but not limited to, eligibility requirements, deadline extensions, and the disbursement of credit awards.

The Assembly Appropriations Committee statement to this bill from December 18, 2020 includes a more detailed discussion of the provisions of the proposed legislation.

FISCAL ANALYSIS

EXECUTIVE BRANCH

None received.

OFFICE OF LEGISLATIVE SERVICES

The OLS is unable to ascertain whether the bill will have a positive or negative fiscal net impact on the State because of imperfect information on the number and attributes of projects that will receive incentives as a result of the bill's enactment.

The bill may produce a direct State revenue loss of as much as \$14.4 billion, over a multi-year period, from newly established incentive programs and enhancements to existing ones. In addition, State expenditures will increase by \$55.5 million reflecting appropriations to support certain programs and administrative operations.

The bill is likely to produce a revenue gain for certain local governments if the bill results in the EDA extending financial assistance to projects that would not be undertaken absent the assistance and if the projects involve value-increasing improvements to taxable real estate.

Conceptually, the State fiscal net impact is calculated by adding the direct revenue loss from awarding additional incentive amounts and their opportunity costs (the fiscal benefits the State forgoes as spending is redirected from one economic activity to another) and subtracting from that sum the indirect revenue gain that will accrue from additional economic activity that the additional incentive amounts will catalyze.

Direct State Revenue Loss: The OLS cannot quantify the precise direct revenue loss the bill will impose on the State, but notes that incentive awards across all programs either newly established or modified by the bill will be largely capped at approximately \$14.4 billion and temporally limited. The revenue reduction from any financial assistance may extend past the years allotted for each program, however, as carry forward provisions and tax credit transfer certificates may be redeemable outside that timeframe. The OLS further notes that the bill allow the EDA to recapture or rescind incentive awards under certain circumstances. Those provisions may offset, at least in part, future revenue losses.

Indirect State and Local Revenue Gain: Imperfect information on the number and attributes of projects that, under the bill, might newly qualify for incentive awards precludes the OLS from quantifying the bill's indirect revenue gain to the State and local governments. For reasons laid out below, the OLS cannot project whether the bill's indirect fiscal State benefits will exceed its direct State revenue loss.

Analytical Framework: Like any government expenditure, economic development incentive awards inject new spending into the economy. Once businesses and individuals receive payments that would otherwise not be received absent the incentive awards, at least a portion of these payments will newly circulate in New Jersey's economy and produce so-called "multiplier effects." As the additional financial resources flow through the economy they generate, as a byproduct, additional State and local revenue collections—the indirect revenue gain discussed in this section. Examples are enhanced local property tax collections accruing when an incentive recipient invests the incentive amount in business facility improvements, which then appreciate the property's value; or additional State sales and use tax collections from construction workers employed in a business facility improvement spending their resultant income on taxable goods and services.

Indirect State fiscal effects offset the State's direct revenue loss from awarding incentives in part or potentially even in whole. Fiscal "multiplier effects" tend to be maximized whenever an incentive award serves as the indispensable impetus for additional spending by the incentive recipient that would not otherwise occur. In this case, the incentive recipient magnifies the positive economic and fiscal impacts of the State's outlay. Depending on project and incentive attributes, the induced project may even yield indirect fiscal State benefits exceeding the subsidy amount. The larger the proportion of the public assistance relative to the financial outlay by the subsidized party, however, the lower the probability that the subsidized activity will generate positive net returns to the State.

In contrast, the State's return on investment is negative whenever the State subsidizes a project that a taxpayer will undertake with or without the public assistance. Because the financial inducement has not caused the project's realization, none of its economic and fiscal feedback effects are attributable to the incentive, and therefore must be excluded from the tabulation of the incentive's indirect fiscal benefits.

Nevertheless, even if the State provides financial assistance to a project that would be realized anyway, some, albeit comparatively small, indirect fiscal benefits may still accrue to the State. These would occur whenever the subsidy beneficiary spends the incentive award in New Jersey on goods and services that the beneficiary would otherwise not have procured. In that event the

incentive award still represents an injection of additional cash into New Jersey's economy whose ripple effects include the accumulation of indirect fiscal State benefits.

Lastly, given the high degree of integration of New Jersey's economy with the national and global economies, an addition of spending in New Jersey will eventually leak into other jurisdictions and cease to circulate within the State. Consequently, any tabulation of a subsidy payment's New Jersey feedback effects must disregard feedback effects that other jurisdictions will absorb. For example, a Pennsylvania resident who works as a carpenter on a subsidized redevelopment project in New Jersey will pay Pennsylvania, and not New Jersey, income tax on the compensation earned in accordance with the State of New Jersey and the Commonwealth of Pennsylvania Reciprocal Personal Income Tax Agreement.

Bill's State Indirect Fiscal Effects: It is unclear whether the bill's indirect fiscal State benefits will exceed its direct State revenue loss.

The OLS expects this bill to lead to the EDA issuing additional incentive awards under both new and existing incentive programs. It is uncertain, however, whether the additional incentive awards will generate indirect fiscal benefits to the State that will exceed the direct State revenue loss resulting from those incentive awards. For two reasons, however, the OLS expects that the indirect fiscal benefits may be less than the direct State revenue loss. First, not all of the EDA's financial assistance programs addressed in this bill are subject to some form of a net benefit test calculation. The traditional calculation is intended to ensure that the EDA will award incentives only to capital projects that are estimated to generate indirect State revenue equal to at least 110 percent of an inducement's direct State revenue loss. However, some programs alter that net benefit test requirement or exclude it entirely. In addition, not all of the programs require that the financial assistance be instrumental to project execution. As a result, the bill allows for projects to receive financial assistance that will happen irrespective of the receipt of the State assistance. Whenever that happens, none of a project's indirect fiscal benefits can be causally attributed to the assistance.

But the OLS points out that it is possible that incentive-receiving projects that will not have been induced by the incentive programs may generate some indirect fiscal State benefits. This would occur whenever recipients of such incentives spend their incentive awards in New Jersey on goods and services that they would not have procured absent the incentive award.

Irrespective of the magnitude of the bill's indirect fiscal benefits, the analysis of its full impact on State finances is incomplete without considering the bill's opportunity costs.

State Opportunity Costs: Given the State's finite resources and its balanced budget requirement, the decision to pursue new incentive programs as well as enhance existing incentive programs will invariably divert resources from policy alternatives to which they would have been applied absent the inducements. These policy alternatives also produce direct State costs and indirect State revenue collections. The concept of opportunity costs captures the value of these fiscal benefits the State foregoes as it redirects cash flows. Once opportunity costs are factored into the analysis, it is therefore possible for a bill to produce a *net* fiscal loss to the State even if its indirect fiscal benefits exceed its direct cost.

For example, if, instead of this bill, the State invested in road construction the bill would produce a *net* fiscal effect equal to the difference between the total fiscal impact of the additional incentive awards—or the direct State revenue loss from awarding the additional incentives minus the additional incentives' indirect State fiscal effects—and that of the foregone road construction investment.

Section: Revenue, Finance and Appropriations

*Analyst: Jordan M. DiGiovanni
Revenue Analyst*

*Approved: Thomas Koenig
Assistant 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. 3295

STATE OF NEW JERSEY 219th LEGISLATURE

INTRODUCED DECEMBER 16, 2020

Sponsored by:

Senator M. TERESA RUIZ

District 29 (Essex)

Senator PAUL A. SARLO

District 36 (Bergen and Passaic)

SYNOPSIS

"New Jersey Economic Recovery Act of 2020"; provides for administration of programs and policies related to jobs, property development, food deserts, community partnerships, small and early stage businesses, State procurement, wind energy, and film production, and makes an appropriation.

CURRENT VERSION OF TEXT

As introduced.



(Sponsorship Updated As Of: 12/17/2020)

S3295 RUIZ, SARLO

2

1 AN ACT concerning State economic development policy, and
2 amending and supplementing various parts of the statutory law,
3 and making an appropriation.

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

7
8 1. (New section) P.L. , c. (C.) (pending before the
9 Legislature as this bill) shall be known and may be cited as the "New
10 Jersey Economic Recovery Act of 2020."

11
12 2. (New section) Sections 2 through 8 of P.L. , c. (C.)
13 (pending before the Legislature as this bill) shall be known and may
14 be cited as the "Historic Property Reinvestment Act."

15
16 3. (New section) As used in sections 2 through 8 of P.L. , c.
17 (C.) (pending before the Legislature as this bill):

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

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

24 "Cost of rehabilitation" means the consideration given, valued in
25 money, whether given in money or otherwise, for the materials and
26 services which constitute the rehabilitation.

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

29 "Income producing property" means a structure or site that is used
30 in a trade or business or to produce rental income.

31 "New Jersey S corporation" means the same as the term is defined
32 in section 12 of P.L.1993, c.173 (C.54A:5-10).

33 "Officer" means the State Historic Preservation Officer or the
34 official within the State designated by the Governor or by statute in
35 accordance with the provisions of chapter 3023 of Title 54, United
36 States Code (54 U.S.C. s.302301 et seq), to act as liaison for the
37 purpose of administering historic preservation programs in the State.

38 "Partnership" means an entity classified as a partnership for
39 federal income tax purposes.

40 "Project financing gap" means the part of the total cost of
41 rehabilitation, including reasonable and appropriate return on
42 investment, that remains to be financed after all other sources of
43 capital have been accounted for, including, but not limited to,
44 developer contributed capital, which shall not be less than 20 percent
45 of the total cost of rehabilitation, and investor or financial entity

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

Matter underlined thus is new matter.

1 capital or loans for which the developer, after making all good faith
2 efforts to raise additional capital, certifies that additional capital
3 cannot be raised from other sources.

4 "Property" means a structure, including its site improvements and
5 landscape features, assessed as real property, and used for: a
6 commercial purpose; a residential rental purpose, provided the
7 structure contains at least four dwelling units; or any combination
8 thereof.

9 "Qualified property" means a property located in the State of New
10 Jersey that is an income producing property, and that is:

11 (a) (i) individually listed, or located in a district listed on the
12 National Register of Historic Places in accordance with the with the
13 provisions of chapter 3021 of Title 54, United States Code (54 U.S.C.
14 s.302101 et seq.), or on the New Jersey Register of Historic Places
15 pursuant to P.L.1970, c.268 (C.13:1B-15.128 et seq.), or individually
16 designated, or located in a district designated, by the Pinelands
17 Commission as a historic resource of significance to the Pinelands in
18 accordance with the Pinelands comprehensive management plan
19 adopted pursuant to the "Pinelands Protection Act," P.L.1979, c.111
20 (C.13:18A-1 et seq.), and

21 (ii) if located within a district, certified by either the officer or the
22 Pinelands Commission, as appropriate, as contributing to the historic
23 significance of the district; or

24 (b) (i) individually identified or registered, or located in a district
25 composed of properties identified or registered, for protection as
26 significant historic resources in accordance with criteria established
27 by a municipality in which the property or district is located if the
28 criteria for identification or registration has been approved by the
29 officer as suitable for substantially achieving the purpose of
30 preserving and rehabilitating buildings of historic significance within
31 the jurisdiction of the municipality, and

32 (ii) if located within a district, certified by the officer as
33 contributing to the historic significance of the district.

34 "Rehabilitation" means the repair or reconstruction of the exterior
35 or interior of a qualified property or transformative project to make
36 an efficient contemporary use possible while preserving the portions
37 or features of the property that have significant historical,
38 architectural, and cultural values.

39 "Rehabilitation of the interior of the qualified property or
40 transformative project" means the repair or reconstruction of the
41 structural or substrate components and electrical, plumbing, and
42 heating components within the interior of a qualified property or
43 transformative project.

44 "Selected rehabilitation period" means a period of 24 months if
45 the beginning of such period is chosen by the business entity during
46 which, or parts of which, a rehabilitation is occurring, or a period of
47 60 months if a rehabilitation is reasonably expected to be completed
48 in distinct phases set forth in written architectural plans and

1 specifications completed before or during the physical work on the
2 rehabilitation.

3 “Transformative project” means a property that is:

4 (a) an income producing property, not including a residential
5 property, whose rehabilitation the authority determines will generate
6 substantial increases in State revenues through the creation of
7 increased business activity within the surrounding area;

8 (b) individually listed on the New Jersey Register of Historic
9 Places pursuant to P.L.1970, c.268 (C.13:1B-15.128 et seq.) and
10 which, before the enactment of P.L. , c. (C.) (pending before
11 the Legislature as this bill), received a Determination of Eligibility
12 from the Keeper of the National Register of Historic Places in
13 accordance with the provisions of Part 60 of Title 36 of the Code of
14 Federal Regulations;

15 (c) located within a one-half mile radius of the center point of a
16 transit village, as designated by the New Jersey Department of
17 Transportation; and

18 (d) located within a city of the first class, as classified under
19 N.J.S.40A:6-4.

20

21 4. (New section) a. (1)A business entity, upon successful
22 application to the New Jersey Economic Development Authority, and
23 commitment to the authority to pay each worker employed to perform
24 construction work at the qualified property or transformative project
25 a wage not less than the prevailing wage rate for the worker’s craft
26 or trade, as determined by the Commissioner of Labor and Workforce
27 Development pursuant to P.L.1963, c.150 (C.34:11-56.25 et seq.),
28 shall be allowed a credit against the tax otherwise due pursuant to
29 section 5 of P.L.1945, c.162 (C.54:10A-5), the tax imposed on
30 insurers generally pursuant to P.L.1945, c.132 (C.54:18A-1 et. seq.),
31 or the tax imposed on marine insurance companies pursuant to
32 R.S.54:16-1 et. seq., for 40 percent of the cost of rehabilitation paid
33 by the business entity for the rehabilitation of a qualified property or
34 transformative project, if the cost of rehabilitation during a business
35 entity’s selected rehabilitation period is not less than the greater of
36 (1) the adjusted basis of the structure of the qualified property or
37 transformative project used for federal income tax purposes as of the
38 beginning of the business entity’s selected rehabilitation period, or
39 (2) \$5,000. The amount of the credit claimed in any accounting or
40 privilege period shall not reduce the amount of the tax liability to less
41 than the statutory minimum provided in subsection (e) of section 5 of
42 P.L.1945, c.162 (C.54:10A-5).

43 (2) The prevailing wage requirements shall apply to projects that
44 are allowed a tax credit in excess of \$500,000, and shall apply at a
45 qualified property or transformative project during the selected
46 rehabilitation period. In the event a qualified property or
47 transformative project, or the aggregate of all qualified properties and
48 transformative projects approved for awards under the program,

1 constitute a lease of more than 55 percent of a facility, the prevailing
2 wage requirements shall apply to the entire facility.

3 (3) Prior to approval of an application by the authority, the
4 Department of Labor and Workforce Development, the Department
5 of Environmental Protection, and the Department of the Treasury
6 shall each report to the authority whether the business entity is in
7 substantial good standing with the respective department, or has
8 entered into an agreement with the respective department that
9 includes a practical corrective action plan for the business entity. The
10 authority may also contract with an independent third party to
11 perform a background check on the business entity. Following
12 approval of an application by the authority, but prior to the start of
13 any construction or rehabilitation at the qualified property or
14 transformative project, the authority shall enter into a rehabilitation
15 agreement with the business entity. The authority shall negotiate the
16 terms and conditions of the rehabilitation agreement on behalf of the
17 State, but the terms shall require the business entity to consent to the
18 disclosure of tax expenditure information as described in paragraph
19 (8) of subsection b. of section 1 of P.L.2009, c.189 (C.52:27B-20a).

20 (4) A rehabilitation project shall be eligible for a tax credit only
21 if the business entity demonstrates to the authority at the time of
22 application that:

23 (a) without the tax credit, the rehabilitation project is not
24 economically feasible; and

25 (b) a project financing gap exists.

26 b. A business entity may claim a credit under this section during
27 the accounting or privilege period: (1) in which it makes the final
28 payment for the cost of the rehabilitation if the business entity has
29 chosen a selected rehabilitation period of 24 months; or (2) in which
30 a distinct project phase of the rehabilitation is completed if the
31 business entity has chosen a selected rehabilitation period of 60
32 months. The credit may be claimed against any State tax, listed in
33 paragraph (1) of subsection a. of this section, liability otherwise due
34 after any other credits permitted pursuant to law have been applied.
35 The amount of credit claimed in an accounting or privilege period
36 that cannot be applied for that accounting or privilege period due to
37 limitations in this section may be transferred pursuant to section 5 of
38 P.L. , c. (C.) (pending before the Legislature as this bill) or
39 carried over, if necessary, to the nine accounting or privilege periods
40 following the accounting or privilege period for which the credit was
41 allowed.

42 c. A business entity shall submit to the authority satisfactory
43 evidence of the actual cost of rehabilitation, as certified by a certified
44 public accountant, evidence of completion of the rehabilitation or
45 phase, and a certification that all information provided by the
46 business entity to the authority is true, including information
47 contained in the application, the rehabilitation agreement, any
48 amendment to the rehabilitation agreement, and any other

1 information submitted by the business entity to the authority pursuant
2 to sections 2 through 8 of P.L. , c. (C.) (pending before the
3 Legislature as this bill). The business entity, or an authorized agent
4 of the business entity, shall certify under the penalty of perjury that
5 the information provided pursuant to this subsection is true.

6
7 5. (New section) a. The authority shall, in cooperation with the
8 director, establish and administer a corporation business tax credit
9 transfer certificate program and an insurance premiums tax credit
10 transfer certificate program to enable business entities with unused,
11 otherwise allowable amounts of tax credits issued pursuant to
12 sections 2 through 8 of P.L. , c. (C.) (pending before the
13 Legislature as this bill) to exchange these credits, in whole or in part,
14 for private financial assistance prior to the expiration of the tax
15 credit.

16 A certificate issued by the director shall include a statement
17 waiving the rights of the business entity to which the tax credit has
18 been granted to claim any amount of remaining credit against any tax
19 liability.

20 b. A business entity holding an unused, otherwise allowable tax
21 credit issued pursuant to sections 2 through 8 of P.L. , c. (C.)
22 (pending before the Legislature as this bill) may apply to the director
23 for a tax credit transfer certificate pursuant to subsection a. of this
24 section. Upon receipt thereof, the business entity may sell or assign,
25 in full or in part, the tax credit transfer certificate to another taxpayer
26 in exchange for private financial assistance to be provided by the
27 purchaser or assignee of the tax credit transfer certificate to the seller
28 thereof. The developer shall not sell a tax credit transfer certificate
29 allowed under this section for consideration received by the
30 developer of less than 85 percent of the transferred credit amount
31 before considering any further discounting to present value which
32 shall be permitted, except a developer of a residential project
33 consisting of newly-constructed residential units that has received
34 federal low income housing tax credits under 26 U.S.C.
35 s.42(b)(2)(B)(i) may assign a tax credit transfer certificate for
36 consideration of no less than 75 percent subject to the submission of
37 a plan to the authority and the New Jersey Housing and Mortgage
38 Finance Agency to use the proceeds derived from the assignment of
39 tax credits to complete the residential project. The purchaser or
40 assignee of the tax credit transfer certificate may apply the face value
41 of the tax credit transfer certificate acquired against the purchaser's
42 or assignee's applicable tax liability by claiming the tax credit on the
43 purchaser's or assignee's corporation business tax or insurance
44 premiums tax return with the corresponding tax credit transfer
45 certificate accompanying the tax return. A purchaser or assignee of
46 a tax credit transfer certificate pursuant to this section shall not make
47 any subsequent transfers, assignments, or sales of the tax credit
48 transfer certificate.

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

- 4 (1) the name of the transferor;
- 5 (2) the name of the transferee;
- 6 (3) the value of the tax credit transfer certificate;
- 7 (4) the State tax against which the transferee may apply the tax
8 credit; and
- 9 (5) the consideration received by the transferor.

10
11 6. (New section) a. The authority shall, in consultation with the
12 officer and the director, promulgate rules and regulations in
13 accordance with the "Administrative Procedure Act," P.L.1968,
14 c.410 (C.52:14B-1 et seq.), as the officer deems necessary to
15 administer the provisions of sections 2 through 8 of P.L. , c.
16 (C.) (pending before the Legislature as this bill), including but
17 not limited to rules establishing administrative fees to implement the
18 provisions of sections 2 through 8 of P.L. , c. (C.) (pending
19 before the Legislature as this bill), setting of an annual application
20 submission date, requiring annual reporting by each business entity
21 that receive a tax credit pursuant to sections 2 through 8 of P.L. , c.
22 (C.) (pending before the Legislature as this bill), and requiring
23 those reports to include certifications by the Department of Labor and
24 Workforce Development, the Department of Environmental
25 Protection, and the Department of the Treasury that the business
26 entity, and any contractors or subcontractors performing work at the
27 qualified property or transformative project, are in substantial good
28 standing with the respective department, or has entered into an
29 agreement with the respective department that includes a practical
30 corrective action plan for the business entity. The rules and
31 regulations adopted pursuant to this section shall also include a
32 provision to require that business entities forfeit all tax credits
33 awarded in any year in which any such report is not received, and to
34 allow the authority to extend, in individual cases, the deadline for any
35 annual reporting or certification requirement established pursuant to
36 this section.

37 b. For every tax credit allowed pursuant to section 4 of P.L. ,
38 c. (C.) (pending before the Legislature as this bill), the
39 authority, in consultation with the officer, shall certify to the director:
40 the total cost of rehabilitation; that the property meets the definition
41 of qualified property or transformative project, as applicable; and that
42 the rehabilitation has been completed in substantial compliance with
43 the requirements of the Secretary of the Interior's Standards for
44 Rehabilitation pursuant to section 67.7 of Title 36, Code of Federal
45 Regulations. The business entity shall attach the certification to the
46 tax return on which the business entity claims the credit.

47 c. (1) The total amount of credits approved by the authority
48 pursuant to sections 2 through 8 of P.L. , c. (C.) (pending

1 before the Legislature as this bill) shall not exceed the limitations set
2 forth in section 98 of P.L. , c. (C.) (pending before the
3 legislature as this bill).. If the authority approves less than the total
4 amount of tax credits authorized pursuant to this subsection in a fiscal
5 year, the remaining amount, plus any amounts remaining from
6 previous fiscal years, shall be added to the limit of subsequent fiscal
7 years until that amount of tax credits are claimed or allowed. Any
8 unapproved, uncertified, or recaptured portion of tax credits during
9 any fiscal year may be carried over and reallocated in succeeding
10 years.

11 (2) Notwithstanding the provisions of paragraph (1) of this
12 subsection and section 98 of P.L. , c. (C.) (pending before
13 the legislature as this bill) to the contrary, the authority may approve
14 tax credits, pursuant to sections 2 through 8 of P.L. , c. (C.)
15 (pending before the Legislature as this bill), for the rehabilitation of
16 a transformative project in an amount that causes the total amount of
17 credits approved during the fiscal year to exceed the limitations set
18 forth in section 98 of P.L. , c. (C.) (pending before the
19 legislature as this bill), provided that the amount of the excess shall
20 be subtracted from the total amount of credits that may be approved
21 by the authority in the subsequent fiscal year, and the amount of the
22 excess shall not exceed 50 percent of the total tax credits otherwise
23 authorized for the fiscal year.

24 The authority, in consultation with the officer, shall devise criteria
25 for allocating tax credit amounts if the approved amounts combined
26 exceed the total amount in each fiscal year, including rules that
27 allocate over multiple fiscal years a single credit amount granted in
28 excess of \$2,000,000. The criteria shall include a project's historic
29 importance, positive impact on the surrounding neighborhood,
30 economic sustainability, geographic diversity, and consistency with
31 Statewide growth and development policies and plans.

32
33 7. (New section) a. The authority, in collaboration with the
34 director, shall adopt rules for the recapture of an entire or partial tax
35 credit amount allowed under sections 2 through 8 of P.L. ,
36 c. (C.) (pending before the Legislature as this bill). The rules
37 shall require the authority to notify the director of the recapture of an
38 entire or partial tax credit amount. The recapture of funds shall be
39 subject to the State Uniform Tax Procedure Law, R.S.54:48-1 et seq.
40 and recaptured funds shall be deposited in the General Fund of the
41 State.

42 b. If, before the end of five full years after the completion of the
43 rehabilitation of the qualified property or transformative project, a
44 developer that has received a tax credit pursuant to section 4 of
45 P.L. , c. (C.) (pending before the Legislature as this bill)
46 modifies the qualified property or transformative project so that it
47 ceases to meet the requirements for the rehabilitation of a qualified
48 property or transformative project as defined under the program or

1 ceases to meet the requirement of the rehabilitation agreement then
2 the tax credit allowed under the program shall be recaptured in
3 accordance with the rules adopted pursuant to subsection a. of this
4 section.

5 c. In the case of a business entity that has chosen a selected
6 rehabilitation period of 60 months, if the architectural plans change
7 in the course of the phased rehabilitation project so that the
8 rehabilitation of the qualified property or transformative project
9 would, upon the rehabilitation's completion, no longer qualify for a
10 tax credit pursuant to the requirements of sections 2 through 8 of
11 P.L. , c. (C.) (pending before the Legislature as this bill),
12 then the business entity's tax liability for that accounting or privilege
13 period shall be increased by the full amount of the tax credit that the
14 authority had previously granted upon the completion of a distinct
15 prior project phase that the business entity has applied against its tax
16 liability in a prior accounting or privilege period. Any portion of the
17 tax credit that the business entity has not yet used at the time of the
18 disallowance by the officer shall be deemed void.

19

20 8. (New section) On or before December 31 of the fourth year
21 following the effective date of sections 2 through 8 of P.L. , c.
22 (C.) (pending before the Legislature as this bill), the authority,
23 in consultation with the officer and the director, shall prepare and
24 submit a written report regarding the number and total monetary
25 amount of tax credits granted for the rehabilitation of qualified
26 properties or transformative projects pursuant to section 4 of P.L. ,
27 c. (C.) (pending before the Legislature as this bill), the
28 geographical distribution of the credits granted, a summary of the tax
29 credit transfer program established pursuant to section 5 of P.L. ,
30 c. (C.) (pending before the Legislature as this bill), an
31 evaluation of the effectiveness of the tax credits provided pursuant to
32 sections 2 through 8 of P.L. , c. (C.) (pending before the
33 Legislature as this bill) in promoting the rehabilitation of historic
34 properties, recommendations for administrative or legislative
35 changes to increase the effectiveness of the program, and any other
36 information that the authority, the officer, or the director may deem
37 useful or appropriate. This report shall be submitted to the Governor
38 and, pursuant to section 2 of P.L.1991, c.164 (C.52:14-19.1), to the
39 Legislature.

40

41 9. (New section) Sections 9 through 19 of P.L. , c. (C.)
42 (pending before the Legislature as this bill) shall be known and may
43 be cited as the "Brownfields Redevelopment Incentive Program Act."
44

45 10. (New section) As used in sections 9 through 19 of P.L. , c.
46 (C.) (pending before the Legislature as this bill):

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

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

4 "Brownfield site" means any former or current commercial or
5 industrial site that is currently vacant or underutilized and on which
6 there has been, or there is suspected to have been, a discharge of a
7 contaminant or on which there is a contaminated building.

8 "Contaminated building" means a structure upon which abatement
9 or removal of asbestos, polychlorinated biphenyls, contaminated
10 wood or paint, or other infrastructure remedial activities is necessary.

11 "Contamination" or "contaminant" means any discharged
12 hazardous substance as defined pursuant to section 3 of P.L.1976,
13 c.141 (C.58:10-23.11b), hazardous waste as defined pursuant to
14 section 1 of P.L.1976, c.99 (C.13:1E-38), pollutant as defined
15 pursuant to section 3 of P.L.1977, c.74 (C.58:10A-3), or hazardous
16 building material, including, but not limited to, asbestos, lead paint,
17 and polychlorinated biphenyl.

18 "Department" means the Department of Environmental
19 Protection.

20 "Developer" means any person that enters or proposes to enter into
21 a redevelopment agreement with the authority pursuant to the
22 provisions of section 13 of P.L. , c. (C.) (pending before the
23 Legislature as this bill).

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

26 "Licensed site remediation professional" means an individual who
27 is licensed by the Site Remediation Professional Licensing Board
28 pursuant to section 7 of P.L.2009, c.60 (C.58:10C-7) or the
29 department pursuant to section 12 of P.L.2009, c.60 (C.58:10C-12).

30 "Program" means the Brownfields Redevelopment Incentive
31 Program established by section 11 of P.L. , c. (C.) (pending
32 before the Legislature as this bill).

33 "Project financing gap" means the part of the total remediation
34 cost, including reasonable and appropriate return on investment, that
35 remains to be financed after all other sources of capital have been
36 accounted for, including, but not limited to, developer contributed
37 capital, which shall not be less than 20 percent of the total
38 remediation cost, and investor or financial entity capital or loans for
39 which the developer, after making all good faith efforts to raise
40 additional capital, certifies that additional capital cannot be raised
41 from other sources.

42 "Redevelopment agreement" means an agreement between the
43 authority and a developer under which the developer agrees to
44 perform any work or undertaking necessary for the remediation of a
45 contaminated site located at the site of the redevelopment project,
46 and for the clearance, development or redevelopment, construction,
47 or rehabilitation of any structure or improvement of commercial,

1 industrial, or public structures or improvements within an area of
2 land whereon a brownfield site is located.

3 "Redevelopment project" means a specific construction project or
4 improvement undertaken, pursuant to the terms of a redevelopment
5 agreement, by a developer within an area of land whereon a
6 brownfield site is located. A redevelopment project may involve
7 construction or improvement upon lands, buildings, improvements,
8 or real and personal property, or any interest therein, including lands
9 under water, riparian rights, space rights, and air rights, acquired,
10 owned, developed or redeveloped, constructed, reconstructed,
11 rehabilitated, or improved.

12 "Remediation" or "remediate" means all necessary actions to
13 investigate and clean up or respond to any known, suspected, or
14 threatened discharge of contaminants, including, as necessary, the
15 preliminary assessment, site investigation, remedial investigation,
16 and remedial action, as those terms are defined in section 23 of
17 P.L.1993, c.139 (C.58:10B-1); provided, however, "remediation" or
18 "remediate" shall not include the payment of compensation for
19 damage to, or loss of, natural resources.

20 "Remediation costs" means all reasonable costs associated with
21 the remediation of a contaminated site, except any costs incurred in
22 financing the remediation.

23

24 11. (New section) The Brownfields Redevelopment Incentive
25 Program is established as a program under the jurisdiction of the New
26 Jersey Economic Development Authority. The purpose of the
27 program is to compensate developers of redevelopment projects
28 located on brownfield sites for remediation costs. To implement this
29 purpose, the authority shall issue tax credits. The total value of tax
30 credits approved by the authority shall not exceed the limitations set
31 forth in section 98 of P.L. , c. (C.) (pending before the
32 legislature as this bill).; For the purpose of determining the
33 aggregate value of tax credits approved in a fiscal year, a tax credit
34 shall be deemed to have been approved at the time the authority
35 approves an application for an award of a tax credit. If the authority
36 approves less than the total amount of tax credits authorized pursuant
37 to this section in a fiscal year, the remaining amount, plus any
38 amounts remaining from previous fiscal years, shall be added to the
39 limit of subsequent fiscal years until that amount of tax credits are
40 claimed or allowed. Any unapproved, uncertified, or recaptured
41 portion of tax credits during any fiscal year may be carried over and
42 reallocated in succeeding years.

43

44 12. (New section) a. A developer seeking a tax credit for a
45 redevelopment project shall submit an application to the authority
46 and the department in a form and manner prescribed in regulations
47 adopted by the authority, in consultation with the department,

1 pursuant to the provisions of the "Administrative Procedure Act,"
2 P.L.1968, c.410 (C.52:14B-1 et seq.).

3 b. A redevelopment project shall be eligible for a tax credit only
4 if the developer demonstrates to the authority and the department at
5 the time of application that:

6 (1) except as provided in subsection j. of this section, the
7 developer has not commenced any remediation or clean up at the site
8 of the redevelopment project, except for preliminary assessments and
9 investigations, prior to applying for a tax credit pursuant to this
10 section, but intends to remediate and redevelop the site immediately
11 upon approval of the tax credit;

12 (2) the redevelopment project is located on a brownfield site;

13 (3) without the tax credit, the redevelopment project is not
14 economically feasible;

15 (4) a project financing gap exists;

16 (5) the developer has obtained and submitted to the authority a
17 letter evidencing support for the redevelopment project from the
18 governing body of the municipality in which the redevelopment
19 project is located; and

20 (6) each worker employed to perform remediation, or
21 construction at the redevelopment project shall be paid not less than
22 the prevailing wage rate for the worker's craft or trade, as determined
23 by the Commissioner of Labor and Workforce Development pursuant
24 to P.L.1963, c.150 (C.34:11-56.25 et seq.). The prevailing wage
25 requirements shall apply to redevelopment projects that are allowed
26 a tax credit in excess of \$500,000 for construction work through the
27 completion of the redevelopment project. In the event a
28 redevelopment project, or the aggregate of all redevelopment project
29 approved for an award under the program, constitute a lease of more
30 than 55 percent of a facility, the prevailing wage requirements shall
31 apply to the entire facility.

32 c. A redevelopment project that received a reimbursement
33 pursuant to sections 34 through 39 of P.L.1997, c.278 (C.58:10B-26
34 through 58:10B-31) shall not be eligible to apply for a tax credit
35 under the program. If the authority receives an application and
36 supporting documentation for approval of a reimbursement pursuant
37 to sections 34 through 39 of P.L.1997, c.278 (C.58:10B-26 through
38 58:10B-31) prior to the effective date of sections 9 through 19 of
39 P.L. , c. (C.) (pending before the Legislature as this bill),
40 then the authority may consider the application and award a tax credit
41 to a developer, provided that the authority shall take final action on
42 all applications for approval of a reimbursement pursuant to sections
43 34 through 39 of P.L.1997, c.278 (C.58:10B-26 through 58:10B-31)
44 no later than July 1, 2019. No applications shall be submitted
45 pursuant to sections 34 through 39 of P.L.1997, c.278 (C.58:10B-26
46 through 58:10B-31) after the effective date sections 9 through 19 of
47 P.L. , c. (C.) (pending before the Legislature as this bill).

1 d. (1) Prior to approval of an application, the Department of
2 Labor and Workforce Development, the Department of
3 Environmental Protection, and the Department of the Treasury shall
4 each report to the chief executive officer of the authority whether the
5 developer is in substantial good standing with the respective
6 department, or has entered into an agreement with the respective
7 department that includes a practical corrective action plan for the
8 developer. The authority may also contract with an independent third
9 party to perform a background check on the developer. Provided that
10 the developer is in substantial good standing, or has entered into such
11 an agreement, and following approval of an application by the board,
12 the authority shall enter into a redevelopment agreement with the
13 developer, as provided for in section 13 of P.L. , c. (C.)
14 (pending before the Legislature as this bill).

15 (2) The authority, in consultation with the department, may
16 impose additional requirements upon an applicant through rule or
17 regulation adopted pursuant to the provisions of the "Administrative
18 Procedure Act," P.L.1968, c.410 (C.52:14B-1 et seq.), if the authority
19 or the department determines the additional requirements to be
20 necessary and appropriate to effectuate the purposes of sections 9
21 through 19 of P.L. , c. (C.) (pending before the Legislature
22 as this bill).

23 e. The authority, in consultation with the department, shall
24 conduct a review of the applications through a competitive
25 application process whereby the authority and the department shall
26 evaluate all applications submitted by a date certain, as if all received
27 applications were submitted on that date. In addition to the eligibility
28 criteria set forth in subsection b. of this section, the authority may
29 consider additional factors that may include, but shall not be limited
30 to: the economic feasibility of the remediation project; the benefit of
31 the remediation project to the community in which the remediation
32 project is located; the degree to which the remediation project
33 enhances and promotes job creation and economic development and
34 addresses environmental concerns of communities that have been
35 historically and disproportionately impacted by environmental
36 hazards; and, if the developer has a board of directors, the extent to
37 which that board of directors is diverse and representative of the
38 community in which the remediation project is located. The
39 authority, in consultation with the department, shall submit
40 applications that comply with the eligibility criteria set forth in this
41 section, fulfill the additional factors considered by the authority
42 pursuant to this subsection, satisfy the submission requirements, and
43 provide adequate information for the subject application, to the board
44 for final approval.

45 f. The authority shall award tax credits to redevelopment
46 projects until either the available tax credits are exhausted or all
47 redevelopment projects that are eligible for a tax credit pursuant to
48 the provisions of sections 9 through 19 of P.L. , c. (C.)

1 (pending before the Legislature as this bill) receive a tax credit,
2 whichever occurs first. If insufficient funding exists to allow a tax
3 credit to a developer in accordance with the provisions of subsection
4 a. of section 16 of P.L. , c. (C.) (pending before the Legislature
5 as this bill), the authority may offer the developer a value of the tax
6 credit below the amount provided for in subsection a. of section 16
7 of P.L. , c. (C.) (pending before the Legislature as this bill).

8 g. A developer shall pay to the authority or to the department, as
9 appropriate, the full amount of the direct costs of an analysis
10 concerning the developer's application for a tax credit, which a third
11 party retained by the authority or department performs, if the
12 authority or department deems such retention to be necessary.

13 h. If the authority determines that a developer made a material
14 misrepresentation on the developer's application, the developer shall
15 forfeit all tax credits awarded under the program.

16 i. If circumstances require a developer to amend its application
17 to the authority, then the developer, or an authorized agent of the
18 developer, shall certify to the authority that the information provided
19 in its amended application is true, under the penalty of perjury.

20 j. A developer that has commenced remediation or clean up at
21 the site of a redevelopment project prior to application may still apply
22 for a tax credit under the program, if the developer certifies to the
23 authority, under the penalty of perjury, that the developer was
24 unaware of the extent of the site contamination when the developer
25 commenced the redevelopment project.

26
27 13. (New section) a. Following approval of an application by the
28 board, but prior to the start of any remediation or clean up at the site
29 of the redevelopment project, the authority shall enter into a
30 redevelopment agreement with the developer. The chief executive
31 officer of the authority shall negotiate the terms and conditions of the
32 redevelopment agreement on behalf of the State.

33 b. The redevelopment agreement shall specify the amount of the
34 tax credit to be awarded to the developer, the date on which the
35 developer shall complete the remediation, and the projected project
36 remediation cost. The redevelopment agreement shall require the
37 developer to submit progress reports to the authority and to the
38 department every six months pursuant to section 15 of P.L. , c.
39 (C.) (pending before the Legislature as this bill). The
40 redevelopment agreement shall also require the developer to consent
41 to the disclosure of tax expenditure information as described in
42 paragraph (8) of subsection b. of section 1 of P.L.2009, c.189
43 (C.52:27B-20a).

44 c. The authority shall not enter into a redevelopment agreement
45 with a developer unless:

46 (1) the redevelopment project complies with standards
47 established by the authority in accordance with the green building
48 manual prepared by the Commissioner of Community Affairs

1 pursuant to section 1 of P.L.2007, c.132 (C.52:27D-130.6), regarding
2 the use of renewable energy, energy-efficient technology, and non-
3 renewable resources to reduce environmental degradation and
4 encourage long-term cost reduction;

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

8 (3) the developer pays each worker employed to perform
9 remediation work or construction work at the redevelopment project
10 not less than the prevailing wage rate in accordance with the
11 requirements of paragraph (6) of subsection b. of section 12 of
12 P.L. , c. (C.)(pending before the Legislature as this bill) for
13 the worker's craft or trade, as determined by the Commissioner of
14 Labor and Workforce Development pursuant to P.L.1963, c.150
15 (C.34:11-56.25 et seq.).

16 d. The authority shall not enter into a redevelopment agreement
17 with a developer who is liable, pursuant to paragraph (1) of
18 subsection c. of section 8 of P.L.1976, c.141 (C.58:10-23.11g), for
19 the contamination at the brownfield site proposed to be in the
20 redevelopment agreement.

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

31 (2) A labor harmony agreement shall be required only if the State
32 has a proprietary interest in the redevelopment project and shall
33 remain in effect for as long as the State acts as a market participant
34 in the redevelopment project. The authority may enter into a
35 redevelopment agreement with a developer without the labor
36 harmony agreement required under paragraph (1) of this subsection
37 only if the authority determines that the redevelopment project would
38 not be feasible if a labor harmony agreement is required. The
39 authority shall support the determination by a written finding, which
40 provides the specific basis for the determination.

41 (3) As used in this subsection, "labor harmony agreement" means
42 an agreement between a business that serves as the owner or operator
43 of a retail establishment or distribution center and one or more labor
44 organizations, which requires, for the duration of the agreement: that
45 any participating labor organization and its members agree to refrain
46 from picketing, work stoppages, boycotts, or other economic
47 interference against the business; and that the business agrees to
48 maintain a neutral posture with respect to efforts of any participating

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

17 f. The redevelopment agreement shall provide that issuance of
18 a tax credit under the program shall be conditioned upon the
19 subrogation to the department of all rights of the developer to recover
20 remediation costs from any other person who discharges a hazardous
21 substance or is in any way responsible, pursuant to section 8 of
22 P.L.1976, c.141 (C.58:10-23.11g), for a hazardous substance that
23 was discharged at the brownfield site.

24 g. A developer may seek a revision to the redevelopment
25 agreement if the developer cannot complete the remediation on or
26 before the date set forth in the redevelopment agreement. A
27 developer's ability to change the date on which the developer shall
28 complete the remediation shall be subject to the availability of tax
29 credits in the year of the revised date of completion.

30 h. A developer shall submit to the authority satisfactory
31 evidence of the actual remediation costs, as certified by a certified
32 public accountant, evidence of completion of the remediation, and a
33 certification that all information provided by the developer to the
34 authority is true, including information contained in the application,
35 the redevelopment agreement, any amendment to the redevelopment
36 agreement, and any other information submitted by the developer to
37 the authority pursuant to sections 9 through 19 of P.L. , c.
38 (C.) (pending before the Legislature as this bill). The developer,
39 or an authorized agent of the developer, shall certify under the
40 penalty of perjury that the information provided pursuant to this
41 subsection is true.

42 i. The redevelopment agreement shall include a requirement
43 that the chief executive officer of the authority receive annual reports
44 from the Department of Environmental Protection, the Department of
45 Labor and Workforce Development, and the Department of the
46 Treasury that demonstrating the developer, and each contractors and
47 subcontractor performing work on the redevelopment project, is in
48 substantial good standing with the respective department, or has

1 entered into an agreement with the respective department that
2 includes a practical corrective action plan for the developer. The
3 redevelopment agreement shall also include a provision allowing
4 authority to recapture the tax credits for any year in which any such
5 report is not received. The redevelopment agreement shall also
6 require a developer to engage in on-site consultations with the
7 Division of Workplace Safety and Health in the Department of
8 Health.

9
10 14. (New section) To qualify for a tax credit under the program, a
11 developer shall:

12 a. enter into a memorandum of agreement or other oversight
13 document with the Commissioner of Environmental Protection in
14 accordance with the provisions of section 37 of P.L.1997, c.278
15 (C.58:10B-29); or

16 b. comply with the requirements set forth in subsection b. of
17 section 30 of P.L.2009, c.60 (C.58:10B-1.3) for the remediation of
18 the site of the redevelopment project.

19
20 15. (New section) Commencing with the date six months
21 following the date the authority and a developer execute a
22 redevelopment agreement and every six months thereafter until
23 completion of the project, the developer shall submit an update of the
24 status of the redevelopment project to the authority and to the
25 department, including the remediation costs incurred by the
26 developer for the remediation of the contaminated property located
27 at the site of the redevelopment project. Unless the authority
28 determines that extenuating circumstances exist, the authority's
29 approval of a tax credit shall expire if the authority, the department,
30 or both, do not timely receive the status update required under this
31 section. The authority may rescind an award of tax credits under the
32 program if a redevelopment project fails to advance in accordance
33 with the redevelopment agreement.

34
35 16. (New section) a. Upon completion of the redevelopment
36 project, the developer shall seek certification from the department
37 that:

38 (1) the redevelopment project is complete;

39 (2) the developer complied with the requirements of section 15 of
40 P.L. , c. (C.) (pending before the Legislature as this bill),
41 including the requirements of any memorandum of agreement or
42 other oversight document that the developer may have executed with
43 the Commissioner of Environmental Protection pursuant to that
44 section; and

45 (3) the remediation costs were actually and reasonably incurred.
46 Upon receipt of certification, and confirmation by the authority that
47 the developer's obligations under the redevelopment agreement have
48 been met, a developer shall be awarded a credit against the tax

1 imposed pursuant to section 5 of P.L.1945, c.162 (C.54:10A-5) in an
2 amount not to exceed 40 percent of the actual remediation costs, or
3 40 percent of the projected remediation costs as set forth in the
4 redevelopment agreement, or \$4,000,000, whichever is least. The
5 developer, or an authorized agent of the developer, shall certify that
6 the information provided to the department and the authority
7 pursuant to this subsection is true under the penalty of perjury.

8 b. When filing an application for certification pursuant to
9 subsection a. of this section, the developer shall submit to the director
10 the total remediation costs incurred by the developer for the
11 remediation of the subject property located at the site of the
12 redevelopment project as provided in the redevelopment agreement
13 and certified by a certified public accountant, information concerning
14 the occupancy rate of the buildings or other work areas located on
15 the property subject to the redevelopment agreement, and such other
16 information as the director deems necessary in order to make the
17 certifications and findings pursuant to this section.

18 c. A developer shall apply the credit awarded against the
19 developer's liability for the tax imposed pursuant to section 5 of
20 P.L.1945, c.162 (C.54:10A-5) for the privilege period during which
21 the director awards the developer a tax credit pursuant to subsection
22 a. of this section. A developer shall not carry forward any unused
23 credit. Credits awarded to a partnership shall be passed through to
24 the partners, members, or owners, respectively, pro-rata, or pursuant
25 to an executed agreement among the partners, members, or owners
26 documenting an alternate distribution method provided to the director
27 accompanied by any additional information as the director may
28 prescribe.

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

38
39 17. (New section) a. A developer may apply to the director and
40 the chief executive officer of the authority for a tax credit transfer
41 certificate, during the privilege period in which the director awards
42 the developer a tax credit pursuant to section 16 of P.L. , c.
43 (C.) (pending before the Legislature as this bill), in lieu of the
44 developer being allowed to apply any amount of the tax credit against
45 the developer's State tax liability. The tax credit transfer certificate,
46 upon receipt thereof by the developer from the director and the chief
47 executive officer of the authority, may be sold or assigned, in the
48 privilege period during which the developer receives the tax credit

1 transfer certificate from the director, to another person, who may
2 apply the credit against a tax liability pursuant to section 5 of
3 P.L.1945, c.162 (C.54:10A-5) , sections 2 and 3 of P.L.1945, c.132
4 (C.54:18A-2 and C.54:18A-3), section 1 of P.L.1950, c.231
5 (C.17:32-15), or N.J.S.17B:23-5. The tax credit transfer certificate
6 provided to the developer shall include a statement waiving the
7 developer's right to claim the credit that the developer has elected to
8 sell or assign.

9 b. The developer shall not sell or assign a tax credit transfer
10 certificate allowed under this section for consideration received by
11 the developer of less than 85 percent of the transferred credit amount
12 before considering any further discounting to present value which
13 shall be permitted, except a developer of a residential project
14 consisting of newly-constructed residential units that has received
15 federal low income housing tax credits under 26 U.S.C.
16 s.42(b)(2)(B)(i) may assign a tax credit transfer certificate for
17 consideration of no less than 75 percent subject to the submission of
18 a plan to the authority and the New Jersey Housing and Mortgage
19 Finance Agency to use the proceeds derived from the assignment of
20 tax credits to complete the residential project.. The tax credit transfer
21 certificate issued to a developer by the director shall be subject to any
22 limitations and conditions imposed on the application of State tax
23 credits pursuant to section 16 of P.L. , c. (C.) (pending before
24 the Legislature as this bill) and any other terms and conditions that
25 the director may prescribe.

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

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

- 32 (1) the name of the transferor;
- 33 (2) the name of the transferee;
- 34 (3) the value of the tax credit transfer certificate;
- 35 (4) the State tax against which the transferee may apply the tax
36 credit; and
- 37 (5) the consideration received by the transferor.

38
39 18. (New section) Beginning the year next following the year in
40 which sections 9 through 19 of P.L. , c. (C.) (pending before
41 the Legislature as this bill) take effect and every two years thereafter,
42 a State college or university established pursuant to chapter 64 of
43 Title 18A of the New Jersey Statutes shall, pursuant to an agreement
44 executed between the State college or university and the authority,
45 prepare a report on the implementation of the program, and submit
46 the report to the authority, the Governor, and, pursuant to section 2
47 of P.L.1991, c.164 (C.52:14-19.1), to the Legislature. Each biennial
48 report required under this section shall include a description of each

1 redevelopment project receiving a tax credit under the program, a
2 detailed analysis of the consideration given in each project to the
3 factors set forth in sections 12 and 13 of P.L. , c. (C.)
4 (pending before the Legislature as this bill), the return on investment
5 for incentives awarded, the redevelopment project's impact on the
6 State's economy, and any other metrics the State college or university
7 determines are relevant based upon national best practices. The
8 authority shall prepare a written response to the report, which the
9 authority shall submit to the Governor and, pursuant to section 2 of
10 P.L.1991, c.164 (C.52:14-19.1), to the Legislature.

11
12 19. (New section) Notwithstanding the provisions of the
13 "Administrative Procedure Act," P.L.1968, c.410 (C.52:14B-1 et
14 seq.), to the contrary, the chief executive officer of the authority, in
15 consultation with the Commissioner of Environmental Protection,
16 may adopt, immediately upon filing with the Office of
17 Administrative Law, regulations that the chief executive officer and
18 commissioner deem necessary to implement the provisions of
19 sections 9 through 19 of P.L. , c. (C.) (pending before the
20 Legislature as this bill), which regulations shall be effective for a
21 period not to exceed 180 days from the date of the filing. The chief
22 executive officer, in consultation with the Commissioner of
23 Environmental Protection, shall thereafter amend, adopt, or readopt
24 the regulations in accordance with the requirements of P.L.1968,
25 c.410 (C.52:14B-1 et seq.). The rules shall require annual reporting
26 by developers that receive tax credits pursuant to the program, in
27 addition to the regular progress updates and .Developers shall obtain
28 certifications by the Department of Labor and Workforce
29 Development, the Department of Environmental Protection, and the
30 Department of the Treasury stating that the developer, and each
31 contractor and subcontractor performing work on the redevelopment
32 project, is in substantial good standing with the respective
33 department, or has entered into an agreement with the respective
34 department that includes a practical corrective action plan. The rules
35 and regulations adopted pursuant to this section shall also include a
36 provision to require that developers forfeit all tax credits awarded in
37 any year in which any such report is not received, and to allow the
38 authority to extend, in individual cases, the deadline for any annual
39 reporting or certification requirement established pursuant to this
40 section.

41
42 20. (New section) Sections 20 through 34 of P.L. , c. (C.)
43 (pending before the Legislature as this bill) shall be known and may
44 be cited as the "New Jersey Innovation Evergreen Act."
45

46 21. (New section) As used in sections 20 through 34 of P.L. , c.
47 (C.) (pending before the Legislature as this bill):

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

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

5 "Follow-on investment" means a subsequent investment made by
6 an investor who has a previous investment in a New Jersey high-
7 growth business.

8 "Fund" means the "New Jersey Innovation Evergreen Fund"
9 established by section 23 of P.L. , c. (C.) (pending before
10 the Legislature as this bill).

11 "High-growth business" means a business that is growing
12 significantly faster than the average growth rate of the economy or is
13 a start-up company that is investing in developing a product or new
14 business model that will allow it to grow significantly faster than the
15 average growth rate of the economy within the next three to five
16 years.

17 "Incentive area" means an area in this State: (1) designated
18 pursuant to the "State Planning Act," P.L.1985, c.398 (C.52:18A-196
19 et seq.), as Planning Area 1 (Metropolitan); or (2) that has been
20 designated as a qualified opportunity zone pursuant to 26 U.S.C.
21 s.1400Z-1.

22 "Innovation ecosystem" means funding, programs, and events that
23 support the establishment and expansion of high-growth companies
24 in targeted sectors. Examples of such funding, programs, and events
25 include: mentoring programs for start-ups, meet-up or networking
26 events, funding for locating a business in a collaborative workspace,
27 programs that provide businesses services, and entrepreneurial
28 education to companies.

29 "Opportunity zone" means a federal population census tract in this
30 State that was eligible to be designated as a qualified opportunity
31 zone pursuant to 26 U.S.C. s.1400Z-1 as may be amended.

32 "Principal business operations" means at least 50 percent of the
33 business's employees, who are not primarily engaged in retail sales,
34 reside in the State, or at least 50 percent of the business's payroll for
35 employees not primarily engaged in retail sales is paid to individuals
36 living in this State.

37 "Program" means the New Jersey Innovation Evergreen Program
38 established by section 22 of P.L. , c. (C.) (pending before
39 the Legislature as this bill).

40 "Purchaser" means an entity registered to do business in this State
41 with the Director of the Division of Revenue and Enterprise Services
42 in the Department of the Treasury that purchases an allocation of tax
43 credits under the program.

44 "Qualified business" means a business that, at the time of the first
45 qualified investment in the business and throughout the period of the
46 qualified investment under the program, is registered to do business
47 in this State with the Director of the Division of Revenue and
48 Enterprise Services in the Department of the Treasury; has its

1 principal business operations located in the State and intends to
2 maintain its principal business operations in the State after receiving
3 a qualified investment under the program; is engaged in a targeted
4 industry; and employs fewer than 250 persons at the time of the
5 qualified investment

6 "Qualified investment" means the direct investment of money by
7 the fund in a qualified business for the purchase of shares of stock,
8 with an additional investment in an option or warrant or a follow-on
9 investment, in the discretion of the authority, all of which is matched
10 by an investment by a qualified venture firm.

11 "Qualified venture firm" means a venture firm that is approved by
12 the authority as a qualified venture firm pursuant to section 29 of
13 P.L. , c. (C.) (pending before the Legislature as this bill).

14 "Special purpose vehicle" means an entity controlled by or under
15 common control with a venture firm that is formed solely for the
16 purpose of investing in a New Jersey high-growth business alongside
17 the venture firm.

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

27 "Venture firm" means a partnership, corporation, trust, or limited
28 liability company that invests cash in a business during the early or
29 expansion stages of a business in exchange for an equity stake in the
30 business in which the investment is made. Venture firm may include
31 a venture capital fund, a family office fund, or a corporate investor
32 fund, provided that a professional manager administers the venture
33 firm.

34

35 22. (New section) The New Jersey Innovation Evergreen Program
36 is established as a program under the jurisdiction of the New Jersey
37 Economic Development Authority. The purpose of the program is to
38 invest in innovation as a catalyst for economic growth and to advance
39 the competitiveness of the State's businesses in the global economy.
40 Beginning on the effective date of sections 20 through 34 of P.L. ,
41 c. (C.) (pending before the Legislature as this bill), the authority
42 shall auction up to \$300,000,000 in tax credits in annual amounts not
43 to exceed the limitations set forth in section 98 of P.L. , c. (C.)
44 (pending before the legislature as this bill). The authority shall not
45 undertake an auction if, exclusive of reserves, including the reserve
46 set aside for follow-on investments pursuant to subsection d. of
47 section 23 of P.L. , c. (C.) (pending before the Legislature
48 as this bill), more than \$15,000,000 is available to the authority, from

1 moneys received from any prior auction of tax credits pursuant to the
2 program, to allocate to qualified venture firms.

3
4 23. (New section) a. The authority shall establish and maintain a
5 dedicated fund to be known as the "New Jersey Innovation Evergreen
6 Fund." The authority shall use the money in the fund to carry out the
7 purposes enumerated in subsections b. and c. of this section. The
8 authority shall credit the fund with money paid by purchasers;
9 distributions from payments or repayments made to the authority in
10 accordance with subsection c. of section 31 of P.L. , c. (C.)
11 (pending before the Legislature as this bill); earnings received, if any,
12 from the investment or reinvestment of money credited to the fund;
13 and any money which, from time to time, may otherwise become
14 available for the purposes of the fund.

15 b. The authority shall allocate the money in the fund to qualified
16 venture firms to make qualified investments of capital in qualified
17 businesses through a special purpose vehicle in accordance with
18 section 30 of P.L. , c. (C.) (pending before the Legislature
19 as this bill) and to pay the administrative, legal, and auditing
20 expenses of the authority incurred in the administration of the
21 program. In addition, the authority shall use 75 basis points of the
22 total amounts deposited in the fund, calculated on an annual basis,
23 for programs administered by the authority that create an innovation
24 ecosystem that supports and promotes high-growth businesses in the
25 State.

26 c. The authority shall deposit into the fund dividends and returns
27 on investments paid to the authority by or on behalf of a qualified
28 business. Upon the fund holding total deposits of \$500,000,000 and
29 thereafter upon a qualified investment in a qualified business
30 achieving a return on investment of twice the original and follow-on
31 investment, 50 percent of any return on investment in excess of twice
32 the original and follow-on investment shall be paid to the General
33 Fund of the State.

34 d. The authority shall account for and calculate reserves for
35 follow-on investments, programs that support the State's innovation
36 ecosystem, and administrative, legal, and auditing expenses of the
37 authority in administering the program. The authority shall not
38 include these reserves when calculating the amount in the fund
39 available for new qualified investments.

40
41 24. (New section) a. The authority shall sell the tax credits
42 authorized pursuant to section 22 of P.L. , c. (C.) (pending
43 before the Legislature as this bill) to purchasers through a
44 competitive auction process.

45 b. The authority shall determine the form and manner in which
46 potential purchasers may bid for tax credits available under the
47 program. To be awarded a tax credit under the program, a potential
48 purchaser shall:

- 1 (1) specify the requested amount of tax credits, which shall not
2 be less than \$1,000,000;
- 3 (2) specify the amount the potential purchaser will pay in
4 exchange for the requested amount of tax credits, which shall not be
5 less than 85 percent of the requested dollar amount of tax credits;
- 6 (3) commit to serve on the New Jersey Innovation Evergreen
7 Advisory Board, established pursuant to section 32 of P.L. , c.
8 (C.) (pending before the Legislature as this bill), and to
9 otherwise provide mentorship, networking, and collaboration
10 opportunities to qualified businesses that receive funding under the
11 program; and
- 12 (4) provide any other information that the chief executive officer
13 of the authority determines is necessary.
- 14 c. Prior to an auction, the authority shall establish and disclose
15 to bidders the weighted criteria the authority will utilize, which the
16 authority shall base on the price offered to purchase the tax credits
17 and the quality of the mentorship and networking opportunities and
18 other support of the State's innovation ecosystem offered by a
19 purchaser in its bid. The authority may pro rate the amount of tax
20 credits allocated to each purchaser. A potential purchaser that
21 submits a bid for tax credits under this section shall receive a written
22 notice from the authority indicating whether the authority has
23 approved it as a purchaser of tax credits and, if so, the amount of tax
24 credits approved.
- 25 d. Except as provided in section 22 of P.L. , c. (C.)
26 (pending before the Legislature as this bill), the authority shall hold
27 one competitive auction per calendar year.
- 28 e. The authority may contract with an independent third party to
29 conduct the competitive bidding process through which State tax
30 credits issued by the authority may be sold.
- 31
- 32 25. (New section) a. A purchaser that submits a successful bid
33 for the purchase of tax credits pursuant to section 24 of P.L. , c.
34 (C.) (pending before the Legislature as this bill) shall enter into
35 a contract with the authority that includes payment information and
36 the commitments made by the purchaser in its auction bid. A
37 purchaser that submits a successful bid for the purchase of tax credits
38 pursuant to section 24 of P.L. , c. (C.) (pending before the
39 Legislature as this bill) shall pay by wire transfer the amount
40 specified in its auction bid to the authority for deposit into the fund.
41 Upon receipt thereof, the chief executive officer shall notify the
42 director to issue tax credits in the amount approved. Failure by the
43 purchaser to pay the amount agreed upon on time may disqualify the
44 purchaser from purchasing the tax credits and the authority may
45 reassign the right to purchase the credits to another bidder. Failure
46 by the purchaser to adhere to the commitments made in its auction
47 bid may disqualify the purchaser from participating in future auctions
48 and may result in the recapture of a portion of the tax credits.

1 b. The authority shall credit to the fund any money paid to the
2 authority by a purchaser for an allocation of tax credits under the
3 program.

4 c. The authority shall ensure that no undue financial advantage
5 shall inure to a purchaser that also is: managing a qualified venture
6 firm; beneficially owning, through rights, options, convertible
7 interests, or otherwise, more than 15 percent of the voting securities
8 or other voting ownership interests of a qualified venture firm; or
9 controlling the direction of investments for a qualified venture firm.
10 The chief executive officer of the authority shall certify that the
11 authority is monitoring the activities of such purchasers and has taken
12 appropriate steps to ensure no undue financial advantage inures to the
13 purchasers.

14
15 26. (New section) a. A purchaser shall apply a credit awarded
16 pursuant to sections 20 through 34 of P.L. , c. (C.) (pending
17 before the Legislature as this bill) against the State tax liability due
18 pursuant to section 5 of P.L.1945, c.162 (C.54:10A-5) of the
19 purchaser for the current privilege period as of the date of the credit's
20 approval. A purchaser may carry forward an unused credit resulting
21 from the limitations of subsection b. of this section, if necessary, for
22 use in the seven privilege periods next following the privilege period
23 for which the credit is awarded.

24 b. The director shall prescribe the order of priority of the
25 application of the credits awarded under sections 20 through 34 of
26 P.L. , c. (C.) (pending before the Legislature as this bill) and
27 any other credits allowed by law. The amount of a credit applied
28 under sections 20 through 34 of P.L. , c. (C.) (pending before
29 the Legislature as this bill) against the tax imposed pursuant to
30 section 5 of P.L.1945, c.162 (C.54:10A-5) for a privilege period,
31 together with any other credits allowed by law, shall not reduce the
32 tax liability of the purchaser to an amount less than the statutory
33 minimum provided in subsection (e) of section 5 of P.L.1945, c.162
34 (C.54:10A-5).

35
36 27. (New section) a. A purchaser may apply to the authority and
37 the director for a tax credit transfer certificate, in the privilege period
38 during which the director allows the purchaser a tax credit pursuant
39 to sections 20 through 34 of P.L. , c. (C.) (pending before
40 the Legislature as this bill), in lieu of the purchaser being allowed to
41 apply any amount of the tax credit against the purchaser's State tax
42 liability. A tax credit may be sold or assigned, in full or in part, to
43 another person that may have a tax liability pursuant to section 5 of
44 P.L.1945, c.162 (C.54:10A-5). The tax credit transfer certificate
45 provided to the purchaser shall include a statement waiving the
46 purchaser's right to claim the credit that the purchaser has elected to
47 sell or assign.

1 b. The purchaser shall not sell or assign a tax credit transfer
2 certificate allowed under this section for consideration received by
3 the purchaser of less than 85 percent of the transferred credit amount
4 before considering any further discounting to present value which
5 shall be permitted. The tax credit transfer certificate issued to a
6 purchaser by the director shall be subject to any limitations and
7 conditions imposed on the application of State tax credits pursuant to
8 section 26 of P.L. , c. (C.) (pending before the Legislature
9 as this bill) and any other terms and conditions that the director may
10 prescribe.

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

14 d. Ten percent of the consideration received by a purchaser from
15 the sale or assignment of a tax credit transfer certificate pursuant to
16 this section shall be remitted to the director and deposited in the
17 General Fund of the State.

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

- 21 (1) the name of the transferor;
22 (2) the name of the transferee;
23 (3) the value of the tax credit transfer certificate;
24 (4) the State tax against which the transferee may apply the tax
25 credit; and
26 (5) the consideration received by the transferor.

27
28 28. (New section) a. The authority shall establish an application
29 process and determine the form and manner through which a venture
30 firm may make and file an application for certification as a qualified
31 venture firm. The authority may accept applications on a rolling
32 basis or on a date set by the authority.

33 b. In evaluating applicants for certification as a qualified venture
34 firm, the authority shall establish weighted criteria by which the
35 authority will evaluate all venture firms applying in the same
36 calendar year and shall establish a minimum acceptable score. The
37 criteria shall include, but not be limited to:

- 38 (1) the management structure of the applicant, including:
39 (a) quality of the leadership, including willingness to work with
40 the authority to support targeted industries and the innovation
41 ecosystem in the State, and to locate in the State;
42 (b) the investment experience of the principals with qualified
43 businesses;
44 (c) the knowledge, experience, and capabilities of the applicant
45 in subject areas relevant to high-growth businesses in the State;
46 (d) the tenure and turnover history of principals and senior
47 investment professionals of the applicant;

1 (e) whether the State's investment with the applicant under this
2 program would exceed 15 percent of the total invested in the
3 applicant by all investors, including investments in any special
4 purpose vehicles;

5 (f) the applicant's stage of fundraising; and

6 (g) whether fees, expenses, and the remuneration of the general
7 partner or manager are similar to those of peer investors;

8 (2) the applicant's investment strategy, including:

9 (a) the applicant's track record of investing in high-growth
10 businesses;

11 (b) whether the investment strategy of the applicant is focused on
12 high-growth businesses, including the percentage of the investment
13 identified to be invested in New Jersey or surrounding geographic
14 areas; and

15 (c) the performance history of the general partner or fund
16 manager based on a review of investment returns on individual funds
17 on an absolute basis and relative to peers; and

18 (3) The location of the applicant's venture firm and the proposed
19 structure of the applicant venture firm's investments in qualified
20 businesses, with preference given to applicant venture firms that are
21 located in incentive areas and to applicant venture firms that agree to
22 dedicate a greater portion of qualified investments into qualified
23 businesses located within incentive areas.

24
25 29. (New section) a. The authority shall certify or refuse to
26 certify a venture firm as a qualified venture firm based on the criteria
27 for certification set forth in section 28 of P.L. , c. (C.)
28 (pending before the Legislature as this bill), and subsections b. and
29 c. of this section.

30 b. The authority shall not certify a venture firm as a qualified
31 venture firm if the venture firm has: (1) an equity capitalization, net
32 assets, or written commitments of less than \$10,000,000 in the form
33 of cash or cash equivalents on the date the determination for
34 certification is made; or (2) fewer than two principals or persons
35 employed to direct the qualified investment of capital with at least
36 five years of money management experience in the venture capital or
37 private equity sectors on the date the determination for certification
38 is made. The authority may adopt, pursuant to the provisions of the
39 "Administrative Procedure Act," P.L.1968, c.410 (C.52:14B-1 et
40 seq.), rules setting forth additional disqualifying criteria and
41 adjusting the minimum equity capitalization, net assets, or written
42 commitments of a qualified venture firm.

43 c. Prior to certifying a venture firm as a qualified venture firm,
44 the Department of Labor and Workforce Development, the
45 Department of Environmental Protection, and the Department of the
46 Treasury shall each report to the chief executive officer of the
47 authority whether the venture firm is in substantial good standing
48 with the respective department, or has entered into an agreement with

1 the respective department that includes a practical corrective action
2 plan for the venture firm. The authority may also contract with an
3 independent third party to perform a background check on the
4 venture firm.

5 d. The authority shall provide written notification to each
6 venture firm that is certified as a qualified venture firm by the
7 authority and shall provide written notification to each venture firm
8 that the authority refuses to certify as a qualified venture firm,
9 communicating in detail the grounds for the authority's refusal. The
10 authority shall review each qualified venture firm annually for the
11 disqualifying criteria set forth in subsection b. of this section or other
12 reasonable industry-accepted standards as determined by the
13 authority. The authority may decertify a qualified venture firm at any
14 time pursuant to the disqualifying criteria set forth in subsection b.
15 of this section. Decertification shall not affect any previously made
16 qualified investment or the fund's commitment to make a follow-on
17 investment in a qualified business.

18

19 30. (New section) a. (1) The authority is authorized to allocate
20 money credited to the fund to one or more qualified venture firms for
21 qualified investments at the times, in the amounts, and subject to the
22 terms and conditions that the authority shall determine to be
23 necessary and appropriate to effectuate the purposes of sections 20
24 through 34 of P.L. , c. (C.) (pending before the Legislature
25 as this bill); provided that no more than two qualified investments
26 shall be made with each qualified venture firm in a calendar year.

27 (2) Each qualified investment shall not exceed \$5,000,000 in
28 initial investment, exclusive of follow-on investments; provided,
29 however, if a qualified investment is in a business: (a) which utilizes
30 intellectual property that is core to the its business model and was
31 developed at a New Jersey-based college or university; (b) is
32 considered a university spin-off business as determined by the
33 authority; or (c) is certified by the State as a "minority business" or a
34 "women's business" pursuant to P.L.1986, c.195 (C.52:27H-21.17 et
35 seq.), then the qualified investment shall not exceed \$6,250,000 in
36 initial investment, exclusive of follow-on investments.

37 (3) The fund shall not invest in a qualified venture firm if the
38 authority determines that an undue financial advantage would inure
39 to a purchaser if the investment occurs or if the investment would be
40 inconsistent with the investment policies and goals of the State.

41 (4) The authority shall have a goal for 25 percent of the fund
42 money that is allocated to qualified venture firms is reserved for
43 investment in businesses located in opportunity zones.

44 (5) Within one year of the effective date of P.L. , c. (C.)
45 (pending before the Legislature as this bill), the authority shall
46 undertake a disparity study of investment by venture firms in women-
47 and minority-owned business enterprises in this State. Based on the
48 finding of the disparity study, the authority, following board

1 approval, may institute a set-aside plan to ensure that fund money
2 allocated to qualified venture firms is reserved for investment in
3 women- and minority-owned business enterprises in this State.

4 b. The authority shall make and enter into an agreement with
5 each qualified venture firm to which the authority allocates money
6 under the program. The agreement shall include provisions that
7 require the qualified venture firm to:

8 (1) make investments in qualified businesses that equal or exceed
9 the amount of capital received by the qualified venture firm from the
10 fund under the program;

11 (2) cause an audit of the qualified venture firm's books and
12 accounts, which a certified public accountant, who is licensed in
13 accordance with the "Accountancy Act of 1997," P.L.1997, c.259
14 (C.45:2B-42 et seq.), or licensed in accordance with the laws of
15 another state, shall conduct at least once in each year in which the
16 qualified venture firm is in receipt of fund money or in which the
17 qualified venture firm is responsible for the management of fund
18 money allocated to the qualified venture firm by the authority;

19 (3) enter into an agreement with each qualified business that
20 receives a qualified investment, which agreement shall, at a
21 minimum, require the qualified business to use the qualified
22 investment of capital to support its business operations in this State
23 and to provide the information required under section 31 of P.L. ,
24 c. (C.) (pending before the Legislature as this bill);

25 (4) upon the identification of a qualified investment, create a
26 special purpose vehicle for the qualified investment of the fund;

27 (5) upon the identification of a qualified investment, indicate the
28 amount of follow-on investment the authority should reserve, and
29 periodically provide updates concerning this amount;

30 (6) agree that the qualified venture firm will publicize its
31 participation in the "New Jersey Innovation Evergreen Fund;"

32 (7) consent to the authority publicly disclosing the qualified
33 venture firm on the list of qualified investment firms participating in
34 the program; and

35 (8) consent to the disclosure of tax expenditure information as
36 described in paragraph (8) of subsection b. of section 1 of P.L.2009,
37 c.189 (C.52:27B-20a).

38 c. A qualified venture firm that has made and entered into an
39 agreement with the authority in accordance with subsection b. of this
40 section is authorized to make qualified investments of capital in one
41 or more qualified businesses from fund money allocated to the
42 qualified venture firm by the authority at the times, in the amounts,
43 and subject to the terms and conditions that the qualified venture firm
44 determines to be necessary and appropriate. The authority may limit
45 the amount of allocated fund money that a qualified venture firm
46 invests in a qualified business based upon the size of investments the
47 qualified business has received, the source of the investments, and
48 the industry in which the qualified business is engaged.

1 31. (New section) a. A qualified venture firm shall annually
2 report to the authority:

3 (1) the amount of the qualified investment, if any, uninvested at
4 the end of the preceding calendar year;

5 (2) all qualified investments made during the preceding calendar
6 year, including the number and wages of employees of each qualified
7 business at the time the venture firm made the qualified investment
8 and as of December 31 of that year;

9 (3) for any qualified investment in which the qualified venture
10 firm no longer has a position as of the end of the calendar year, the
11 number of employees of the business as of the date the investment
12 was terminated;

13 (4) financials, audited by a certified public accountant, who is
14 licensed in accordance with the "Accountancy Act of 1997,"
15 P.L.1997, c.259 (C.45:2B-42 et seq.), or licensed in accordance with
16 the laws of another state, of the qualified venture firm and the special
17 purpose vehicle that include a consolidated summary of the
18 performance of the qualified venture firm. Any information about the
19 performance of an individual business, including the qualified
20 business, shall be considered confidential and not subject to the
21 requirements of P.L.1963, c.73 (C.47:1A-1 et seq.); and

22 (5) any other information the authority requires to ascertain the
23 impact of the program on the economy of the State.

24 b. With respect to the information required under paragraphs (1)
25 through (4) of subsection a. of this section, the report shall include a
26 statement prepared by a certified public accountant, who is licensed
27 in accordance with the "Accountancy Act of 1997," P.L.1997, c.259
28 (C.45:2B-42 et seq.), or licensed in accordance with the laws of
29 another state, certifying that the accountant has reviewed the report
30 and that the information and representations contained in the report
31 are accurate.

32 c. Not later than 60 days after the sale or other disposition of a
33 qualified investment, the qualified venture firm shall provide to the
34 authority a report on the amount of the stock sold or disposed of and
35 the consideration received for the sale or disposition. The report shall
36 detail the cumulative effect of sequentially introduced positive or
37 negative values and include the gross income and details of any
38 offsetting fees that reduce the net distribution. Any dividend or
39 proceeds received by the authority for the sale or other disposition of
40 a qualified investment shall be deposited into the fund and used in
41 accordance with section 23 of P.L. , c. (C.) (pending before
42 the Legislature as this bill).

43 d. A qualified venture firm shall, as required at the discretion of
44 the authority, submit to the authority satisfactory evidence
45 supporting the information detailed in the annual report and
46 certifying that all information provided by the qualified venture firm
47 to the authority is true, including information contained in the
48 application for certification, the agreement between the qualified

1 venture firm and authority, any amendment to that agreement, and
2 any other information submitted by the qualified venture firm to the
3 authority pursuant to sections 20 through 34 of P.L. , c. (C.)
4 (pending before the Legislature as this bill). The qualified venture
5 firm, or an authorized agent of the qualified venture firm, shall certify
6 under the penalty of perjury that the information provided pursuant
7 to this section is true.

8
9 32. (New section) The New Jersey Innovation Evergreen
10 Advisory Board is established in but not of the authority for the
11 purposes of providing guidance and networking opportunities to
12 qualified businesses. The members of the board shall serve in a
13 voluntary capacity, to be appointed through a process to be
14 determined by the chief executive officer of the authority from
15 among purchasers and other strategic partners identified by the chief
16 executive officer, to support the State's innovation ecosystem. The
17 terms of the voluntary members so appointed, after the initial
18 appointments, shall be one year, and each member may be
19 reappointed.

20
21 33. (New section) Beginning the year next following the year in
22 which sections 20 through 34 of P.L. , c. (C.) (pending before
23 the Legislature as this bill) take effect and every two years thereafter,
24 the authority shall prepare a report on the implementation of the
25 program, and submit the report to the Governor, and, pursuant to
26 section 2 of P.L.1991, c.164 (C.52:14-19.1), to the Legislature. Each
27 biennial report required under this section shall include the names
28 and locations of qualified businesses receiving capital; the amount of
29 each qualified investment; a report by a certified public accountant,
30 who is licensed in accordance with the "Accountancy Act of 1997,"
31 P.L.1997, c.259 (C.45:2B-42 et seq.), or licensed in accordance with
32 the laws of another state, of the consolidated performance of the fund;
33 the cumulative amount of capital committed by purchasers; the rate
34 and amount of fees charged by each qualified venture firm, including
35 performance-based earnings and carried interest; the classification of
36 each qualified business, according to the industrial sector and the size
37 of the qualified business; the State's return on investment; the total
38 number of jobs created in the State by the qualified business after the
39 qualified investment; the average wages paid for the jobs; and any
40 other metrics the authority determines are relevant based upon
41 national best practices.

42
43 34. (New section) Notwithstanding the provisions of the
44 "Administrative Procedure Act," P.L.1968, c.410 (C.52:14B-1 et
45 seq.), to the contrary, the chief executive officer of the authority may
46 adopt, immediately, upon filing with the Office of Administrative
47 Law, regulations that the chief executive officer deems necessary to
48 implement the provisions of sections 20 through 34 of P.L. , c.

1 (C.) (pending before the Legislature as this bill), which
2 regulations shall be effective for a period not to exceed 180 days from
3 the date of the filing. The chief executive officer shall thereafter
4 amend, adopt, or readopt the regulations in accordance with the
5 requirements of P.L.1968, c.410 (C.52:14B-1 et seq.).
6

7 35. (New section) Sections 35 through 42 of P.L. , c. (C.)
8 (pending before the Legislature as this bill) shall be known and may
9 be cited as the "Food Desert Relief Act."
10

11 36. (New section) a. The Legislature finds and declares that: (1)
12 there are certain areas of the State, known as "food desert"
13 communities, in which residents are unable to obtain reasonable and
14 adequate access to nutritious foods and, in particular, to fresh fruits
15 and vegetables; (2) the inaccessibility of nutritious food in food
16 desert communities has been attributed, in large part, to the absence
17 of supermarkets and grocery stores in those communities; (3) low-
18 income families are more likely than others to live in food desert
19 communities and to lack the transportation or financial resources
20 necessary to reach distant wholesome markets; and (4) the
21 establishment of financial incentives to supermarkets, grocery stores,
22 mid-sized food retailers, and small food retailers is a reasonable
23 means by which to ensure that residents of food desert communities
24 in the State are provided with reasonable access to nutritious, fresh,
25 and delicious produce, and are afforded the opportunity thereby to
26 make healthier eating choices for themselves and for their families.

27 b. The Legislature therefore determines that it is both reasonable
28 and necessary to authorize the New Jersey Economic Development
29 Authority to establish a program that provides financial assistance to
30 supermarkets, grocery stores, mid-sized food retailers, and small
31 food retailers to establish and retain locations in food desert
32 communities in order to provide a consistent, and easily accessible,
33 source of fresh produce to residents in those communities.
34

35 37. (New section) As used in sections 35 through 42 of P.L. , c.
36 (C.) (pending before the Legislature as this bill):

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

40 "Department" means the Department of Agriculture.

41 "Eligible equipment costs" means expenditures for the
42 procurement of such equipment as is needed to allow a mid-sized
43 food retailer or small food retailer to store, refrigerate, or otherwise
44 maintain nutritious foods, including fresh fruits and vegetables, for
45 retail purposes, but within a standard range based upon industry
46 standards, as determined by the authority.

47 "Eligible technology costs" means expenditures for the
48 procurement or upgrade of technology systems to support online

1 ordering and e-commerce, including but is not limited to computer
2 hardware, software, internet connectivity, and database systems.

3 "Food desert community" means a physically contiguous area in
4 the State in which residents have limited access to nutritious foods,
5 such as fresh fruits and vegetables, through supermarkets and grocery
6 stores, and which has been designated as a food desert community
7 pursuant to subsection b. of section 38 of P.L. , c. (C.)
8 (pending before the Legislature as this bill).

9 "Initial operating costs" means expenditures for the operation of a
10 supermarket or grocery store within the first three years after opening
11 to the public, but within a standard range based upon industry
12 standards, as determined by the authority.

13 "Mid-sized food retailer" means a medium-sized retail outlet with
14 at least 2,500 but less than 16,000 square feet, of which at least 75
15 percent is occupied by food and related products.

16 "Program" means the Food Desert Relief Program established in
17 section 38 of P.L. , c. (C.) (pending before the Legislature
18 as this bill).

19 "Project cost" means the costs incurred in connection with the
20 establishment of a supermarket or grocery store within a food desert
21 community by the developer until the opening of the supermarket or
22 grocery store to the public, including the costs relating to lands,
23 buildings, improvements, real or personal property, or any interest
24 therein, including leases discounted to present value, including lands
25 under water, riparian rights, space rights and air rights acquired,
26 owned, developed or redeveloped, constructed, reconstructed,
27 rehabilitated or improved, any environmental remediation costs, plus
28 costs not directly related to construction, of an amount not to exceed
29 20 percent of the total costs, capitalized interest paid to third parties,
30 and the cost of infrastructure improvements, including ancillary
31 infrastructure projects.

32 "Project financing gap" means the part of the total project cost,
33 including return on investment, that remains to be financed after all
34 other sources of capital have been accounted for, including, but not
35 limited to, developer-contributed capital, which shall not be less than
36 20 percent of the total project cost, which may include the value of
37 any existing land and improvements in the project area owned or
38 controlled by the developer, and the cost of infrastructure
39 improvements in the public right-of-way, and investor or financial
40 entity capital or loans for which the developer, after making all good
41 faith efforts to raise additional capital, certifies that additional capital
42 cannot be raised from other sources on a non-recourse basis

43 "Small food retailer" means a small retail outlet, with less than
44 2,500 square feet, that sells a limited selection of foods and other
45 products, such as a bodega, convenience store, corner store,
46 neighborhood store, small grocery, or small-scale store.

1 "Supermarket or grocery store" means a retail outlet with at least
2 16,000 square feet, of which at least 90 percent is occupied by food
3 and related products.

4
5 38. (New section) a. (1) There is established the Food Desert
6 Relief Program to be administered by the New Jersey Economic
7 Development Authority. The program shall include tax credit
8 components, as provided in sections 39 and 40 of P.L. , c.
9 (C. and C.) (pending before the Legislature as this bill), in
10 order to incentivize businesses to establish and retain new
11 supermarkets and grocery stores in food desert communities.

12 (2) The total value of tax credits approved by the authority
13 pursuant to sections 39 and 40 of P.L. , c. (C. and C.)
14 (pending before the Legislature as this bill) shall not exceed the
15 limitations set forth in section 98 of P.L. , c. (C.) (pending
16 before the legislature as this bill)..

17 b. The authority, in consultation with the Department of
18 Agriculture and the Department of Community Affairs, shall initially
19 designate not more than 50 separate geographic areas that are most
20 in need of a supermarket or grocery store as food desert communities
21 in this State. The Department of Agriculture and the Department of
22 Community Affairs shall develop criteria for the designation of food
23 desert communities, but each separate food desert community shall
24 consist of a distinct geographic area with a single defined border.
25 The criteria shall, at a minimum, incorporate analysis of municipal
26 or census tract poverty statistics, food desert information from the
27 Economic Research Service of the United States Department of
28 Agriculture, and healthier food retail tract information from the
29 federal Centers for Disease Control and Prevention. The departments
30 may also consider data related to municipal or census tract population
31 size and population density in making food desert community
32 designations pursuant to this subsection. The authority, in
33 consultation with the departments, shall continuously evaluate areas
34 previously designated as food desert communities and assess whether
35 they still meet the criteria for designation as a food desert community
36 and may designate additional food desert communities once every
37 three years following the effective date of sections 35 through 42 of
38 P.L. , c. (C.) (pending before the Legislature as this bill).

39 c. To receive a tax credit under section 39 or 40 of P.L. , c.
40 (C. or C.) (pending before the Legislature as this bill), a
41 taxpayer shall submit an application to the authority in the form and
42 manner prescribed by the authority and in accordance with criteria
43 established by the authority. Following the approval of an
44 application, the authority may, pursuant to an award agreement,
45 award tax credits to an eligible taxpayer that:

46 (1) develops and opens for business to the public the first or
47 second supermarket or grocery store in a designated food desert
48 community; or

1 (2) owns and operates the first or second supermarket or grocery
2 store in a designated food desert community.

3 d. (1) The authority may sell all or a portion of the tax credits
4 made available in a fiscal year pursuant to subsection a. of this
5 section and dedicate the proceeds from such sale to provide grants
6 and loans to qualifying supermarkets, grocery stores, mid-sized food
7 retailers, and small food retailers. The amount of any grant or loan
8 provided pursuant to this subsection shall be in accordance with the
9 need of the supermarket, grocery store, mid-sized food retailer, or
10 small food retailer, as determined by the authority. The authority
11 shall sell tax credits pursuant to this section in the manner determined
12 by the authority; provided, however, the authority shall not sell tax
13 credits for less than 85 percent of the tax credit amount. Grants and
14 loans made available pursuant to this subsection shall be awarded to
15 entities that:

16 (a) are eligible for tax credits under subsection c. of this section in
17 lieu of tax credits; or

18 (b) own and operate a mid-sized food retailer or small food retailer
19 that commits to selling nutritious foods, including fresh fruits and
20 vegetables, in a designated food desert community.

21 (2) A mid-sized food retailer or small food retailer shall submit
22 an application to the authority to receive a grant or loan pursuant to
23 this subsection. The application shall be submitted in the form and
24 manner prescribed by the authority and in accordance with criteria
25 established by the authority. An entity eligible for a grant or loan
26 under subparagraph (a) of paragraph (1) of this subsection shall not
27 be required to submit a separate application to the authority for the
28 grant or loan, provided that the entity has submitted an application to
29 the authority pursuant to subsection c. of this section.

30 (3) Prior to awarding a grant or loan to a mid-sized food retailer
31 or small food retailer pursuant to this subsection, the Department of
32 Labor and Workforce Development, the Department of
33 Environmental Protection, and the Department of the Treasury shall
34 each report to the chief executive officer of the authority whether a
35 qualifying mid-sized food retailer or small food retailer is in
36 substantial good standing with the respective department, or has
37 entered into an agreement with the respective department that
38 includes a practical corrective action plan for the mid-sized food
39 retailer or small food retailer. The authority may also contract with
40 an independent third party to perform a background check on the
41 entity.

42 (4) A mid-sized food retailer or small food retailer shall, as
43 required at the discretion of the authority, submit to the authority
44 satisfactory information pertaining to the eligible equipment costs
45 and eligible technology costs, as certified by a certified public
46 accountant, certifications that all information provided by the mid-
47 sized food retailer or small food retailer to the authority is true,
48 including information contained in the application, any agreement

1 pertaining to the award of grants or loans under the program, any
2 amendment to such an agreement, and any other information
3 submitted by the mid-sized food retailer or small food retailer to the
4 authority pursuant to sections 35 through 42 of P.L. , c. (C.)
5 (pending before the Legislature as this bill), and evidence of the
6 eligible equipment costs and eligible technology costs of the mid-
7 sized food retailer or small food retailer. The mid-sized food retailer
8 or small food retailer, or an authorized agent of the mid-sized food
9 retailer or small food retailer, shall certify under the penalty of
10 perjury that the information provided pursuant to this subsection is
11 true.

12 e. The authority may provide technical assistance to any entity
13 that is eligible for a tax credit, grant, or loan under this section. The
14 technical assistance shall provide instructions to qualifying
15 supermarkets, grocery stores, and mid-sized food retailer or small
16 food retailers concerning best practices increasing the accessibility
17 of nutritious foods in food desert communities. Technical assistance
18 shall be made available in English as well as the two most commonly
19 spoken languages in New Jersey other than English. At the discretion
20 of the authority, technical assistance may be provided in addition to,
21 or in lieu of, any tax credit, grant, or loan awarded under sections 35
22 through 42 of P.L. , c. (C.) (pending before the Legislature
23 as this bill).

24 f. (1) The authority shall require that any tax credits, grants, or
25 loans awarded by the authority under the program be utilized by the
26 recipient for one or more of the following purposes, which shall be
27 set forth in the award agreement:

28 (a) to mitigate a project financing gap;

29 (b) to mitigate the initial operating costs of the supermarket or
30 grocery store; or

31 (c) to mitigate the eligible equipment costs or eligible technology
32 costs of the mid-sized food retailer or small food retailer in order to
33 make nutritious foods more accessible and affordable to residents
34 within food deserts; or

35 (d) to support initiatives to ensure food security of residents in
36 food desert communities.

37 (2) The value of tax credits or grants awarded to individual
38 entities under the program shall not exceed:

39 (a) in the case of an entity eligible under paragraph (1) of
40 subsection c. of this section, 40 percent of the total project cost for
41 the first supermarket or grocery store in a designated food desert
42 community, and 20 percent of the total project cost for the second
43 supermarket or grocery store in the food desert community; and

44 (b) in the case of an entity eligible under paragraph (2) of
45 subsection c. of this section, the initial operating costs of the first
46 supermarket or grocery store in a designated food desert community,
47 and one-half of the initial operating costs of the second supermarket
48 or grocery store in the food desert community; and

1 (c) in the case of an entity eligible for a grant or loan under
2 subparagraph (b) of paragraph (1) of subsection d. of this section, the
3 eligible equipment costs and eligible technology costs of the mid-
4 sized food retailer or small food retailer.

5 g. An entity that develops and opens a new supermarket or
6 grocery store in a designated food desert community shall be eligible
7 for a tax credit only if the entity demonstrates to the authority at the
8 time of application that each worker employed to perform
9 construction at the project shall be paid not less than the prevailing
10 wage rate for the worker's craft or trade, as determined by the
11 Commissioner of Labor and Workforce Development pursuant to
12 P.L.1963, c.150 (C.34:11-56.25 et seq.) and P.L.2005, c.379
13 (C.34:11-56.58 et seq.).

14 h. (1) Except as provided in paragraph (2) of this subsection, a
15 labor harmony agreement shall be required if the State has a
16 proprietary interest in a supermarket or grocery store and the
17 agreement shall remain in effect for as long as the State acts as a
18 market participant in the project. The provisions of this paragraph
19 shall apply to a supermarket or grocery store that will have more than
20 10 employees.

21 (2) A labor harmony agreement under paragraph (1) of this
22 subsection shall not be required if the authority determines that the
23 supermarket or grocery store would not be feasible if a labor harmony
24 agreement is required. The authority shall support the determination
25 by a written finding, which provides the specific basis for the
26 determination.

27 (3) As used in this subsection, "labor harmony agreement" means
28 an agreement between a business that serves as the owner or operator
29 of a supermarket or grocery store and one or more labor
30 organizations, which requires, for the duration of the agreement: that
31 any participating labor organization and its members agree to refrain
32 from picketing, work stoppages, boycotts, or other economic
33 interference against the business; and that the business agrees to
34 maintain a neutral posture with respect to efforts of any participating
35 labor organization to represent employees at a supermarket or
36 grocery store, agrees to permit the labor organization to have access
37 to the employees, and agrees to guarantee to the labor organization
38 the right to obtain recognition as the exclusive collective bargaining
39 representatives of the employees at a supermarket or grocery store by
40 demonstrating to the New Jersey State Board of Mediation, Division
41 of Private Employment Dispute Settlement, or a mutually agreed-
42 upon, neutral, third-party, that a majority of workers in the unit have
43 shown their preference for the labor organization to be their
44 representative by signing authorization cards indicating that
45 preference. The labor organization or organizations shall be from a
46 list of labor organizations that have requested to be on the list and
47 that the Commissioner of Labor and Workforce Development has

1 determined represent substantial numbers of supermarket or grocery
2 store employees in the State.

3 i. The award agreement shall require that the recipient consent
4 to the disclosure of tax expenditure information as described in
5 paragraph (8) of subsection b. of section 1 of P.L.2009, c.189
6 (C.52:27B-20a). A recipient shall certify that all factual
7 representations made by the recipient in the application or award
8 agreement are true under the penalty of perjury. A material
9 misrepresentation of fact in either the application or award agreement
10 may result in recession and recapture of any grants or tax credits
11 awarded, or acceleration of any loans made, under sections 35
12 through 42 of P.L. , c. (C.) (pending before the Legislature
13 as this bill).

14
15 39. (New section) a. For privilege periods beginning on or after
16 January 1 next following the effective date of sections 25 through 42
17 of P.L. , c. (C.) (pending before the Legislature as this bill),
18 a taxpayer eligible under subsection c. of section 38 of P.L. , c.
19 (C.) (pending before the Legislature as this bill) shall be awarded
20 a credit against the tax due pursuant to section 5 of P.L.1945, c.162
21 (C.54:10A-5). A taxpayer that qualifies for the award of a tax credit
22 under this section may claim 25 percent of the total amount awarded
23 in the privilege period in which the taxpayer establishes and opens
24 the supermarket or grocery store for business, and an additional 25
25 percent of the total amount awarded in each of the three privilege
26 periods next following the initial opening, provided that the
27 supermarket or grocery store remains in business and open to the
28 public. For a taxpayer to be allowed a tax credit pursuant to this
29 section, the taxpayer shall meet the requirements of this section, and
30 the rules and regulations adopted pursuant to section 41 of P.L. , c.
31 (C.) (pending before the Legislature as this bill).

32 b. The order of priority of the application of the credit allowed
33 pursuant to this section and any other credits allowed against the tax
34 imposed pursuant to section 5 of P.L.1945, c.162 (C.54:10A-5) for a
35 privilege period shall be as prescribed by the Director of the Division
36 of Taxation in the Department of the Treasury, in consultation with
37 the chief executive office of the authority. The amount of the credit
38 applied pursuant to this section against the tax imposed pursuant to
39 section 5 of P.L.1945, c.162 (C.54:10A-5), shall not reduce a
40 taxpayer's tax liability for a privilege period to an amount less than
41 the statutory minimum provided in subsection (e) of section 5 of
42 P.L.1945, c.162 (C.54:10A-5). Any credit shall be valid in the
43 privilege period in which the certification is approved and any unused
44 portion thereof may be carried forward into the next 10 privilege
45 periods or until exhausted, whichever is earlier.

46 c. The authority shall award tax credits to taxpayers until either
47 the available tax credits are exhausted or all projects that are eligible
48 for a tax credit pursuant to the provisions of sections 35 through 42

1 of P.L. , c. (C.) (pending before the Legislature as this bill)
2 receive a tax credit, whichever occurs first. If insufficient funding
3 exists to allow a tax credit to a taxpayer in accordance with the
4 provisions of subsection a. of section 38 of P.L. , c. (C.)
5 (pending before the Legislature as this bill), the authority may offer
6 the taxpayer a tax credit in an amount less than that provided in
7 subsection a. of this section.

8 d. Prior to awarding a tax credit to a supermarket or grocery
9 store, the Department of Labor and Workforce Development, the
10 Department of Environmental Protection, and the Department of the
11 Treasury shall each report to the chief executive officer of the
12 authority whether a qualifying supermarket or grocery store is in
13 substantial good standing with the respective department, or has
14 entered into an agreement with the respective department that
15 includes a practical corrective action plan for the supermarket or
16 grocery store. The authority may also contract with an independent
17 third party to perform a background check on the developer.

18 e. A supermarket or grocery store shall, as required at the
19 discretion of the authority, submit to the authority satisfactory
20 information pertaining to the project cost, project financing gap, and
21 the initial operating costs, as certified by a certified public
22 accountant, certifications that all information provided by the
23 supermarket or grocery store to the authority is true, including
24 information contained in the application, any agreement pertaining to
25 the award of tax credits under the program, any amendment to such
26 an agreement, and any other information submitted by the
27 supermarket or grocery store to the authority pursuant to sections 35
28 through 42 of P.L. , c. (C.) (pending before the Legislature
29 as this bill), and evidence of the initial opening and continued
30 operation of the supermarket or grocery store. The supermarket or
31 grocery store, or an authorized agent of the supermarket or grocery
32 store, shall certify under the penalty of perjury that the information
33 provided pursuant to this subsection is true.
34

35 40. (New section) a. For taxable years beginning on or after
36 January 1 next following the effective date of sections 35 through 42
37 of P.L. , c. (C.) (pending before the Legislature as this bill),
38 a taxpayer eligible under subsection c. of section 38 of P.L. , c.
39 (C.) (pending before the Legislature as this bill) shall be awarded
40 a credit against the tax due pursuant to N.J.S.54A:1-1 et seq. A
41 taxpayer that qualifies for the award of a tax credit under this section
42 may claim 25 percent of the total amount awarded in the taxable year
43 in which the taxpayer establishes and opens the supermarket or
44 grocery store for business, and may claim 25 percent of the total
45 amount awarded in each of the three taxable years next following the
46 initial opening, provided that the supermarket or grocery store
47 remains in business and open to the public. For a taxpayer to be
48 awarded a tax credit pursuant to this section, the taxpayer shall meet

1 the requirements of this section, and the rules and regulations adopted
2 pursuant to section 41 of P.L. , c. (C.) (pending before the
3 Legislature as this bill).

4 b. The order of priority of the application of the credit allowed
5 pursuant to this section and any other credits allowed against the tax
6 imposed pursuant to N.J.S.54A:1-1 et seq. for a taxable year shall be
7 as prescribed by the Director of the Division of Taxation in the
8 Department of the Treasury, in consultation with the chief executive
9 officer of the authority. The amount of the credit applied pursuant to
10 this section against the tax imposed pursuant to N.J.S.54A:1-1 et seq.
11 shall not reduce a taxpayer's tax liability for a taxable year to an
12 amount less than zero. Any credit shall be valid in the taxable year in
13 which the certification is approved and any unused portion thereof
14 may be carried forward into the next 10 taxable years or until
15 depleted, whichever is earlier.

16 c. A business entity that is classified as a partnership for federal
17 income tax purposes shall not be allowed the credit directly under
18 N.J.S.54A:1-1 et seq., but the amount of credit of the taxpayer in
19 respect of a distributive share of partnership income shall be
20 determined by allocating to the taxpayer that proportion of the credit
21 acquired by the partnership that is equal to the taxpayer's share,
22 whether or not distributed, of the total distributive income or gain of
23 the partnership for its taxable year ending within or with the
24 taxpayer's taxable year.

25 A taxpayer that is a New Jersey S corporation shall not be allowed
26 the credit directly under N.J.S.54A:1-1 et seq., but the amount of
27 credit of a taxpayer in respect of a pro rata share of S corporation
28 income shall be determined by allocating to the taxpayer that
29 proportion of the credit acquired by the New Jersey S corporation
30 that is equal to the taxpayer's share, whether or not distributed, of the
31 total pro rata share of S corporation income of the New Jersey S
32 corporation for its taxable year ending within or with the taxpayer's
33 taxable year.

34 d. The authority shall award tax credits to taxpayers until either
35 the available tax credits are exhausted or all projects that are eligible
36 for a tax credit pursuant to the provisions of sections 35 through 42
37 of P.L. , c. (C.) (pending before the Legislature as this bill)
38 receive a tax credit, whichever occurs first. If insufficient funding
39 exists to allow a tax credit to a taxpayer in accordance with the
40 provisions of subsection a. of section 38 of P.L. , c. (C.)
41 (pending before the Legislature as this bill), the authority may offer
42 the taxpayer a tax credit in an amount less than that provided in
43 subsection a. of this section 40.

44 e. Prior to awarding a tax credit to a supermarket or grocery
45 store, the Department of Labor and Workforce Development, the
46 Department of Environmental Protection, and the Department of the
47 Treasury shall each report to the chief executive officer of the
48 authority whether a qualifying supermarket or grocery store, and each

1 contractor and subcontractor performing construction work at the
2 qualifying supermarket or grocery store, is in substantial good
3 standing with the respective department, or has entered into an
4 agreement with the respective department that includes a practical
5 corrective action plan. The authority may also contract with an
6 independent third party to perform a background check on the
7 developer.

8 f. A supermarket or grocery store shall, as required at the
9 discretion of the authority, submit to the authority satisfactory
10 information pertaining to the project cost, project financing gap, and
11 the initial operating costs, as certified by a certified public
12 accountant, certifications that all information provided by the
13 supermarket or grocery store to the authority is true, including
14 information contained in the application, any agreement pertaining to
15 the award of tax credits under the program, any amendment to such
16 an agreement, and any other information submitted by the
17 supermarket or grocery store to the authority pursuant to sections 35
18 through 42 of P.L. , c. (C.) (pending before the Legislature
19 as this bill), and evidence of the initial opening and continued
20 operation of the supermarket or grocery store. The supermarket or
21 grocery store, or an authorized agent of the supermarket or grocery
22 store, shall certify under the penalty of perjury that the information
23 provided pursuant to this subsection is true.
24

25 41. (New section) The authority, in consultation with the
26 department and the Director of the Division of Taxation in the
27 Department of the Treasury, shall adopt, pursuant to the
28 "Administrative Procedure Act," P.L.1968, c.410 (C.52:14B-1 et
29 seq.), rules and regulations necessary to carry out the provisions of
30 sections 35 through 42 of P.L. , c. (C.) (pending before the
31 Legislature as this bill).
32

33 42. (New section) Within one year of the effective date of sections
34 35 through 42 of P.L. , c. (C.) (pending before the Legislature
35 as this bill), the authority shall annually submit a report to the
36 Governor, the State Treasurer, and, pursuant to section 2 of P.L.1991,
37 c.164 (C.52:14-19.1), the Legislature, on the effectiveness of the
38 program in establishing supermarkets and grocery stores in food
39 desert communities.
40

41 43. (New section) Sections 43 through 53 of P.L. , c. (C.)
42 (pending before the Legislature as this bill) shall be known and may
43 be cited as the "New Jersey Community-Anchored Development
44 Act."
45

46 44. (New section) The purpose of the New Jersey Community-
47 Anchored Development Act is for the New Jersey Economic
48 Development Authority to facilitate, in partnership with the State's

1 key not-for-profit and governmental anchor institutions, large-scale
2 development projects with desirable employment and geographical
3 characteristics that are to impact a broader community. The
4 Legislature finds that where a broad commonality of goals exists
5 between anchor institutions and the State, the authority can
6 effectively utilize anchor institutions as investors in, and additional
7 overseers of, projects that the authority seeks to incentivize. Under
8 the legislation, anchor institutions in the areas of education, health
9 care, culture, community development, and economic development
10 are provided with the opportunity to act as investors in targeted
11 development, utilizing proceeds from the sale of State tax credits.
12 This approach harnesses the deep experience of the numerous anchor
13 institutions in the State, institutions that enjoy decades-long
14 relationships with communities around the State, making them ideal
15 partners for companies wanting to come to or expand in New Jersey.

16 This legislation seeks to overcome cost-of-occupancy differences
17 between New Jersey and less expensive options in other jurisdictions
18 for specific properties by reducing the cost of occupancy being
19 offered to a targeted company. This legislation represents a shift in
20 State economic development policy from a grant model to an
21 investment model, differing significantly from past award models in
22 that the legislation does not provide a certain dollar amount to private
23 employers based on the number and types of jobs being created or
24 preserved in the State.

25 The legislation affords an opportunity for an anchor institution and
26 the authority to become partners in a project, with the authority
27 receiving a negotiated current or deferred economic return on the tax
28 credit investment made by the anchor institution and ultimately the
29 return of the amount initially invested. Through a competitive
30 application process to the authority, a real estate partnership between
31 an anchor institution and a partner business will make its case for an
32 amount of tax credits necessary for that project to be able to establish
33 occupancy costs at a competitive level.

34 By its inclusion of designated federal opportunity zones and areas
35 eligible to be designated as federal opportunity zones as a separate
36 basis for projects to receive tax credits, the legislation seeks to
37 incentivize anchor institutions to look beyond the borders of their
38 host communities, permitting them to invest in other locales that lack
39 strong anchor institutions, thus expanding their influence and impact
40 by doing so. Simultaneously, such investments will further the
41 objectives of the State in attracting high-value employers and in
42 providing economic stimulus to areas of the State that prior
43 investment cycles have overlooked. The legislation is also expansive
44 enough to permit the addition of other beneficial uses to a qualifying
45 project; including housing, public amenities, parking, mixed uses,
46 and facilities of an anchor institution itself.

47 The tax credits issued by the authority to an applicant anchor
48 institution are to be issued pursuant to a tax credit agreement that sets

1 forth negotiated terms on which the authority has agreed to issue the
2 credits. The tax credit agreement is to include standards relating to
3 the anticipated economic results of the community-anchored project
4 and address accountability in the event that the community-anchored
5 project fails to meet the requirements specified in the tax credit
6 agreement.

7 The Legislature declares that two principal objectives underscore
8 the policy approach of this legislation: first, an incentive program
9 cannot succeed as a one-size-fits-all structure, and therefore an award
10 of tax credits is to be thoroughly underwritten by the authority and
11 specifically designed for scenarios in which the authority finds that
12 the award will be effective; and second, the State is better served
13 where the State's financial support is characterized and treated as an
14 investment rather than an explicit grant.

15

16 45. (New section) As used in sections 43 through 53 of P.L. , c.
17 (C.) (pending before the Legislature as this bill):

18 "Affiliate" means an entity that directly or indirectly controls, is
19 under common control with, or is controlled by an anchor institution
20 or a partner business. Control exists in all cases in which the entity
21 is a member of a controlled group of corporations as defined pursuant
22 to section 1563 of the federal Internal Revenue Code (26 U.S.C.
23 s.1563) or the entity is an organization in a group of organizations
24 under common control that is subject to the regulations applicable to
25 organizations pursuant to subsection (b) or (c) of section 414 of the
26 federal Internal Revenue Code (26 U.S.C. s.414). A taxpayer may
27 establish by clear and convincing evidence, as determined by the
28 Director of the Division of Taxation in the Department of the
29 Treasury, that control exists in situations involving lesser
30 percentages of ownership than required by the above referenced
31 federal statutes.

32 "Anchor institution" means a governmental entity or nonprofit
33 entity incorporated pursuant to Title 15 of the Revised Statutes or
34 Title 15A of the New Jersey Statutes having a primary mission and
35 specific policy goals that align with those of the authority under the
36 program and that is a comprehensive health care system, a public
37 research university, a private research university, a major cultural
38 scientific, research and philanthropic institutions, or public colleges
39 which are separate from public research universities, certified as an
40 anchor institution by the board pursuant to subsection a. of section
41 46 of P.L. , c. (C.) (pending before the Legislature as this
42 bill).

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

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

1 "Commitment period" means the period of time, which shall be
2 not less than 10 years and no greater than twice the eligibility period
3 that is granted to an anchor institution, to distribute to the authority
4 the agreed upon returns on investment for the award of tax credits
5 pursuant to the program; provided, however, at the election of the
6 authority or upon the request of an anchor institution in order to
7 benefit the community-anchored project, and as determined in the
8 sole discretion of the authority, the authority may grant up to two
9 consecutive five-year extensions of the commitment period.

10 "Community-anchored project" means a capital project that is
11 located in an area that is designated as a New Jersey State opportunity
12 zone, an area of the State designated pursuant to the "State Planning
13 Act," P.L.1985, c.398 (C.52:18A-196 et seq.), as Planning Area 1
14 (Metropolitan), or a municipality with a Municipal Revitalization
15 Index distress score of at least 50 and for which an anchor institution
16 is to be awarded tax credits by the authority pursuant to a tax credit
17 agreement which establishes the award of tax credits as an investment
18 by the authority in the project, provided that the project will result in
19 a capital investment of at least \$10,000,000 in a New Jersey State
20 opportunity zone or in any other area of the State, but a project that
21 is not located in a New Jersey State opportunity zone is to be
22 primarily designed to result in the economic expansion of a targeted
23 industry in this State.

24 "Comprehensive health care system" means an entity in this State
25 with the primary purpose of offering comprehensive health care
26 services. "Comprehensive health care system" shall not include any
27 business that manages or offers one or more health benefits plans.

28 "Comprehensive health care services" means the basic health care
29 services provided under a health benefits plan, including medical and
30 surgical services provided by licensed health care providers who may
31 include, but are not limited to, family physicians, internists,
32 cardiologists, psychiatrists, rheumatologists, dermatologists,
33 orthopedists, obstetricians, gynecologists, neurologists,
34 endocrinologists, radiologists, nephrologists, emergency services
35 physicians, ophthalmologists, pediatricians, pathologists, general
36 surgeons, osteopathic physicians, physical therapists and
37 chiropractors. Basic benefits may also include inpatient or outpatient
38 services rendered at a licensed hospital, covered services performed
39 at an ambulatory surgical facility, and ambulance services.
40 "Comprehensive health care services" shall include only services
41 provided by licensed health care providers.

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

44 "Eligibility period" means the period in which an anchor
45 institution may claim, sell, transfer, or otherwise use a tax credit
46 under the New Jersey Community-Anchored Development Program,
47 beginning with the tax period in which the authority accepts
48 certification of the business that it has met the capital investment

1 requirements of the program and extending thereafter for a term of
2 not more than 10 years.

3 "Eligible position" means a full-time position in a business in this
4 State which the business has filled with a full-time employee. An
5 eligible position shall not include an independent contractor or a
6 consultant.

7 "Experienced nonprofit or governmental economic or community
8 development entity" means a nonprofit entity incorporated pursuant
9 to Title 15 of the Revised Statutes or Title 15A of the New Jersey
10 Statutes that has a core mission and a community track record of
11 advancing economic or community development in at least one area
12 of the State and that has appropriate prior experience in successfully
13 developing mixed-use projects and utilizing complex financing
14 arrangements in developing similar types of projects, as determined
15 by the board.

16 "Major cultural institution" means a public or nonsectarian
17 nonprofit institution within this State that engages in the cultural,
18 intellectual, scientific, environmental, educational, or artistic
19 enrichment of the people of this State, and which is designated by the
20 board as a major cultural institution.

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

26 "New Jersey State opportunity zone" means a federal population
27 census tract in this State that was eligible to be designated as a
28 qualified opportunity zone pursuant to 26 U.S.C. s.1400Z-1.

29 "Partner business" means a corporation, partnership, firm,
30 enterprise, franchise, association, trust, sole proprietorship, or other
31 legal entity, but shall not include a public entity that enters into an
32 agreement with an anchor institution to rent and occupy commercial
33 space within a community-anchored project. Under the program a
34 partner business, subject to agreement with the anchor institution,
35 may lease one or more portions of the partner business's space in the
36 community-anchored project to one or more other persons or entities.

37 "Private research university" means Princeton University and any
38 other institution of higher education in this State designated by the
39 board as a private research university, based on criteria and metrics
40 established by the board.

41 "Program" means the New Jersey Community-Anchored
42 Development Program established pursuant to section 46 of P.L. ,
43 c. (C.) (pending before the Legislature as this bill).

44 "Public research university" means Rutgers, The State University
45 of New Jersey, Rowan University, the New Jersey Institute of
46 Technology, and Montclair State University.

47 "Qualified business accelerator or incubator facility" means a
48 commercial space that contains office, laboratory, or industrial space

1 and which is located near, and presents opportunities for
2 collaboration with, a public research university, a private research
3 university, teaching hospital, college, or university, and within which
4 at least 50 percent of the gross leasable area is restricted for use by
5 one or more targeted industry start-up companies during the
6 commitment period.

7 "Targeted industry" means any industry identified from time to
8 time by the authority which shall initially include advanced
9 transportation and logistics, advanced manufacturing, aviation,
10 autonomous vehicle and zero-emission vehicle research or
11 development, clean energy, life sciences, hemp processing,
12 information and high technology, finance and insurance, professional
13 services, film and digital media, and non-retail food and beverage
14 businesses, including food innovation and other innovative industries
15 that disrupt current technologies or business models.

16 "Tax credit agreement" means a tax credit agreement entered into
17 pursuant to section 50 of P.L. , c. (C.) (pending before the
18 Legislature as this bill) between the authority and an anchor
19 institution.

20 "Work First New Jersey program" means the Work First New
21 Jersey program established pursuant to P.L.1997, c. 38 (C.44:10-55
22 et seq.).

23

24 46. (New section) a. The New Jersey Community-Anchored
25 Development Program is established as a program under the
26 jurisdiction of the New Jersey Economic Development Authority.
27 The authority shall administer the program to invest in and
28 incentivize the expansion of targeted industries in the State and the
29 continued development of certain areas of the State through the
30 provision of tax credits to anchor institutions. The board shall certify
31 qualified anchor institutions based on the requirements of sections 43
32 through 53 of P.L. , c. (C.) (pending before the Legislature
33 as this bill), and may approve the award of a tax credit to an anchor
34 institution pursuant to sections 47 and 48 of P.L. , c. (C. and
35 C.) (pending before the Legislature as this bill). The value of
36 all tax credits approved by the authority to anchor institutions under
37 the program shall be subject to the limitations set forth in section 98
38 of P.L. , c. (C.) (pending before the Legislature as this bill).

39 b. (1) The authority shall administer the program to invest in,
40 and incentivize the establishment of, community-anchored projects
41 by anchor institutions, independently or in collaboration with one or
42 more partner businesses or governmental entities. The authority's
43 investment in community-anchored projects shall be in the form of
44 the award of tax credits to anchor institutions.

45 (2) (a) The authority may award a tax credit to an anchor
46 institution under the program, which the anchor institution shall
47 convert into an investment by the authority in a community-anchored
48 project, subject to the condition that the anchor institution either sell

1 and transfer the tax credit, or adopt a plan to use the tax credit in
2 order to finance the completion of the community-anchored project,
3 which condition shall be included in the tax credit agreement entered
4 into pursuant to section 50 of P.L. , c. (C.) (pending before
5 the Legislature as this bill). An anchor institution receiving tax
6 credits under the program shall use the proceeds derived from the
7 sale or financing of the tax credits to make an equity investment in
8 or to provide a loan or other financial support for the community-
9 anchored project that will permit the anchor institution, and, if
10 applicable, a partner business, to develop the community-anchored
11 project and to attract tenants, owners, investors, lenders, partners,
12 collaborators, and other beneficial parties to the community-
13 anchored project. A tax credit agreement, entered into pursuant to
14 section 50 P.L. , c. (C.) (pending before the Legislature as
15 this bill) shall detail the terms by which an anchor institution will
16 convert the award of tax credits into an investment by the authority
17 into the community-anchored project, subject to potential returns on
18 investment to the authority based on an agreed-upon formula for the
19 distribution of returns, including upon the sale of a community-
20 anchored project or at the end of the commitment period. For
21 community-anchored projects financed solely by governmental and
22 nonprofit entity investments, the authority shall negotiate an agreed
23 upon formula which shall include, but not be limited to, the potential
24 recapture of the value of the tax credits awarded. For community-
25 anchored projects that are not financed solely by governmental and
26 nonprofit entity investments, the authority shall negotiate an agreed
27 upon formula which shall include, but not be limited to, the potential
28 recapture of the value of the tax credits awarded and additional
29 returns on investment. The tax credit agreement shall, however,
30 specify that the authority's interest in the community-anchored
31 project shall be subordinate to the investments made by an anchor
32 institution and partner businesses. References to investments and
33 returns in sections 43 through 53 of P.L. , c. (C.) (pending
34 before the Legislature as this bill) shall also include loans and other
35 financial support and their corresponding returns.

36 (b) Consistent with an applicable tax credit agreement, a tax
37 credit awarded to an anchor institution for conversion into an
38 authority investment, as provided pursuant to subparagraph (a) of this
39 paragraph, may be applied against tax liability otherwise due
40 pursuant to section 5 of P.L.1945, c.162 (C.54:10A-5), pursuant to
41 sections 2 and 3 of P.L.1945, c.132 (C.54:18A-2 and C.54:18A-3),
42 pursuant to section 1 of P.L.1950, c.231 (C.17:32-15), or pursuant to
43 N.J.S.17B:23-5.

44 (3) The authority shall develop protocols for assumptions testing
45 relating to projected and actual returns on investment under the
46 program and regularly analyze the returns on investment received by
47 the authority under the program, and shall evaluate future

1 applications and projections considering the results of the
2 assumptions testing and analysis.

3 c. The authority shall engage in program evaluation and
4 assumptions testing to ensure that the authority at least recaptures the
5 value of the tax credits awarded to all anchor institutions and realizes
6 additional returns on investment under the program; provided,
7 however, that for community-anchored projects financed solely by
8 governmental and nonprofit entity investments, the authority may
9 negotiate a potential return on investment, the calculation of which
10 would include, but not be limited to, recapture of the value of the tax
11 credits awarded for those community-anchored projects financed
12 solely by governmental and nonprofit entities.

13 d. Any funds distributed to the authority as a return on
14 investment pursuant to the program shall be deposited into the
15 General Fund of the State.

16

17 47. (New section) a. An anchor institution shall be eligible to
18 receive a tax credit under the program only if the anchor institution
19 submits a program application to the authority that results in
20 completion of a community-anchored project through a capital
21 investment in a New Jersey State opportunity zone or, if the
22 community-anchored project is primarily designed to result in the
23 economic expansion of a targeted industry in this State, in an area of
24 the State designated pursuant to the "State Planning Act," P.L.1985,
25 c.398 (C.52:18A-196 et seq.), as Planning Area 1 (Metropolitan) or
26 in a municipality with a Municipal Revitalization Index distress score
27 of at least 50.

28 b. At the time of application, an anchor institution seeking tax
29 credits pursuant to the program shall demonstrate to the authority:

30 (1) that the proposed community-anchored project will result in a
31 capital investment in a New Jersey State opportunity zone or, if the
32 project is primarily designed to result in the economic expansion of
33 a targeted industry in this State, in an area of the State designated
34 pursuant to the "State Planning Act," P.L.1985, c.398 (C.52:18A-196
35 et seq.), as Planning Area 1 (Metropolitan) or in a municipality with
36 a Municipal Revitalization Index distress score of at least 50;

37 (2) the structure and terms of the financial, corporate, and real
38 estate instruments to be utilized to successfully complete and then
39 operate the community-anchored project, including, but not limited
40 to, the proposed economic and business relationship between the
41 anchor institution and any partner business;

42 (3) that the anchor institution, along with any partner business
43 participating in a community-anchored project, has not commenced
44 any construction at the site of the community-anchored project prior
45 to submitting an application, unless the authority determines that the
46 community-anchored project would not be completed otherwise or,
47 in the event the community-anchored project is to be undertaken in

- 1 phases, the requested tax credit covers only phases for which
2 construction has not yet commenced;
- 3 (4) the value of the tax credit that is necessary in each year of the
4 eligibility period, in order for the anchor institution to finance the
5 establishment of the community-anchored project;
- 6 (5) the total aggregate value of the tax credit for the entire
7 eligibility period that is necessary in order for the anchor institution
8 to finance the establishment of the community-anchored project;
- 9 (6) that the award of tax credits under the program will be
10 converted into an investment by the authority into the community-
11 anchored project, and demonstrate to the authority the anticipated
12 current and deferred returns, as applicable, on that investment;
- 13 (7) that the community-anchored project shall comply with the
14 standards established by the authority through regulation based on
15 the green building manual prepared by the Commissioner of
16 Community Affairs pursuant to section 1 of P.L.2007, c. 132
17 (C.52:27D-130.6), regarding the use of renewable energy, energy-
18 efficient technology, and non-renewable resources in order to reduce
19 environmental degradation and encourage long-term cost reduction;
- 20 (8) that the community-anchored project shall comply with the
21 authority's affirmative action requirements, adopted pursuant to
22 section 4 of P.L.1979, c.303 (C.34:1B-5.4);
- 23 (9) a description of the significant economic, social, planning,
24 employment, environmental, fiscal, and other benefits that would
25 accrue to the State, county, or municipality from the community-
26 anchored project;
- 27 (10) that each worker and subcontractor working on construction
28 of the community-anchored project prior to the start of the eligibility
29 period shall be paid not less than \$15 per hour or 120 percent of the
30 minimum wage fixed under subsection a. of section 5 of P.L.1966,
31 c.113 (C.34:11-56a4), whichever is higher;
- 32 (11) that during the eligibility period, each worker employed to
33 perform construction work and building services work at the
34 community-anchored project shall be paid not less than the prevailing
35 wage rate for the worker's craft or trade, as determined by the
36 Commissioner of Labor and Workforce Development pursuant to
37 P.L.1963, c.150 (C.34:11-56.25 et seq.) and P.L.2005, c.379
38 (C.34:11-56.58 et seq.). In the event the community-anchored
39 project constitutes a lease of more than 55 percent of a single facility,
40 these requirements shall apply to the entire facility;
- 41 (12) that during the eligibility period, the anchor institution shall
42 partner with one or more local community organizations that provide
43 support and services to Work First New Jersey program recipients, in
44 order to provide work activity opportunities and other appropriate
45 services to Work First New Jersey program recipients, which
46 activities and services may include, but shall not be limited to: work-
47 study programs, internships, sector-based contextualized literacy

1 training, skills-based training in growth industries in the State, and
2 job retention and advancement services;

3 (13) the extent to which the community-anchored development
4 will result in the expansion of a targeted industry in this State;

5 (14) that the timing of the award and investment of tax credits
6 under the program shall allow for the successful completion and
7 operation of the community-anchored project; and

8 (15) that the community-anchored project is viable and that the
9 anchor institution is a credible partner for completing the
10 community-anchored project and providing the agreed-upon
11 potential returns to the authority, as detailed in the tax credit
12 agreement entered into pursuant to section 50 of P.L. , c. (C.)
13 (pending before the Legislature as this bill).

14 c. Prior to the board considering an application submitted by an
15 anchor institution, the Department of Labor and Workforce
16 Development, the Department of Environmental Protection, and the
17 Department of the Treasury shall each report to the chief executive
18 officer of the authority whether the anchor institution and any partner
19 business is in substantial good standing with the respective
20 department, or has entered into an agreement with the respective
21 department that includes a practical corrective action plan anchor
22 institution or partner business. The authority may also contract with
23 an independent third party to perform a background check on an
24 anchor institution and any partner business.

25 d. In order to facilitate the creation of new partnerships with
26 anchor institutions, the authority shall publish on the authority's
27 website a list of names and contact information for each anchor
28 institution that has submitted an application pursuant to this section.
29

30 48. (New section) a. Prior to March 1, 2027, an anchor institution
31 seeking a tax credit pursuant to the program shall submit an
32 application to the authority in a form and manner prescribed in
33 regulations adopted by the authority pursuant to the provisions of the
34 "Administrative Procedure Act," P.L.1968, c.410 (C.52:14B-1 et
35 seq.). The authority shall accept and certify applications for tax
36 credits during the award rounds established pursuant to section 49 of
37 P.L. , c. (C.) (pending before the Legislature as this bill).

38 b. The authority shall not consider an application for a
39 community-anchored project unless the anchor institution submits,
40 with the application, a letter evidencing support for the community-
41 anchored project from the governing body of the municipality in
42 which the community-anchored project is located.

43 c. The authority shall review the project costs for a proposed
44 community-anchored project and evaluate and validate the
45 underlying financial structure proposed by the anchor institution.
46 The authority shall conduct a State fiscal impact analysis to ensure
47 that the overall value of tax credits provided to the community-
48 anchored project is projected to result in net benefits to the State,

1 taking into account the current and deferred returns to the authority.
2 The authority shall assess the cost of these reviews to the applicant.
3 An anchor institution shall pay to the authority the full amount of the
4 direct costs of an analysis concerning the anchor institution's
5 application for tax credits that a third party retained by the authority
6 performs, if the authority deems such retention to be necessary.

7 d. If at any time during the eligibility period the authority
8 determines that an anchor institution made a material
9 misrepresentation on the program application, the anchor institution
10 shall forfeit or repay to the authority the value of tax credits
11 associated with that application.

12
13 49. (New section) a. The authority shall award tax credits under
14 the program through a competitive application process consisting of
15 up to two award rounds each year. The authority shall provide notice
16 to the public of the opening and closing dates for submission of
17 program applications on the authority's Internet website.

18 b. (1) The authority shall review applications for tax credits
19 submitted to the authority by the deadline date of the award round
20 and shall evaluate each application as if it were received on the
21 deadline date, without providing any preference for early
22 submissions. To determine priority for an award of a tax credit, all
23 applications for community-anchored projects that satisfy the criteria
24 set forth in sections 47 and 48 of P.L. , c. (C. and)
25 (pending before the Legislature as this bill) in a given award round
26 shall be ranked on the basis of a scoring system developed by the
27 authority through regulations adopted pursuant to the provisions of
28 the "Administrative Procedure Act," P.L.1968, c.410 (C.52:14B-1 et
29 seq.). Prior to the commencement of an award round, the authority
30 shall determine the minimum score for the award round that an
31 anchor institution is required to attain to be eligible for a tax credit.

32 (2) The authority may establish different criteria for community-
33 anchored projects that are located in a New Jersey State opportunity
34 zone and community-anchored projects that are primarily designed
35 to result in the economic expansion of a targeted industry in this
36 State.

37 c. The scoring system developed by the authority pursuant to
38 subsection b. of this section shall assess applications for tax credits
39 based on the following competitive criteria, which shall include, but
40 shall not be limited to:

41 (1) the amount of tax credit requested by the anchor institution
42 compared to the overall investments required for the completion of
43 the community-anchored project, along with the amount of the
44 potential return on the authority's investment of tax credits to the
45 State by the end of the commitment period, the amount of the tax
46 credit, if any, that is unlikely to be realized as a return on investment
47 to the State, and the proposed terms and structure for the authority's

- 1 investment in the project, including applicable current and deferred
2 returns;
- 3 (2) the financial benefit of the community-anchored project to the
4 community in which the community-anchored project will be
5 located;
- 6 (3) apprenticeships or workforce programs to be offered because
7 of the community-anchored project;
- 8 (4) the ability of the community-anchored project to absorb and
9 adapt to changing environmental conditions and deliver its
10 objectives;
- 11 (5) how the community-anchored project will advance State,
12 regional, and local development and planning strategies;
- 13 (6) the relationship of the community-anchored project to a
14 comprehensive local development strategy, including its relation to
15 other development and redevelopment projects in the municipality;
- 16 (7) the degree to which the community-anchored project
17 enhances and promotes job creation and economic development;
- 18 (8) the extent of economic and related social distress in the
19 municipality and the immediate area surrounding the community-
20 anchored project;
- 21 (9) the extent to which the community-anchored project provides
22 for the development of workforce housing and housing for
23 individuals with special needs;
- 24 (10) the extent to which the community-anchored project
25 constitutes the expansion of the anchor institution to different areas
26 of the State;
- 27 (11) the extent to which the community-anchored project provides
28 for infrastructure, parking, retail, green space, or other public
29 amenities creating a mixed-use community-anchored project;
- 30 (12) the inclusion of a qualified business accelerator or incubator
31 facility as a part of the community-anchored project;
- 32 (13) the length of the commitment period for the community-
33 anchored project;
- 34 (14) the quality and number of new full-time jobs that will be
35 created by the anchor institution or a partner business at the
36 community-anchored project;
- 37 (15) the quality and number of existing full-time jobs that will be
38 retained by the anchor institution or a partner business in the State as
39 a result of completing the community-anchored project, with the
40 criteria specifying, in scoring the application, that the retention of an
41 existing full-time job shall be given not more than one-third the
42 weight of a new full-time job of a similar quality; and
- 43 (16) if the anchor institution has a board of directors, the extent
44 to which that board of directors is diverse and representative of the
45 community in which the community-anchored project is located.
- 46 d. Notwithstanding the provisions of subsection c. of this
47 section, the authority may adopt, pursuant to the provisions of the
48 "Administrative Procedure Act," P.L.1968, c.410 (C.52:14B-1 et

1 seq.), rules and regulations adjusting competitive criteria required
2 under the program when necessary to respond to the prevailing
3 economic conditions in the State.

4 e. Prior to the award of a tax credit to an anchor institution, to
5 be converted into an authority investment in a community-anchored
6 project, the Department of Labor and Workforce Development, the
7 Department of Environmental Protection, and the Department of the
8 Treasury shall each report to the chief executive officer of the
9 authority as to whether the anchor institution, along with any partner
10 business identified in a program application, and each contractor and
11 subcontractor performing work at the community-anchored project,
12 is in substantial good standing with the respective department, or has
13 entered into an agreement with the respective department that
14 includes a practical corrective action plan. Provided that all parties
15 are in substantial good standing, or have entered into such an
16 agreement, the authority shall allocate tax credits to community-
17 anchored projects according to the community-anchored project's
18 score and until either the available tax credits are exhausted or all
19 community-anchored projects obtaining the minimum score receive
20 a tax credit, whichever occurs first. If insufficient funding exists to
21 fully fund all eligible community-anchored projects, a community-
22 anchored project may be offered partial funding.

23 f. Applications that do not receive the minimum score
24 established by the authority for that award round shall not receive
25 further consideration for a tax credit by the authority in that award
26 round; however, an anchor institution may revise or complete a new
27 application to be submitted in a subsequent award round.

28 g. If an anchor institution declines a tax credit offered by the
29 authority, the authority shall offer the tax credit to the applicant with
30 the application having the next highest score, and having obtained at
31 least the minimum score in that award round.

32

33 50. (New section) a. Following approval and selection of an
34 application pursuant to sections 48 and 49 of P.L. , c. (C.)
35 (pending before the Legislature as this bill), the authority shall enter
36 into a tax credit agreement with the anchor institution. The chief
37 executive officer of the authority shall negotiate the terms and
38 conditions of the tax credit agreement on behalf of the State.

39 b. (1) A tax credit agreement shall specify the amount of the tax
40 credit that the authority shall award to the anchor institution for
41 conversion into an authority investment and specify the duration of
42 the eligibility period, which shall not exceed 10 years. The tax credit
43 agreement shall provide an estimated date of completion for the
44 community-anchored project and include a requirement for periodic
45 progress reports through completion, including the submittal of
46 executed financing commitments and documents or agreements that
47 evidence site control.

1 (2) If, as a result of a default under the tax credit agreement, the
2 authority rescinds a tax credit in the same calendar year in which the
3 authority approved the tax credit, then the authority may assign the
4 tax credit to another applicant that attained the minimum score
5 determined pursuant to section 49 of P.L. , c. (C.) (pending
6 before the Legislature as this bill).

7 c. The terms of the tax credit agreement shall:

8 (1) provide for a verification of project financing at the time the
9 anchor institution and any partner business provides executed
10 financing commitments to the authority and a verification of the
11 anchor institution's projected cash flow at the time of certification
12 that the project is completed;

13 (2) specify the length of the commitment period for the
14 community-anchored project and the terms by which the anchor
15 institution shall provide to the authority current or deferred returns
16 on investment generated by the community-anchored project and
17 commit to a structure for returns on investment;

18 (3) allow the anchor institution to distribute returns on investment
19 to the authority for the tax credits in the amount specified in the tax
20 credit agreement at any time within the commitment period, but
21 require such distribution to occur if the community-anchored project
22 is sold before the end of the commitment period;

23 (4) specify amounts of returns to be retained by the anchor
24 institution for capital reserves, programming, or other purposes;

25 (5) identify the value of any monetary or financial benefit offered
26 or provided by the anchor institution to any partner business that
27 works with the anchor institution to complete and operate the
28 community-anchored project;

29 (6) identify any benefits created by the anchor institution for a
30 partner business through equity investment in or debt-financing of a
31 community-anchored project and specify the formula by which such
32 benefits are passed through to a partner business;

33 (7) specify that the authority or the State may purchase tax credits
34 offered for sale by an anchor institution for 90 percent of the stated
35 value of the tax credit before considering any further discounting to
36 present value which shall be permitted;

37 (8) at a minimum, require an anchor institution to provide
38 oversight of the community-anchored project through ongoing
39 reporting by a partner business to the anchor institution, and
40 subsequent ongoing reporting by the anchor institution to the
41 authority;

42 (9) specify other measures through which the authority shall
43 ensure oversight of outstanding tax credit investments, and, in the
44 event that an anchor institution fails to meet its obligations under the
45 tax credit agreement or any program requirement, establish the right
46 of the authority to assume direct oversight of any or all projects for
47 which the anchor institution has entered into investment agreements

- 1 and require the anchor institution to pursue any remedies it may have
2 against a partner business;
- 3 (10) at a minimum, require that the anchor institution, and any
4 partner businesses, adopt specific nondiscrimination policies for the
5 operation of a community-anchored project; and
- 6 (11) require that any partner business of an anchor institution
7 consent to the disclosure of tax expenditure information as described
8 in paragraph (8) of subsection b. of section 1 of P.L.2009, c.189
9 (C.52:27B-20a).
- 10 d. The tax credit agreement shall include a requirement that the
11 chief executive officer of the authority receive annual reports from
12 the anchor institution that are to include separate certifications by the
13 Department of Environmental Protection, the Department of Labor
14 and Workforce Development, and the Department of the Treasury
15 demonstrating that the anchor institution, any partner business, and
16 each contractor and subcontractor performing work at the
17 community-anchored project is in substantial good standing with that
18 department, or have entered into an agreement with that department
19 that includes a corrective action plan, and the tax credit agreement
20 shall include a provision that the anchor institution shall forfeit the
21 tax credit in any year in which an uncured default exists under the tax
22 credit agreement. The tax credit agreement shall, however, allow the
23 authority to extend, in individual cases, the deadline for any annual
24 reporting or certification requirement.
- 25 e. An anchor institution shall, as required at the discretion of the
26 authority, submit to the authority satisfactory evidence of actual
27 project costs, as certified by a certified public accountant, evidence
28 of a temporary certificate of occupancy, or other event evidencing
29 project completion. The anchor institution, or an authorized agent of
30 the anchor institution, shall certify under the penalty of perjury that
31 the information provided pursuant to this subsection is true.
- 32
- 33 51. (New section) a. Up to the limits established in subsection b.
34 of this section and in accordance with a tax credit agreement,
35 beginning upon the receipt of occupancy permits for any portion of
36 the community-anchored project, or upon any other event evidencing
37 project completion as set forth in the tax credit agreement, an anchor
38 institution of an approved community-anchored project shall be
39 awarded a base tax credit of \$5,000,000 for conversion into an
40 authority investment in the community-anchored project.
- 41 b. An anchor institution may be allowed a tax credit in excess of
42 the base amount, if approved by the authority, provided, however, the
43 total tax credit allowed per community-anchored project shall not
44 exceed \$75,000,000 and the total investment of all State resources in
45 a community-anchored project shall not exceed 40 percent of the total
46 cost of the project.

1 52. (New section) a. An anchor institution that is awarded a tax
2 credit under sections 43 through 53 of P.L. , c. (C.) (pending
3 before the Legislature as this bill) shall, commencing in the year in
4 which the tax credit is awarded, and each year thereafter for the
5 remainder of the eligibility period, submit a report indicating whether
6 the anchor institution is aware of any condition, event, or act that
7 would cause the anchor institution not to be in compliance with the
8 tax credit agreement or the provisions of sections 43 through 53 of
9 P.L. , c. (C.) (pending before the Legislature as this bill) and
10 any additional reporting requirements contained in the tax credit
11 agreement or tax credit certificate. The anchor institution, or an
12 authorized agent of the anchor institution, shall certify under the
13 penalty of perjury that the information provided pursuant to this
14 subsection is true.

15 b. (1) Upon receipt and review of each report submitted during
16 the eligibility period, the authority shall provide to the anchor
17 institution and the Director of the Division of Taxation in the
18 Department of the Treasury a certificate of compliance indicating the
19 amount of tax credits awarded to the anchor institution for conversion
20 into an authority investment in the community-anchored project, that
21 the anchor institution may:

22 (a) offer for sale through the provision of a tax credit transfer
23 certificate pursuant to section 53 of P.L. , c. (C.) (pending
24 before the Legislature as this bill); or

25 (b) use as collateral or to secure any financial instrument
26 approved by the authority to provide financing for the community-
27 anchored project, if that use is in accordance with rules and
28 regulations adopted by the authority, pursuant to the provisions of the
29 "Administrative Procedure Act," P.L.1968, c.410 (C.52:14B-1 et
30 seq.), to govern the use of program tax credits.

31 (2) Upon receipt by the director of the certificate of compliance,
32 the director shall coordinate with the anchor institution and the
33 authority to provide the anchor institution with a tax credit transfer
34 certificate, as described in section 53 of P.L. , c. (C.) (pending
35 before the Legislature as this bill), or a tax credit certificate for the
36 value awarded by the authority for that year that the anchor institution
37 may use as provided in paragraph (1) of this subsection b. and in
38 accordance with the rules adopted pursuant to subparagraph (b) of
39 paragraph (1) of this subsection.

40

41 53. (New section) a. An anchor institution may apply to the
42 director and the chief executive officer of the authority for a tax credit
43 transfer certificate, covering one or more years. The tax credit
44 transfer certificate, upon receipt thereof by the anchor institution
45 from the director and the chief executive officer of the authority, may
46 be sold or assigned, in full or in part, in the privilege period during
47 which the anchor institution receives the tax credit transfer certificate
48 from the director, to another person, who may apply the credit against

1 a tax liability pursuant to section 5 of P.L.1945, c.162 (C.54:10A-5),
2 sections 2 and 3 of P.L.1945, c.132 (C.54:18A-2 and C.54:18A-3),
3 section 1 of P.L.1950, c.231 (C.17:32-15), or N.J.S.17B:23-5.

4 b. The anchor institution shall not sell or assign, including a
5 collateral assignment, a tax credit transfer certificate allowed under
6 this section for consideration received by the anchor institution of
7 less than 85 percent of the transferred credit amount before
8 considering any further discounting to present value which shall be
9 permitted. The tax credit transfer certificate issued to an anchor
10 institution by the director shall be subject to any limitations and
11 conditions imposed on the application of State tax credits pursuant to
12 sections 43 through 53 of P.L. , c. (C.) (pending before the
13 Legislature as this bill) and any other terms and conditions that the
14 director may prescribe.

15 c. A purchaser or assignee of a tax credit transfer certificate
16 pursuant to this section may make any subsequent transfers,
17 assignments, or sales of a tax credit transfer certificate for an amount
18 to be negotiated with a subsequent purchaser or assignee.

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

- 22 (1) the name of the transferor;
- 23 (2) the name of the transferee;
- 24 (3) the value of the tax credit transfer certificate;
- 25 (4) the State tax against which the transferee may apply the tax
26 credit; and
- 27 (5) the consideration received by the transferor.

28
29 54. (New section) Sections 54 through 67 of P.L. , c. (C.)
30 (pending before the Legislature as this bill) shall be known and may
31 be cited as the "New Jersey Aspire Program Act."
32

33 55. (New section) As used in sections 54 through 67 of P.L. , c.
34 (C.) (pending before the Legislature as this bill):

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

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

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

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

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

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

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

26 "Commercial project" means a building, which is predominantly
27 commercial and contains 100,000 or more square feet of office and
28 retail space, industrial space, or film studios, professional stages,
29 television studios, recording studios, screening rooms, or other
30 infrastructure for film production, for purchase or lease and may
31 include a parking component.

32 "Developer" means a person who enters or proposes to enter into
33 an incentive award agreement pursuant to the provisions of section
34 62 of P.L. , c. (C.) (pending before the Legislature as this
35 bill), including, but not limited, to a lender that completes a
36 redevelopment project, operates a redevelopment project, or
37 completes and operates a redevelopment project.

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

40 "Distressed municipality" means a municipality that is qualified
41 to receive assistance under P.L.1978, c.14 (C.52:27D-178 et seq.), a
42 municipality under the supervision of the Local Finance Board
43 pursuant to the provisions of the "Local Government Supervision Act
44 (1947)," P.L.1947, c.151 (C.52:27BB-1 et seq.), a municipality
45 identified by the Director of the Division of Local Government
46 Services in the Department of Community Affairs to be facing
47 serious fiscal distress, a SDA municipality, or a municipality in
48 which a major rail station is located.

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

7 "Eligibility period" means the period not to exceed 15 years for a
8 commercial or mixed-use project or the period not to exceed 10 years
9 for a residential project specified in an incentive award agreement
10 during which a developer may claim a tax credit under the program.

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

17 "Food desert community" means a physically contiguous area in
18 the State in which residents have limited access to nutritious foods,
19 such as fresh fruits and vegetables, through supermarkets and grocery
20 stores.

21 "Government-restricted municipality" means a municipality in
22 this State with a municipal revitalization index distress score of at
23 least 7, that met the criteria for designation as an urban aid
24 municipality in the 2019 State fiscal year, and that, on the effective
25 date of P.L. , c. (C.) (pending before the Legislature as this
26 bill), is subject to financial restrictions imposed pursuant to the
27 Municipal Stabilization and Recovery Act of 2016, P.L.2016, c.4
28 (52:27BBBB-1), or is restricted in its ability to levy property taxes
29 on property in that municipality as a result of the State of New Jersey
30 owning or controlling property representing at least 25 percent of the
31 total land area of the municipality or as a result of the federal
32 government of the United States owning or controlling at least 50
33 acres of the total land area of the municipality, which is dedicated as
34 a national natural landmark.

35 "Health care or health services center" means an establishment
36 where patients are admitted for examination and treatment by one or
37 more physicians, dentists, psychologists, or other medical
38 practitioners.

39 "Incentive area" means an area designated pursuant to the "State
40 Planning Act," P.L.1985, c.398 (C.52:18A-196 et seq.), as Planning
41 Area 1 (Metropolitan), Planning Area 2 (Suburban), or a Designated
42 Center, , provided an area designated as Planning Area 2 (Suburban)
43 or a Designated Center shall be located within a one-half mile radius
44 of the mid-point, with bicycle and pedestrian connectivity, of a New
45 Jersey Transit Corporation, Port Authority Transit Corporation, or
46 Port Authority Trans-Hudson Corporation rail, bus, or ferry station,
47 including all light rail stations, or a high frequency bus stop as
48 certified by the New Jersey Transit Corporation.

1 "Incentive award" means an award of tax credits to reimburse a
2 developer for all or a portion of the project financing gap of a
3 redevelopment project pursuant to the provisions of sections 54
4 through 67 of P.L. , c. (C.) (pending before the Legislature
5 as this bill).

6 "Incentive award agreement" means the contract executed
7 between a developer and the authority pursuant to section 62 of
8 P.L. , c. (C.) (pending before the Legislature as this bill),
9 which sets forth the terms and conditions under which the developer
10 may receive the incentive awards authorized pursuant to the
11 provisions of sections 54 through 67 of P.L. , c. (C.) (pending
12 before the Legislature as this bill).

13 "Incubator facility" means a commercial property, which contains
14 5,000 or more square feet of office, laboratory, or industrial space,
15 which is located near, and presents opportunities for collaboration
16 with, a research institution, teaching hospital, college, or university,
17 and within which at least 75 percent of the gross leasable area is
18 restricted for use by one or more technology startup companies.

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

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

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

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

47 "Municipal Revitalization Index" means the index by the
48 Department of Community Affairs ranking New Jersey's

1 municipalities according to eight separate indicators that measure
2 diverse aspects of social, economic, physical, and fiscal conditions
3 in each locality.

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

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

9 b. a 15-mile radius of the outermost boundary of each marine
10 terminal facility established, acquired, constructed, rehabilitated, or
11 improved by the South Jersey Port District established pursuant to
12 "The South Jersey Port Corporation Act," P.L.1968, c.60 (C.12:11A-
13 1 et seq.).

14 "Program" means the New Jersey Aspire Program established by
15 section 56 of P.L. , c. (C.) (pending before the Legislature
16 as this bill).

17 "Project cost" means the costs incurred in connection with a
18 redevelopment project by a developer until the issuance of a
19 permanent certificate of occupancy, or until such other time specified
20 by the authority, for a specific investment or improvement, including
21 the costs relating to lands, buildings, improvements, real or personal
22 property, or any interest therein, including leases discounted to
23 present value, including lands under water, riparian rights, space
24 rights, and air rights acquired, owned, developed or redeveloped,
25 constructed, reconstructed, rehabilitated, or improved, any
26 environmental remediation costs, plus costs not directly related to
27 construction, of an amount not to exceed 20 percent of the total costs,
28 capitalized interest paid to third parties, and the cost of infrastructure
29 improvements, including ancillary infrastructure projects. The cost
30 of acquisition of land or fees associated with the application or
31 administration of a grant under sections 54 through 67 of P.L. , c.
32 (C.) (pending before the Legislature as this bill) shall not
33 constitute a project cost.

34 "Project financing gap" means the part of the total project cost,
35 including reasonable and appropriate return on investment, that
36 remains to be financed after all other sources of capital have been
37 accounted for, including, but not limited to developer contributed
38 capital, which shall not be less than 20 percent of the total project
39 cost, and investor or financial entity capital or loans for which the
40 developer, after making all good faith efforts to raise additional
41 capital, certifies that additional capital cannot be raised from other
42 sources on a non-recourse basis.

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

47 "Qualified incentive tract" means (i) a population census tract
48 having a poverty rate of 20 percent or more; or (ii) a census tract in

1 which the median family income for the census tract does not exceed
2 80 percent of the greater of the Statewide median family income or
3 the median family income of the metropolitan statistical area in
4 which the census tract is situated.

5 "Quality childcare facility" is a child care center licensed by the
6 Department of Children and Families, operating continuously, which
7 has not been subject to an enforcement action, and which has and
8 maintains a total licensed capacity of at least 60 children age 6 years
9 or younger.

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

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

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

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

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

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

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

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

1 value by the sum of the net valuation which is taxable and that which
2 is tax exempt.

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

7 "Workforce housing" means housing that is affordable according
8 to federal Department of Housing and Urban Development or other
9 recognized standards for home ownership and rental costs, and
10 occupied or reserved for occupancy by households with a gross
11 household income of more than 80 percent, but less than 120 percent,
12 of the median gross household income for households of the same
13 size within the housing region in which the housing is located.

14

15 56. (New section) a. The New Jersey Aspire Program is hereby
16 established as a program under the jurisdiction of the New Jersey
17 Economic Development Authority. The authority shall administer
18 the program to encourage redevelopment projects through the
19 provision of incentive awards to reimburse developers for certain
20 project financing gap costs. The board may approve the award of an
21 incentive award to a developer upon application to the authority
22 pursuant to sections 58 and 59 of P.L. , c. (C. , C. , and
23 C.) (pending before the Legislature as this bill). The value of
24 all tax credits approved by the authority pursuant to sections 54
25 through 67 of P.L. , c. (C.) (pending before the Legislature
26 as this bill), shall be subject to the limitations set forth in section 98
27 of P.L. , c. (C.) (pending before the Legislature as this bill).

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

32

33 57. (New section) a. Prior to March 1, 2027, a developer shall be
34 eligible to receive an incentive award for a redevelopment project
35 only if the developer demonstrates to the authority at the time of
36 application that:

37 (1) without the incentive award, the redevelopment project is not
38 economically feasible;

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

42 (3) the redevelopment project is located in the incentive area;

43 (4) except for demolition and site remediation activities, the
44 developer has not commenced any construction at the site of the
45 redevelopment project prior to submitting an application, unless the
46 authority determines that the redevelopment project would not be
47 completed otherwise or, in the event the redevelopment project is to

1 be undertaken in phases, the requested incentive award is limited to
2 only phases for which construction has not yet commenced;

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

5 (6) the redevelopment project shall comply with the authority's
6 affirmative action requirements, adopted pursuant to section 4 of
7 P.L.1979, c.203 (C.34:1B-5.4);

8 (7) each worker employed or subcontractor of a developer
9 working at a redevelopment project, 80 percent or more of which is
10 operated by the developer, shall be paid not less than \$15 per hour or
11 120 percent of the minimum wage fixed under subsection a. of
12 section 5 of P.L.1966, c.113 (C.34:11-56a4), whichever is higher;

13 (8) during the eligibility period, each worker employed to
14 perform construction work or building services work at the
15 redevelopment project shall be paid not less than the prevailing wage
16 rate for the worker's craft or trade, as determined by the
17 Commissioner of Labor and Workforce Development pursuant to
18 P.L.1963, c.150 (C.34:11-56.25 et seq.) and P.L.2005, c.379
19 (C.34:11-56.58 et seq.). In the event a redevelopment project is
20 undertaken by a tenant and the tenant has a leasehold of more than
21 55 percent of space in the building owned or controlled by the
22 developer, the requirement that each worker employed to perform
23 building service work at the building be paid not less than the
24 prevailing wage shall apply to the entire building;

25 (9) the redevelopment project shall be completed, and the
26 developer shall be issued a certificate of occupancy for the
27 redevelopment project facilities by the applicable enforcing agency
28 within four years of executing the incentive award agreement
29 corresponding to the redevelopment project;

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

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

37 b. In addition to the requirements set forth in subsection a. of
38 this section, for a commercial project to qualify for an incentive
39 award the developer shall demonstrate that:

40 (1) the incremental increase of State revenues realized from the
41 commercial project upon its completion shall be in excess of the
42 amount necessary to reimburse the developer for its project financing
43 gap; and

44 (2) the developer shall have an equity participation of at least 20
45 percent of the total project cost.

46 c. In addition to the requirements set forth in subsection a. of
47 this section, for a residential project to qualify for an incentive award,
48 the residential project shall:

- 1 (1) have a total project cost of at least \$17,500,000, if the project
2 is located in a municipality with a population greater than 200,000
3 according to the latest federal decennial census;
- 4 (2) have a total project cost of at least \$10,000,000 if the project
5 is located in a municipality with a population less than 200,000
6 according to the latest federal decennial census; or
- 7 (3) have a total project cost of at least \$5,000,000 if the project is
8 in a qualified incentive tract or government-restricted municipality.
- 9 d. In addition to the requirements set forth in subsections a. and
10 c. of this section, for a residential project consisting of newly-
11 constructed residential units to qualify for an incentive award, the
12 developer shall reserve at least 20 percent, but not more than 50
13 percent, of the residential units constructed for occupancy by low-
14 and moderate-income households with affordability controls as
15 required under the "Fair Housing Act," P.L.1985, c. 222 (C.52:27D-
16 301 et al.), unless: the municipality in which the property is located
17 has received substantive certification from the council and such a
18 reservation is not required under the approved affordable housing
19 plan; the municipality has been given a judgment of repose or a
20 judgment of compliance by the court, and such a reservation is not
21 required under the approved affordable housing plan. The extent to
22 which the proposed project would attract or retain a skilled
23 employment base that is important to the State's competitive position
24 generally or to capture economic development opportunities within
25 targeted industries, this 20 percent for low-income housing and
26 moderate-income housing may be used for workforce housing, or
27 housing for individuals with special needs to the extent consistent
28 with the Fair Housing Act, P.L.1985, c. 222 (C.52:27D-301 et al.).
29 This 20 percent shall be constructed within the same housing
30 development.
- 31 e. Prior to the board considering an application submitted by a
32 developer, the Department of Labor and Workforce Development,
33 the Department of Environmental Protection, and the Department of
34 the Treasury shall each report to the chief executive officer of the
35 authority whether the developer is in substantial good standing with
36 the respective department, or has entered into an agreement with the
37 respective department that includes a practical corrective action plan
38 for the developer. The authority may also contract with an
39 independent third party to perform a background check on the
40 developer.
- 41
- 42 58. (New section) a. Prior to March 1, 2027, a developer that
43 meets the eligibility criteria in section 57 of P.L. , c. (C.)
44 (pending before the Legislature as this bill) and is seeking an
45 incentive award for a redevelopment project shall submit an
46 application to the authority and, in the case of a residential project,
47 shall submit an application to the authority and the agency, in a form
48 and manner prescribed in regulations adopted by the authority, in

- 1 consultation with the agency, pursuant to the provisions of the
2 “Administrative Procedure Act,” P.L.1968, c.410 (C.52:14B-1 et
3 seq.). The authority shall accept applications for incentive awards
4 during the grant periods established pursuant to section 59 of P.L. ,
5 c. (C.) (pending before the Legislature as this bill).
- 6 b. The authority shall not consider an application for a
7 commercial project unless the developer submits a letter evidencing
8 support for the commercial project from the governing body of the
9 municipality in which the commercial project is located with the
10 application.
- 11 c. The authority shall review the project cost, evaluate and
12 validate the project financing gap estimated by the developer, and
13 conduct a State fiscal impact analysis to ensure that the overall public
14 assistance provided to the project will result in a net positive benefit
15 to the State, provided that the net benefit analysis shall not apply to
16 capital investment for a food delivery source, or a health care or
17 health services center with a minimum of 10,000 square feet of space
18 devoted to residential projects, health care or health services that is
19 located in a municipality with a Municipal Revitalization Index
20 distress score of at least 50 lacking adequate access, as determined
21 by the Commissioner of Health, to health care or health services. In
22 determining whether a project will result in a net positive benefit to
23 the State, the authority shall not consider the value of any taxes
24 exempted, abated, rebated, or retained under the "Five-Year
25 Exemption and Abatement Law," P.L.1991, c.441 (C.40A:21-1 et
26 seq.), the "Long Term Tax Exemption Law," P.L.1991, c.431
27 (C.40A:20-1 et al.), the "New Jersey Urban Enterprise Zones Act,"
28 P.L.1983, c.303 (C.52:27H-60 et seq.), or any other law that has the
29 effect of lowering or eliminating the developer’s State or local tax
30 liability. The determination made pursuant to this subsection shall
31 be based on the potential tax liability of the developer without regard
32 for potential tax losses if the developer were to locate in another state.
33 The authority shall assess the cost of these reviews to the applicant.
34 A developer shall pay to the authority the full amount of the direct
35 costs of an analysis concerning the developer’s application for a tax
36 credit that a third party retained by the authority performs, if the
37 authority deems such retention to be necessary. The authority shall
38 evaluate the net economic benefits on a present value basis under
39 which the requested tax credit allocation amount is discounted to
40 present value at the same discount rate as the projected benefits from
41 the implementation of the proposed redevelopment project for which
42 an award of tax credits is being sought.
- 43 d. For a redevelopment project subject to the requirement of
44 subsection c. of this section to be eligible for any tax credits under
45 the program, a developer shall demonstrate to the authority that the
46 award of tax credits will yield a net positive benefit to the State
47 equaling an amount determined by the authority through regulation
48 that exceeds the requested tax credit amount. The developer shall

1 certify, under the penalty of perjury, that all documents submitted,
2 and factual assertions made, to the authority to demonstrate that the
3 award of tax credits will yield a net positive benefit to the State in
4 accordance with this subsection are true and accurate at the time of
5 submission. A redevelopment project located in a government-
6 restricted municipality shall yield a net positive benefit to the State
7 that exceeds the requested tax credit amount, but the net benefit
8 requirement set by the authority for such redevelopment projects may
9 be up to 35 percentage points lower than the net benefit requirement
10 set by the authority for all other eligible redevelopment projects.

11 e. If at any time during the eligibility period the authority
12 determines that the developer made a material misrepresentation on
13 the developer's application, the developer shall forfeit the incentive
14 award.

15 f. If circumstances require a developer to amend its application
16 to the authority, then the developer, or an authorized agent of the
17 developer, shall certify to the authority that the information provided
18 in its amended application is true under the penalty of perjury.

19

20 59. (New section) a. Prior to March 1, 2027, for redevelopment
21 projects eligible pursuant to section 57 of P.L. , c. (C.)
22 (pending before the Legislature as this bill), the authority shall award
23 incentive awards through an application process consisting of up to
24 two biannual award rounds. The authority shall provide notice to the
25 public of the opening and closing dates for submission of grant
26 applications on its Internet website. The authority shall award
27 incentive awards based on the order in which complete, qualifying
28 applications were received by the authority.

29 b. Prior to allocating an incentive award to a redevelopment
30 project, the Department of Labor and Workforce Development, the
31 Department of Environmental Protection, and the Department of the
32 Treasury shall each report to the chief executive officer of the
33 authority whether the developer and each contractor and
34 subcontractor performing work at the redevelopment project is in
35 substantial good standing with the respective department, or has
36 entered into an agreement with the respective department that
37 includes a practical corrective action plan. The authority may also
38 contract with an independent third party to perform a background
39 check on the developer. Provided that the developer and all
40 contractors and subcontractors are in substantial good standing, or
41 have entered into such agreements, the authority shall allocate
42 incentive awards to redevelopment projects according to the
43 redevelopment project's score and until either the available incentive
44 awards are exhausted or all redevelopment projects obtaining the
45 minimum score receive an incentive award, whichever occurs first.
46 If insufficient funding exists to fully fund all eligible projects, a
47 project may be offered partial funding.

1 60. (New section) a. Following approval and selection of an
2 application pursuant to sections 58 and 59 of P.L. , c. (C. and
3 C.) (pending before the Legislature as this bill), the authority
4 shall enter into an incentive award agreement with the developer.
5 The chief executive officer of the authority shall negotiate the terms
6 and conditions of the incentive award agreement on behalf of the
7 State. The incentive award agreement shall require that the developer
8 consent to the disclosure of tax expenditure information as described
9 in paragraph (8) of subsection b. of section 1 of P.L.2009, c.189
10 (C.52:27B-20a).

11 b. An incentive award agreement shall specify the amount of the
12 incentive award the authority shall award to the developer and the
13 duration of the eligibility period, which shall not exceed 15 years for
14 a commercial or mixed-use project and shall not exceed 10 years for
15 a residential project. The incentive award agreement shall provide
16 an estimated date of completion and include a requirement for
17 periodic progress reports, including the submittal of executed
18 financing commitments and documents that evidence site control. If
19 the authority does not receive periodic progress reports, or if the
20 progress reports demonstrate unsatisfactory progress, then the
21 authority may rescind the incentive award. If the authority rescinds
22 an incentive award in the same calendar year in which the authority
23 approved the incentive award, then the authority may assign the
24 incentive award to another applicant. The incentive award agreement
25 may also provide for a verification of the financing gap at the time
26 the developer provides executed financing commitments to the
27 authority and a verification of the developer's projected cash flow at
28 the time of certification that the project is completed.

29 c. To ensure the protection of taxpayer money, if the authority
30 determines that the project financing gap is smaller than determined
31 at board approval, the authority shall reduce the amount of the tax
32 credit on a pro rata basis. If there is no project financing gap, then
33 the developer shall forfeit the incentive award. This test shall be
34 conducted at the end of the third year of the eligibility period
35 whereupon the authority shall evaluate the developer's cash flow and
36 compare that cash flow to the projected cash flow at the time of board
37 approval. For a commercial project, if the actual cash flow exceeds
38 the projected cash flow at the time of board approval by more than
39 15 percent, the authority shall require the developer to pay up to 15
40 percent of the amount of the excess. To the extent applicable, in the
41 case of a residential project, the developer's return on investment
42 shall be subject to the provisions of section 7 of P.L.1983, c.530
43 (C.55:14K-7).

44 d. The incentive award agreement shall include a requirement
45 that the chief executive officer of the authority receive annual reports
46 from the Department of Environmental Protection, the Department of
47 Labor and Workforce Development, and the Department of the
48 Treasury demonstrating that the developer and each contractor and

1 subcontractor performing work at the redevelopment project is in
2 substantial good standing with the respective department, or has
3 entered into an agreement with the respective department that
4 includes a practical corrective action. The incentive award
5 agreement shall also include a provision that the developer shall
6 forfeit the incentive award in any year in which any such report is not
7 received. The incentive award agreement shall also require a
8 developer to engage in on-site consultations with the Division of
9 Workplace Safety and Health in the Department of Health.

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

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

32 (3) As used in this subsection:

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

36 "Labor harmony agreement" means an agreement between a
37 business that serves as the owner or operator of a retail establishment
38 or distribution center and one or more labor organizations, which
39 requires, for the duration of the agreement: that any participating
40 labor organization and its members agree to refrain from picketing,
41 work stoppages, boycotts, or other economic interference against the
42 business; and that the business agrees to maintain a neutral posture
43 with respect to efforts of any participating labor organization to
44 represent employees at an establishment or other unit in the retail
45 establishment or distribution center, agrees to permit the labor
46 organization to have access to the employees, and agrees to guarantee
47 to the labor organization the right to obtain recognition as the
48 exclusive collective bargaining representatives of the employees in

1 an establishment or unit at the retail establishment or distribution
2 center by demonstrating to the New Jersey State Board of Mediation,
3 Division of Private Employment Dispute Settlement, or a mutually
4 agreed-upon, neutral, third-party, that a majority of workers in the
5 unit have shown their preference for the labor organization to be their
6 representative by signing authorization cards indicating that
7 preference. The labor organization or organizations shall be from a
8 list of labor organizations which have requested to be on the list and
9 which the Commissioner of Labor and Workforce Development has
10 determined represent substantial numbers of retail or distribution
11 center employees in the State.

12 f. (1) In addition to the incentive award agreement, a developer
13 shall enter into a community benefits agreement with the authority
14 and the county or municipality in which the redevelopment project is
15 located. The agreement may include, but shall not be limited to,
16 requirements for training, employment, and youth development and
17 free services to underserved communities in and around the
18 community in which the redevelopment project is located. Prior to
19 entering a community benefits agreement, the governing body of the
20 county or municipality in which the redevelopment project is located
21 shall hold at least one public hearing at which the governing body
22 shall hear testimony from residents, community groups, and other
23 stakeholders on the needs of the community that the agreement
24 should address.

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

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

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

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

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

11

12 61. (New section) a. Up to the limits established in subsection b.
13 of this section and in accordance with an incentive award agreement,
14 beginning upon the receipt of occupancy permits for any portion of
15 the redevelopment project, or upon any other event evidencing
16 project completion as set forth in the incentive award agreement, a
17 developer shall be allowed a total tax credit that shall not exceed 45
18 percent of the total project cost of the redevelopment project, except
19 for a commercial project that is located in a government-restricted
20 municipality, in which case the total tax credit allowed shall not
21 exceed 50 percent of the total project cost of the commercial project.

22 b. The value of all tax credits approved by the authority under
23 the program for a redevelopment project shall not exceed
24 \$50,000,000 per redevelopment project if located in a qualified
25 incentive tract, government-restricted municipality, or municipality
26 with a Municipal Revitalization Index distress score of at least 50, or
27 \$32,000,000 for any other redevelopment project.

28

29 62. (New section) a. A developer approved for an incentive
30 award pursuant to sections 58 and 59 of P.L. , c. (C. and
31 C.) (pending before the Legislature as this bill) and that enters
32 an incentive award agreement pursuant to section 60 of P.L. , c.
33 (C.) (pending before the Legislature as this bill) shall submit
34 annually, commencing in the year in which the incentive award is
35 issued and for the remainder of the eligibility period, a report
36 indicating whether the developer is aware of any condition, event, or
37 act that would cause the developer not to be in compliance with the
38 incentive award agreement or the provisions of sections 54 through
39 67 of P.L. , c. (C.) (pending before the Legislature as this
40 bill) and any additional reporting requirements contained in the
41 incentive award agreement or tax credit certificate. The developer,
42 or an authorized agent of the developer, shall certify that the
43 information provided pursuant to this subsection is true under the
44 penalty of perjury.

45 b. (1) Upon receipt and review of each report submitted during
46 the eligibility period, the authority shall provide to the developer and
47 the director a certificate of compliance indicating the amount of tax

1 credits that the developer may apply against the developer's tax
2 liability.

3 (2) Upon receipt by the director of the certificate of compliance,
4 the director shall allow the developer a credit against the tax imposed
5 pursuant to section 5 of P.L.1945, c.162 (C.54:10A-5). A developer
6 shall apply the credit awarded against the developer's liability under
7 section 5 of P.L.1945, c.162 (C.54:10A-5), sections 2 and 3 of
8 P.L.1945, c.132 (C.54:18A-2 and C.54:18A-3), section 1 of
9 P.L.1950, c.231 (C.17:32-15), or N.J.S.17B:23-5 for the privilege
10 period during which the director allows the developer a tax credit
11 pursuant to this subsection. A developer shall not carry forward an
12 unused credit unless the developer was unable to use the credit
13 because the developer's redevelopment project was directly impacted
14 due to a natural disaster, state emergency, national emergency, or a
15 situation that was out of the developer's control that impacted the
16 developer's use of the credit that year, in which case the developer is
17 permitted to carry forward an unused credit for up two years upon
18 submitting evidence of the developer's redevelopment project being
19 directly impacted by such a circumstance and receiving approval
20 from the authority. Credits granted to a partnership shall be passed
21 through to the partners, members, or owners, respectively, pro-rata,
22 or pursuant to an executed agreement among the partners, members,
23 or owners documenting an alternate distribution method provided to
24 the director accompanied by any additional information as the
25 director may prescribe.

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

35 c. The authority may, pursuant to an amendment to the incentive
36 award agreement, provide short-term stabilization loans to a
37 developer eligible for an incentive award pursuant to subparagraph
38 (b) of paragraph (3) of subsection a. of section 57 or of P.L. , c.
39 (C.) (pending before the Legislature as this bill). The authority
40 may finance the loans authorized pursuant to this subsection through
41 a sale of tax credits to which the developer would be entitled at a
42 future date pursuant to the incentive award agreement and as
43 authorized under this act or through appropriations made available
44 by the Legislature. A developer shall utilize a loan made available
45 pursuant to this subsection exclusively for project costs or to mitigate
46 a project financing gap. The loans shall bear interest at rates and
47 terms deemed appropriate by the authority but shall bear an interest
48 rate of zero percent per year for the first five years of the loan term.

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

17 b. The developer shall not sell or assign, including a collateral
18 assignment, a tax credit transfer certificate allowed under this section
19 for consideration received by the developer of less than 85 percent of
20 the transferred credit amount before considering any further
21 discounting to present value which shall be permitted, except a
22 developer of a residential project consisting of newly-constructed
23 residential units may assign a tax credit transfer certificate for
24 consideration of less than 85 percent subject to the submission of a
25 plan to the authority and the agency to use the proceeds derived from
26 the assignment of tax credits to complete the residential project,
27 except a developer of a residential project consisting of newly-
28 constructed residential units that has received federal low income
29 housing tax credits under 26 U.S.C. s.42(b)(2)(B)(i) may assign a tax
30 credit transfer certificate for consideration of no less than 75 percent
31 subject to the submission of a plan to the authority and the New
32 Jersey Housing and Mortgage Finance Agency to use the proceeds
33 derived from the assignment of tax credits to complete the residential
34 project. The tax credit transfer certificate issued to a developer by
35 the director shall be subject to any limitations and conditions
36 imposed on the application of State tax credits pursuant to sections
37 54 through 67 of P.L. , c. (C.) (pending before the Legislature
38 as this bill) and any other terms and conditions that the director may
39 prescribe.

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

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

- 46 (1) the name of the transferrer;
- 47 (2) the name of the transferee;
- 48 (3) the value of the tax credit transfer certificate; and

1 (4) the consideration received by the transferrer.

2

3 64. (New section) a. A developer who has entered into an
4 incentive award agreement pursuant to section 62 of P.L. , c.
5 (C.) (pending before the Legislature as this bill) may, upon
6 notice to and written consent of the authority and State Treasurer,
7 pledge, assign, transfer, or sell any or all of its right, title, and interest
8 in and to the incentive award agreement and in the incentive awards
9 payable under the incentive award agreement, and the right to receive
10 the incentive awards, along with the rights and remedies provided to
11 the developer under the incentive award agreement. Any assignment
12 shall be an absolute assignment for all purposes, including the federal
13 bankruptcy code.

14 b. Any pledge of an incentive award made by the developer shall
15 be valid and binding from the time the pledge is made and filed in
16 the records of the authority. The incentive award pledged and
17 thereafter received by the developer shall immediately be subject to
18 the lien of the pledge without any physical delivery thereof or further
19 act, and the lien of any pledge shall be valid and binding against all
20 parties having claims of any kind in tort, contract, or otherwise
21 against the developer irrespective of whether the parties have notice
22 thereof. As a condition of any incentive grant, the grantee, assignee,
23 pledgee or subsequent holder of the incentive grant shall immediately
24 file notice of the same with the clerk of the county in which the
25 project is located.

26 c. The authority shall publish on its Internet website the
27 following information concerning each pledge, assignment, transfer,
28 or sale approved by the authority pursuant to this section:

29 (1) the name of the person or entity offering the pledge,
30 assignment, transfer, or sale of a right, title, or interest in an incentive
31 grant agreement or tax credit agreement;

32 (2) the name of the person or entity receiving the pledge,
33 assignment, transfer, or sale of a right, title, or interest in the
34 incentive grant agreement or tax credit agreement;

35 (3) the value of the right, title, or interest in the incentive grant
36 agreement or tax credit agreement; and

37 (4) the consideration received by the person or entity offering the
38 pledge, assignment, transfer, or sale of the right, title, or interest in
39 the incentive grant agreement or tax credit agreement.

40

41 65. (New section) a. As used in this section, "transformative
42 project" means a redevelopment project that has a project financing
43 gap, that has a total project cost of at least \$100,000,000, and that
44 includes 500,000 or more square feet of new or substantially
45 renovated industrial, commercial, or residential space or that includes
46 250,000 or more square feet of film studios, professional stages,
47 television studios, recording studios, screening rooms, or other
48 infrastructure for film production and which is of special economic

1 importance as measured by the level of new jobs, new capital
2 investment, opportunities to leverage leadership in a high-priority
3 targeted industry, or other state priorities as determined by the
4 authority pursuant to rules and regulations promulgated to implement
5 this section. The criteria developed by the authority shall include,
6 but shall not be limited to:

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

10 (2) for a residential or mixed-use project, the construction of
11 1,000 or more new residential units, 20 percent of which shall be
12 constructed for occupancy by low- and moderate-income households
13 with affordability controls as required under the under the "Fair
14 Housing Act," P.L.1985, c.222 (C.52:27D-301 et al.), which 20
15 percent shall include, to the extent to which the proposed
16 transformative project would attract or retain a skilled employment
17 base that is important to the State's competitive position generally or
18 to capture economic development opportunities within targeted
19 industries, low-income housing, moderate-income housing,
20 workforce housing, or housing for individuals with special needs, and
21 which 20 percent shall be constructed within the same housing
22 development;

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

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

31 b. The authority may award an incentive award to no more than
32 seven transformative projects in accordance with the provisions of
33 sections 59 through 67 of P.L. , c. (C.); provided, however,
34 a transformative project shall not be subject to the competitive
35 application procedure set forth in section 59 of P.L. , c. (C.)
36 (pending before the Legislature as this bill). A transformative project
37 receiving an incentive award pursuant to this section, other than a
38 project that includes 250,000 or more square feet of film studios,
39 professional stages, television studios, recording studios, screening
40 rooms or other infrastructure for film production, shall be located in
41 a distressed municipality, a government-restricted municipality, or
42 an urban transit hub municipality. No more than two transformative
43 project receiving an incentive award pursuant to this section shall be
44 located in the same municipality. The authority shall not consider an
45 application for a transformative project unless the applicant submits
46 with its application a letter evidencing support for the transformative
47 project from the governing body of the municipality in which the
48 transformative project is located.

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

29 d. In determining net benefits for any business or person
30 considering locating in a transformative project and applying to
31 receive from the authority any other economic development incentive
32 subsequent to the award of transformative project tax credits pursuant
33 to section 65 of P.L. , c. (C.) (pending before the Legislature
34 as this bill), the authority shall not credit the business or person with
35 any benefit that was previously credited to the transformative project
36 pursuant to section 65 of P.L. , c. (C.) (pending before the
37 Legislature as this bill).

38 e. The authority shall administer the credits awarded pursuant to
39 this section in accordance with the provisions of sections 62 and 63
40 of P.L. , c. (C. and C.) (pending before the Legislature
41 as this bill).

42 f. Prior to allocating an incentive award to a developer, the
43 Department of Labor and Workforce Development, the Department
44 of Environmental Protection, and the Department of the Treasury
45 shall each report to the chief executive officer of the authority
46 whether the developer and each contractor and subcontractor
47 performing work at the transformative project is in substantial good
48 standing with the respective department, or has entered into an

1 agreement with the respective department that includes a practical
2 corrective action plan. The authority may also contract with an
3 independent third party to perform a background check on the
4 applicant.

5 g. Notwithstanding the limitation on incentive awards set forth
6 in subsection b. of section 61 and section 98 of P.L. , c. (C.)
7 (pending before the Legislature as this bill) to the contrary, the
8 authority may allow a developer of a transformative project a tax
9 credit, as reimbursement for certain project financing gap costs, in an
10 amount not to exceed 30 percent of the total project cost, the total
11 value of the project financing gap, or \$250,000,000 whichever is less.
12

13 66. (New section) Beginning the year next following the year in
14 which P.L. , c. (C.) (pending before the Legislature as this
15 bill) takes effect and every two years thereafter, a State college or
16 university established pursuant to chapter 64 of Title 18A of the New
17 Jersey Statutes shall, pursuant to an agreement executed between the
18 State college or university and the authority, prepare a report on the
19 implementation of the program, and submit the report to the
20 authority, the Governor, and, pursuant to section 2 of P.L.1991, c.164
21 (C.52:14-19.1), to the Legislature. Each biennial report required
22 under this section shall include a description of each redevelopment
23 project receiving a tax credit under the program, a detailed analysis
24 of the consideration given in each project to the factors set forth in
25 sections 58 and 59 of P.L. , c. (C. , C. , and C.)
26 (pending before the Legislature as this bill), in the case of a
27 commercial project, the return on investment for incentive awards
28 provided and the commercial project's impact on the State's
29 economy, and any other metrics the State college or university
30 determines are relevant based upon national best practices. The
31 authority shall prepare a written response to the report, which the
32 authority shall submit to the Governor and, pursuant to section 2 of
33 P.L.1991, c.164 (C.52:14-19.1), to the Legislature.
34

35 67. (New section) Notwithstanding the provisions of the
36 "Administrative Procedure Act," P.L.1968, c.410 (C.52:14B-1 et
37 seq.), to the contrary, the chief executive officer of the authority may
38 adopt, immediately, upon filing with the Office of Administrative
39 Law, regulations that the chief executive officer deems necessary to
40 implement the provisions of sections 54 through 67 of P.L. , c.
41 (C.) (pending before the Legislature as this bill), which
42 regulations shall be effective for a period not to exceed 180 days from
43 the date of the filing. The chief executive officer shall thereafter
44 amend, adopt, or readopt the regulations in accordance with the
45 requirements of P.L.1968, c.410 (C.52:14B-1 et seq.).

1 68. (New section) Sections 68 through 81 of P.L. , c. (C.)
2 (pending before the Legislature as this bill) shall be known and may
3 be cited as the "Emerge Program Act."
4

5 69. (New section) As used in sections 68 through 81 of P.L. , c.
6 (C.) (pending before the Legislature as this bill):

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

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

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

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

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

42 "Business" means an applicant proposing to own or lease premises
43 in a qualified business facility that is: a corporation that is subject to
44 the tax imposed pursuant to section 5 of P.L.1945, c.162 (C.54:10A-
45 5), sections 2 and 3 of P.L.1945, c.132 (C.54:18A-2 and C.54:18A-
46 3), section 1 of P.L.1950, c.231 (C.17:32-15), or N.J.S.17B:23-5, or
47 is a partnership, S corporation, limited liability company, or non-
48 profit corporation. A business shall include an affiliate of the

1 business if that business applies for a credit based upon any capital
2 investment made by or full-time employees of an affiliate. If the
3 business or tenant is a cooperative or part of a cooperative, then the
4 cooperative may qualify for credits by counting the full-time
5 employees and capital investments of its member organizations, and
6 the cooperative may distribute credits to its member organizations.
7 If the business or tenant is a cooperative that leases to its member
8 organizations, the lease shall be treated as a lease to an affiliate or
9 affiliates. A business shall include an affiliate of the business if that
10 business applies for a credit based upon any capital investment made
11 by full-time employees of an affiliate.

12 "Capital investment" means expenses that a business or an affiliate
13 of the business incurs following its submission of an application to
14 the authority pursuant to section 72 of P.L. , c. (C.) (pending
15 before the Legislature as this bill), but prior to the project completion
16 date, as shall be defined in the project agreement, for: a. site
17 preparation and construction, repair, renovation, improvement,
18 equipping, or furnishing on real property or of a building, structure,
19 facility, or improvement to real property; b. obtaining and installing
20 furnishings and machinery, apparatus, or equipment, including but
21 not limited to material goods subject to bonus depreciation under
22 sections 168 and 179 of the federal Internal Revenue Code (26 U.S.C.
23 ss.168 and 179), for the operation of a business on real property or in
24 a building, structure, facility, or improvement to real property; or any
25 combination of the foregoing.

26 "College or university" means a county college, an independent
27 institution of higher education, a public research university, or a State
28 college.

29 "Commitment period" means a period that is 1.5 times the
30 eligibility period specified in the project agreement entered into
31 pursuant to section 73 of P.L. , c. (C.) (pending before the
32 Legislature as this bill), rounded up, for each applicable phase
33 agreement.

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

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

39 "Distressed municipality" means a municipality that is qualified
40 to receive assistance under P.L.1978, c.14 (C.52:27D-178 et seq.), a
41 municipality under the supervision of the Local Finance Board
42 pursuant to the provisions of the "Local Government Supervision Act
43 (1947)," P.L.1947, c.151 (C.52:27BB-1 et seq.), a municipality
44 identified by the Director of the Division of Local Government
45 Services in the Department of Community Affairs to be facing
46 serious fiscal distress, a SDA municipality, or a municipality in
47 which a major rail station is located.

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

5 "Eligibility period" means the period in which an eligible business
6 may claim a tax credit under the program for a given project phase,
7 beginning with the tax period in which the authority accepts
8 certification of the eligible business that it has met the capital
9 investment and employment requirements of the program for the
10 respective project phase, and extending thereafter for a term of not
11 more than seven years, with the term to be determined at the
12 discretion of the applicant, provided that the term of the eligibility
13 period may consist of nonconsecutive tax years if the applicant elects
14 at any time after the end of the first tax period of the eligibility period
15 to defer the continuation of the eligibility period to a subsequent tax
16 period. The authority may extend the eligibility period one additional
17 tax period to accommodate a prorated payment pursuant to paragraph
18 (2) of subsection a. of section 77 of P.L. , c. (C.) (pending
19 before the Legislature as this bill).

20 "Eligible business" means any business that satisfies the criteria
21 set forth in section 71 of P.L. , c. (C.) (pending before the
22 Legislature as this bill) at the time of application for tax credits under
23 the program.

24 "Eligible position" or "full-time job" means a full-time position in
25 a business in this State which the business has filled with a full-time
26 employee. An eligible position shall not include an independent
27 contractor or a consultant.

28 "Employment and Investment Corridor" means the portions of the
29 qualified incentive area that are not located within a distressed
30 municipality and which:

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

38 b. intersect with portions of: a port district, a qualified incentive
39 tract, or federally-owned land approved for closure under a federal
40 Commission on Base Realignment and Closure action;

41 c. are the proposed site of a qualified incubator facility, a
42 tourism destination project, or transit oriented development; or

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

1 "Full-time employee" means a person:

2 a. who is employed by a business for consideration for at least
3 35 hours a week, or who renders any other standard of service
4 generally accepted by custom or practice as full-time employment,
5 and whose wages are subject to withholding as provided in the "New
6 Jersey Gross Income Tax Act," N.J.S.54A:1-1 et seq.;

7 b. who is employed by a professional employer organization
8 pursuant to an employee leasing agreement between the business and
9 the professional employer organization, pursuant to P.L.2001, c.260
10 (C.34:8-67 et seq.) for at least 35 hours a week, or who renders any
11 other standard of service generally accepted by custom or practice as
12 full-time employment, and whose wages are subject to withholding
13 as provided in the "New Jersey Gross Income Tax Act," N.J.S.54A:1-
14 1 et seq.; or

15 c. who is a resident of another State, but whose income is not
16 subject to the "New Jersey Gross Income Tax Act," N.J.S.54A:1-1 et
17 seq., or who is a partner of a business who works for the partnership
18 for at least 35 hours a week, or who renders any other standard of
19 service generally accepted by custom or practice as full-time
20 employment, and whose distributive share of income, gain, loss, or
21 deduction, or whose guaranteed payments, or any combination
22 thereof, is subject to the payment of estimated taxes, as provided in
23 the "New Jersey Gross Income Tax Act," N.J.S.54A:1-1 et seq.

24 A "full time employee" further means a person who, except for
25 purposes of the Statewide workforce, is provided, by the business,
26 with employee health benefits under a health benefits plan authorized
27 pursuant to State or federal law and who is paid no less than \$15 per
28 hour or 120 percent of the minimum wage fixed under subsection a.
29 of section 5 of P.L.1966, c.113 (C.34:11-56a4), whichever is higher.

30 With respect to a logistics, manufacturing, energy, defense,
31 aviation, or maritime business, excluding primarily warehouse or
32 distribution operations, located in a port district having a container
33 terminal, the requirement that employee health benefits are to be
34 provided shall be deemed to be satisfied if the benefits are provided
35 in accordance with industry practice by a third party obligated to
36 provide such benefits pursuant to a collective bargaining agreement;

37 A "full-time employee" shall include, but shall not be limited to,
38 an employee that has been hired by way of a labor union hiring hall
39 or its equivalent. 35 hours of employment per week qualified
40 business facility shall constitute one "full-time employee," regardless
41 of whether or not the hours of work were performed by one or more
42 persons.

43 "Full-time employee" shall not include any person who works as
44 an independent contractor or on a consulting basis for the business or
45 a contract worker whose income is subject to withholding as provided
46 in the "New Jersey Gross Income Tax Act," N.J.S.54A:1-1 et seq.,
47 except that any person working as an independent contractor or
48 contract worker whose income is subject to withholding as provided

1 in the "New Jersey Gross Income Tax Act," N.J.S.54A:1-1 et seq.,
2 for the business shall be deemed a full-time employee if the business
3 demonstrates to the authority that: (a) the person working as an
4 independent contractor for the business works at least 35 hours per
5 week or renders any other standard service generally accepted by
6 custom or practice as full-time employment, and the person is
7 provided with employee health benefits under a health benefits plan
8 authorized pursuant to State or federal law; and (b) the business
9 provides documentation to the authority to permit the authority to
10 verify the compensation paid to, and the time worked by, the person
11 working as an independent contractor. The business shall provide to
12 the authority an annual report that identifies the number of persons
13 working as independent contractors for the business and their
14 contractual or partnering relationship with the business as provided
15 pursuant to subsection i. of section 3 of P.L.2011, c.149 (C.34:1B-
16 244).

17 "Full-time employee" shall not include any person who, at the
18 time of project application, works in New Jersey for consideration
19 for at least 35 hours per week for the business, or who renders any
20 other standard of service generally accepted by custom or practice as
21 full-time employment, but who, prior to project application, was not
22 provided, by the business, with employee health benefits under a
23 health benefits plan authorized pursuant to State or federal law.

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

38 "Incentive agreement" means the contract between the business
39 and the authority, which sets forth the terms and conditions under
40 which the business shall be eligible to receive the incentives
41 authorized pursuant to the program.

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

45 "Incentive area" means:

- 46 a. an aviation district;
- 47 b. a port district;
- 48 c. a distressed municipality or transit hub municipality;

1 d. an area designated pursuant to the "State Planning Act,"
2 P.L.1985, c.398 (C.52:18A-196 et seq.), as Planning Area 1
3 (Metropolitan), Planning Area 2 (Suburban), Planning Area 3 (Fringe
4 Planning Area); or a Designated Center under the State Development
5 and Redevelopment Plan, provided an area designated as Planning
6 Area 2 (Suburban) or Planning Area 3 (Fringe Planning Area) or a
7 Designated Center shall be located within a one-half mile radius of
8 the mid-point, with bicycle and pedestrian connectivity, of a New
9 Jersey Transit Corporation, Port Authority Transit Corporation, or
10 Port Authority Trans-Hudson Corporation rail, bus, or ferry station,
11 including all light rail stations, or a high frequency bus stop as
12 certified by the New Jersey Transit Corporation.

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

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

24 g. an area located within a regional growth area, rural
25 development area zoned for industrial use as of the effective date of
26 P.L.2016, c.75, or town, village, or a military and federal installation
27 area designated in the comprehensive management plan prepared and
28 adopted by the Pinelands Commission pursuant to the "Pinelands
29 Protection Act," P.L.1979, c.111 (C.13:18A-1 et seq.);

30 h. an area located within a government-restricted municipality;

31 i. an area located within land approved for closure under any
32 federal Commission on Base Realignment and Closure action;

33 j. an area located within an area designated pursuant to the
34 "State Planning Act," P.L.1985, c.398 (C.52:18A-196 et seq.), as
35 Planning Area 4A (Rural Planning Area), Planning Area 4B
36 (Rural/Environmentally Sensitive), or Planning Area 5
37 (Environmentally Sensitive), so long as that area designated as
38 Planning Area 4A (Rural Planning Area), Planning Area 4B
39 (Rural/Environmentally Sensitive), or Planning Area 5
40 (Environmentally Sensitive) is located within: (1) a designated center
41 under the State Development and Redevelopment Plan; (2) a
42 designated growth center in an endorsed plan until the State Planning
43 Commission revises and readopts New Jersey's State Strategic Plan
44 and adopts regulations to revise this definition as it pertains to
45 Statewide planning areas; (3) any area determined to be in need of
46 redevelopment pursuant to sections 5 and 6 of P.L.1992, c.79
47 (C.40A:12A-5 and C.40A:12A-6) or in need of rehabilitation
48 pursuant to section 14 of P.L.1992, c.79 (C.40A:12A-14); (4) any

1 area on which a structure exists or previously existed including any
2 desired expansion of the footprint of the existing or previously
3 existing structure provided the expansion otherwise complies with all
4 applicable federal, State, county, and local permits and approvals; or
5 (5) any area on which an existing tourism destination project is
6 located; or

7 k. an area located in a qualified opportunity zone.

8 "Incentive phase agreement" means a sub-agreement of the
9 incentive agreement that governs the timing, capital investment,
10 employment levels, and other applicable details of the respective
11 phase.

12 "Independent institution of higher education" means a college or
13 university incorporated and located in New Jersey, which by virtue
14 of law, character, or license is a nonprofit educational institution
15 authorized to grant academic degrees and which provides a level of
16 education that is equivalent to the education provided by the State's
17 public institutions of higher education, as attested by the receipt of
18 and continuation of regional accreditation by the Middle States
19 Association of Colleges and Schools, and which is eligible to receive
20 State aid under the provisions of the Constitution of the United States
21 and the Constitution of the State of New Jersey, but does not include
22 any educational institution dedicated primarily to the education or
23 training of ministers, priests, rabbis, or other professional persons in
24 the field of religion.

25 "Industrial premises" or "industrial space" means premises or
26 space in which at least 51 percent of the square footage will be or has
27 been used for the assembling, processing, manufacturing, or any
28 combination thereof, of finished or partially finished products from
29 materials or fabricated parts, including, but not limited to, factories
30 or as a warehouse if the business uses the warehouse as part of the
31 chain of distribution for products assembled, processed,
32 manufactured, or any combination thereof, by the business at the
33 qualified business facility; for the breaking or demolishing of
34 finished or partially finished products; or for the production of oil or
35 gas or the generation or transformation of electricity.

36 "Industrial use" means assembling, processing, manufacturing, or
37 any combination thereof, of finished or partially finished products
38 from materials or fabricated parts; the breaking or demolishing of
39 finished or partially finished products; or the production of oil or gas
40 or the generation or transformation of electricity. "Industrial use"
41 includes farming purposes as that term is defined under IRC section
42 6420(c)(3)(A), undertaken in an industrial space.

43 "Infrastructure Fund" means the Recovery Infrastructure Fund
44 established pursuant to section 79 of P.L. , c. (C.) (pending
45 before the Legislature as this bill) to fund local infrastructure
46 improvements.

47 "Labor harmony agreement" means an agreement between a
48 business that serves as the owner or operator of a retail establishment

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

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

27 "Mega project" means a project of special economic importance,
28 as determined pursuant to regulations adopted by the chief executive
29 officer of the authority, as measured by the level of new jobs, new
30 capital investment, and opportunities to leverage leadership in a high-
31 priority targeted industry, as determined by the authority pursuant to
32 rules and regulations promulgated to implement P.L. , c. (C.)
33 (pending before the Legislature as this bill).

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

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

46 "New full-time job" means an eligible position created by a
47 business at a qualified business facility that did not previously exist
48 in this State. For the purposes of determining the number of new

1 full-time jobs, the eligible positions of an affiliate shall be considered
2 eligible positions of the business.

3 "Other eligible area" means the portions of the incentive area that
4 are not located within a distressed municipality, or the employment
5 and investment corridor.

6 "Partnership" means an entity classified as a partnership for
7 federal income tax purposes.

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

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

19 "Program" means the Emerge Program established by section 70
20 of P.L. , c. (C.) (pending before the Legislature as this bill).

21 "Project" means the capital investment and the employment
22 commitment at a qualified business facility pursuant to the project
23 agreement.

24 "Project agreement" means the contract executed between an
25 eligible business and the authority pursuant to section 75 of P.L. ,
26 c. (C.) (pending before the Legislature as this bill), which sets
27 forth the terms and conditions under which the eligible business may
28 receive the incentives authorized pursuant to the program.

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

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

35 "Qualified business facility" means any building, complex of
36 buildings, or structural components of buildings, and all machinery
37 and equipment located therein, used in connection with the operation
38 of a business that is not engaged in final point of sale retail business
39 at that location, unless the building, complex of buildings or
40 structural components of buildings, and all machinery and equipment
41 therein, are used in connection with the operation of a tourism
42 destination project located in the Atlantic City Tourism District as
43 established pursuant to section 5 of P.L.2011, c.18 (C.5:12-219).

44 "Qualified incentive tract" means: (i) a population census tract
45 having a poverty rate of 20 percent or more; or (ii) a census tract in
46 which the median family income for the census tract does not exceed
47 80 percent of the greater of the Statewide median family income or

1 the median family income of the metropolitan statistical area in
2 which the census tract is situated.

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

10 "Qualified opportunity zone" means a federal population census
11 tract in this State that was eligible to be designated as a qualified
12 opportunity zone pursuant to 26 U.S.C. s.1400Z-1.

13 "Quality child care facility" is a child care center licensed by the
14 Department of Children and Families, operating continuously, which
15 has not been subject to an enforcement action, and which has and
16 maintains a total licensed capacity of at least 60 children age 6 years
17 or younger.

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

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

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

29 "Small business" means a business engaged primarily in a targeted
30 industry with fewer than 100 employees, as determined at the time of
31 application.

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

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

43 "Tourism destination project" means a qualified non-gaming
44 business facility that will be among the most visited privately owned
45 or operated tourism or recreation sites in the State, and which is
46 located within the incentive area and has been determined by the
47 authority to be in an area appropriate for development and in need of
48 economic development incentive assistance, including a non-gaming

1 business within an established tourism district with a significant
2 impact on the economic viability of that tourism district.

3 "Transit oriented development" means a qualified business facility
4 located within a 1/2-mile radius, or one-mile radius for projects
5 located in a Government-restricted municipality, surrounding the
6 mid-point of a New Jersey Transit Corporation, Port Authority
7 Transit Corporation, or Port Authority Trans-Hudson Corporation
8 rail, bus, or ferry station platform area, including all light rail
9 stations.

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

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

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

27

28 70. (New section) a. The Emerge Program is hereby established
29 as a program under the jurisdiction of the New Jersey Economic
30 Development Authority. The authority shall administer the program
31 to encourage economic development, job creation, and the retention
32 of significant numbers of jobs in imminent danger of leaving the
33 State. The board may approve the award of tax credits to an eligible
34 business upon application of the chief executive officer of the eligible
35 business and following the execution of a letter of intent and the
36 payment of fees, subject to the limitations set forth in subsection b.
37 of this section:

38 b. value of all tax credits approved by the authority for
39 businesses eligible pursuant to section 71 of P.L. , c. (C.)
40 shall be subject to the limitations set forth in section 98 of P.L. , c.
41 (C.) (pending before the Legislature as this bill).

42

43 71. (New section) a. Beginning on the effective date of P.L. , c.
44 (C.) (pending before the Legislature as this bill), but prior to
45 March 1, 2027, to be eligible for tax credits under the program, a
46 business's chief executive officer, or equivalent officer, shall
47 demonstrate to the authority at the time of application that:

- 1 (1) the business will make, acquire, or lease a capital investment
2 at the qualified business facility equal to or greater than the
3 applicable amount set forth in subsection b. of this section;
- 4 (2) the business will create or retain new and retained full-time
5 jobs at the qualified business facility in an amount equal to or greater
6 than the applicable number set forth in subsection c. of this section;
- 7 (3) the qualified business facility is located in a qualified
8 incentive area;
- 9 (4) the award of tax credits will be a material factor in the
10 business's decision to create or retain the number of new and retained
11 full-time jobs set forth in its application;
- 12 (5) the award of tax credits, the capital investment resultant from
13 the award of tax credits, and the resultant creation and retention of
14 new and retained full-time jobs will yield a net positive benefit to the
15 State equaling at least 400 percent of the requested tax credit
16 allocation amount, or for a phased project the requested tax credit
17 allocation amount for the initial phase, and on a cumulative basis
18 each phase thereafter, which determination shall be calculated prior
19 to considering the value of the requested tax credit under the program
20 and shall be based on the benefits generated during the period of time
21 from approval through the end of the commitment period, or through
22 the end of the longer period of extended commitment that the
23 business may elect for purposes of receiving credit for benefits
24 projected to occur after the expiration of the commitment period,
25 except that:
- 26 (a) an award of tax credits to a business for a qualified business
27 facility located in a distressed municipality or transit hub
28 municipality shall yield a net positive benefit to the State, based on
29 the benefits generated during the period of time from approval
30 through the end of the commitment period, that equals at least 300
31 percent of the requested tax credit amount;
- 32 (b) an award of tax credits to a business for a qualified business
33 facility located in a government-restricted municipality, or for a
34 mega project, shall yield a net positive benefit to the State, based on
35 the benefits generated during the period of time from approval
36 through the end of the commitment period, that equals at least 200
37 percent of the requested tax credit amount;
- 38 (c) the net economic benefits shall be evaluated on a present value
39 basis with the requested tax credit allocation amount discounted to
40 present value at the same discount rate as the benefits from capital
41 investment resultant from the award of tax credits and the resultant
42 retention and creation of full-time jobs as provided in subparagraph
43 (d) of this paragraph; and
- 44 (d) the net economic benefits shall be discounted to reflect the
45 uncertainty of the business's location after the commitment period
46 expires, provided that a business may elect a period of extended
47 commitment for which time the economic benefits shall be creditable
48 to the determination of the net economic benefit of the project, and a

1 business electing a period of extended commitment and failing to
2 maintain the project through the expiration of that extended
3 commitment period shall be obligated to repay a proportion of the
4 incremental benefits received on account of having extended the
5 commitment period, taking into consideration the number of years of
6 extended commitment during which the business maintained the
7 project;

8 (e) in making the determination required pursuant to this
9 paragraph, the authority shall not consider the value of any taxes
10 exempted, abated, rebated, or retained under the "Five-Year
11 Exemption and Abatement Law," P.L.1991, c.441 (C.40A:21-1 et
12 seq.), the "Long Term Tax Exemption Law," P.L.1991, c.431
13 (C.40A:20-1 et al.), the "New Jersey Urban Enterprise Zones Act,"
14 P.L.1983, c.303 (C.52:27H-60 et seq.), or any other law that has the
15 effect of lowering or eliminating the business's State or local tax
16 liability, and the business's chief executive officer or equivalent
17 officer shall certify, under the penalty of perjury, that all documents
18 submitted, and factual assertions made, to the authority to
19 demonstrate that the award of tax credits will yield a net positive
20 benefit to the State in accordance with this paragraph are true and
21 accurate at the time of submission;

22 (6) the qualified business facility shall be in compliance with
23 minimum environmental and sustainability standards;

24 (7) the project shall comply with the authority's affirmative
25 action requirements, adopted pursuant to section 4 of P.L.1979, c.203
26 (C.34:1B-5.4); and

27 (8) (a) each worker employed to perform construction work or
28 building services work at the qualified business facility shall be paid
29 not less than the prevailing wage rate for the worker's craft or trade,
30 as determined by the Commissioner of Labor and Workforce
31 Development pursuant to P.L.1963, c.150 (C.34:11-56.25 et seq.) and
32 P.L.2005, c.379 (C.34:11-56.58 et seq.), unless:

33 (i) the work performed under the contract is performed at a
34 qualified business facility owned by a landlord that is not a business
35 receiving authority assistance;

36 (ii) the landlord is a party to the construction contract; and

37 (iii) the qualified business facility constitutes a lease of less than
38 35 percent of the qualified business facility at the time of contract
39 and under any agreement to subsequently lease the qualified business
40 facility.

41 (b) In accordance with section 1 of P.L.1979, c.303 (C.34:1B-
42 5.1), nothing in this paragraph shall be construed as requiring the
43 payment of prevailing wage for construction commencing more than
44 two years after a business has executed with the authority a
45 commitment letter regarding authority financial assistance and the
46 first payment or other provision of the assistance is received.

47 b. (1) The minimum capital investment required to be
48 eligible under the program shall be as follows:

1 (a) for the rehabilitation, improvement, fit-out, or retrofit of an
2 existing industrial, warehousing, logistics, or research and
3 development portion of the premises for continued similar use by the
4 business, a minimum investment of \$20 per square foot of gross
5 leasable area;

6 (b) for the new construction of an industrial, warehousing,
7 logistics, or research and development portion of the premises for use
8 by the business, a minimum investment of \$60 per square foot of
9 gross leasable area;

10 (c) for the rehabilitation, improvement, fit-out, or retrofit of
11 existing portion of the premises that does not qualify pursuant to
12 subparagraph (a) or (b) of this paragraph, a minimum investment of
13 \$40 per square foot of gross leasable area;

14 (d) for the new construction of a portion of the premises that does
15 not qualify pursuant to subparagraph (a) or (b) of this paragraph, a
16 minimum investment of \$120 per square foot of gross leasable area;
17 and

18 (e) for a small business, no new minimum capital investment
19 shall be required, provided the applicant has demonstrated evidence
20 satisfactory to the authority of its intent to remain in the State for the
21 commitment period.

22 (2) In the event the business invests less than that amount set forth
23 in paragraph (1) of this subsection in the qualified business facility,
24 the business shall donate the uninvested balance to the infrastructure
25 fund established pursuant to section 79 of P.L. , c. (C.)
26 (pending before the Legislature as this bill). (3)

27 Notwithstanding the provisions of paragraphs (1) and (2) of this
28 subsection, the authority may adopt, pursuant to the provisions of the
29 "Administrative Procedure Act," P.L.1968, c.410 (C.52:14B-1 et
30 seq.), rules and regulations adjusting the minimum capital investment
31 amounts required under the program when necessary to respond to
32 the prevailing economic conditions in the State.

33 c. (1) The minimum number of new or retained full-time jobs
34 required to be eligible under the program shall be as follows:

35 (a) for a small business, 25 percent growth of its workforce with
36 new full-time jobs within the eligibility period in accordance with
37 subsection e. of section 76 of P.L. , c. (C.) (pending before
38 the Legislature as this bill);

39 (b) for a business engaged primarily in a targeted industry which
40 does not qualify as a small business, 25 new full-time jobs;

41 (c) for any other business, a minimum of 35 new full-time jobs;

42 (d) for a business located in qualified incentive tract or
43 government-restricted municipality that will retain 500 or more
44 retained full-time jobs, a minimum of the business's retained full-
45 time jobs at the time of application and new construction or
46 rehabilitation, improvement, fit-out, or retrofit of an existing portion
47 of the premises equal in size to the space occupied by the business's
48 retained full-time jobs at the time of application;

1 (e) for a business located in the State that will retain 1,000 or more
2 retained full-time jobs, a minimum of the business's retained full-
3 time jobs at the time of application and new construction or
4 rehabilitation, improvement, fit-out, or retrofit of an existing portion
5 of the premises equal in size to the space occupied by the business's
6 retained full-time jobs at the time of application.

7 (2) Notwithstanding the provisions of paragraph (1) of this
8 subsection, the authority may adopt, pursuant to the provisions of the
9 "Administrative Procedure Act," P.L.1968, c.410 (C.52:14B-1 et
10 seq.), rules and regulations adjusting the minimum number of new or
11 retained full-time jobs required under the program when necessary to
12 respond to the prevailing economic conditions in the State.

13 d. A business shall provide and adhere to a plan that
14 demonstrates that the qualified business facility is capable of
15 accommodating more than half of the business's new or retained full-
16 time employees as approved and shall certify, under the penalty of
17 perjury, that not less than 80 percent or more of the new or retained
18 full-time jobs are held by employees whose earnings are subject to
19 withholding under the "New Jersey Gross Income Tax Act,"
20 N.J.S.54A:1-1 et seq. On the effective date of P.L. , c. (C.)
21 (pending before the Legislature as this bill) this requirement shall
22 apply to projects approved under P.L.2011, c.149 (C.34:1B-242 et
23 seq.), P.L.2007, c.346 (C.34:1B-207 et seq.), and P.L.1996, c.26
24 (C.34:1B-124 et al.). The requirements set forth in this subsection
25 may be modified by the authority to respond to an emergency,
26 disaster, or other factors that result in employees of an eligible
27 business having to work from a location other than the qualified
28 business facility.

29 e. The owner of the business, or an authorized agent of the
30 owner, shall certify that all factual representations made by the
31 business to the authority pursuant to subsection a. of this section are
32 true under the penalty of perjury.

33 f. A business eligible pursuant to this section may submit an
34 application to the authority in accordance with the provisions of
35 section 72 of P.L. , c. (C.) (pending before the Legislature
36 as this bill) on or after the effective date of P.L. , c. (C. or)
37 (pending before the Legislature as this bill) but prior to March 1,
38 2027.

39
40 72. (New section) a. A business that meets the eligibility
41 criteria in section 71 of P.L. , c. (C. or) (pending before
42 the Legislature as this bill) and is seeking a grant of tax credits for a
43 project under the program shall submit an application for approval of
44 the project to the authority in a form and manner prescribed in
45 regulations adopted by the authority pursuant to the provisions of the
46 "Administrative Procedure Act," P.L.1968, c.410 (C.52:14B-1 et
47 seq.).

1 b. (1) Before the board may consider an eligible business's
2 application for tax credits, the Department of Labor and Workforce
3 Development, the Department of Environmental Protection, and the
4 Department of the Treasury shall each report to the chief executive
5 officer of the authority whether the eligible business is in compliance
6 with the respective department, or, if necessary, has entered into an
7 agreement with the respective department that includes a practical
8 corrective action plan for the eligible business. The authority may
9 also contract with an independent third party to perform a
10 background check on the eligible business. Provided that the eligible
11 business is in substantial good standing, or has entered into such an
12 agreement, before the board may approve an eligible business's
13 application for tax credits, the eligible business shall execute a non-
14 binding letter of intent with the chief executive officer of the
15 authority, specifying the amount and terms and conditions of tax
16 credits that the authority is prepared to propose for board approval
17 and that are intended to be a material factor in the decision by the
18 eligible business to create or retain the proposed number of new and
19 retained full-time jobs, and in which the eligible business certifies
20 such tax credits are a material factor in its decision.

21 (2) To assist the authority in determining whether the award of
22 tax credits is a material factor in the eligible business's decision to
23 create or retain the minimum number of new and retained full-time
24 jobs for eligibility under the program, the chief executive officer of
25 the authority shall require the eligible business to submit, as part of
26 its application, a full economic analysis of all locations under
27 consideration by the eligible business; all lease agreements,
28 ownership documents, or substantially similar documentation for the
29 eligible business's current in-State locations; and all lease
30 agreements, ownership documents, or substantially similar
31 documentation for potential out-of-State location alternatives, to the
32 extent they exist. The chief executive officer of the authority may
33 further consider the costs associated with opening and maintaining a
34 business in New Jersey, competitive proposals that the eligible
35 business has received from other states, the prevailing economic
36 conditions, and any other factors that the chief executive officer of
37 the authority deems relevant to assist the authority in determining
38 whether an award of tax credits is a material factor in the eligible
39 business's decision. Based on this information, the authority shall
40 independently verify and confirm the eligible business's assertion
41 that the award of tax credits under the program is a material factor in
42 the eligible business's decision to create or retain the minimum
43 number of new and retained full-time jobs for eligibility under the
44 program and, in the case of retained full-time jobs, the jobs are
45 actually at risk of leaving the State, before the authority may award
46 the eligible business any tax credits under the " Emerge Program
47 Act," sections 70 through 81 of P.L. , c. (C.) (pending before
48 the Legislature as this bill). The owner of the eligible business, or an

1 authorized agent of the owner, shall certify that all factual
2 representations made by the business to the authority pursuant to this
3 paragraph are true under the penalty of perjury.

4 c. An eligible business shall pay to the authority the full amount
5 of the direct costs of an analysis concerning the eligible business's
6 application for a tax credit, which a third party retained by the
7 authority performs, if the authority deems such retention to be
8 necessary. The authority shall have the discretion to waive all or a
9 portion of the costs of application for a small business.

10 d. If at any time during the eligibility period the authority
11 determines that the eligible business made a material
12 misrepresentation on the eligible business's application, the eligible
13 business shall forfeit all tax credits awarded under the program,
14 which shall be in addition to any other criminal or civil penalties to
15 which the business and the officer may be subject.

16 e. If circumstances require an eligible business to amend its
17 application to the authority, then the owner of the eligible business,
18 or an authorized agent of the owner, shall certify to the authority that
19 the information provided in its amended application is true under the
20 penalty of perjury.

21 f. Nothing shall preclude a business from applying for tax
22 credits under the program for more than one project pursuant to one
23 or more applications.

24

25 73. (New section) a. Following approval by the board, but before
26 the issuance of tax credits, the authority shall require an eligible
27 business to enter into a project agreement. The terms of the project
28 agreement shall be consistent with the eligibility requirements of
29 section 71 of P.L. , c. (C.) (pending before the Legislature
30 as this bill), as applicable, and shall include, but shall not be limited
31 to, the following:

32 (1) (i) a detailed description of the proposed project which will
33 result in job creation or retention, and the number of new and retained
34 full-time jobs that are approved for tax credits;

35 (ii) for a phased project, an incentive phase agreement for which
36 each phase identifies a description of the phase, the expected capital
37 investment and number of new full-time jobs, and the time following
38 acceptance of the incentive agreement when each phase is to begin
39 and be completed, with the awarding of tax credits under the
40 incentive agreement to be predicated on the number of full-time jobs
41 created through the fulfillment of each incentive phase agreement;

42 (2) the eligibility period of the tax credits or, for a phased project,
43 the eligibility period of the tax credits for each phase;

44 (3) personnel information that will enable the authority to
45 administer the program;

46 (4) a requirement that the eligible business maintain the project
47 at a location in New Jersey for the commitment period, with at least
48 the minimum number of full-time jobs as required by this program,

1 and a provision to permit the authority to recapture all or part of any
2 tax credits awarded, at its discretion, if the eligible business does not
3 remain in compliance with this provision for the required term or
4 significantly reduces the number of full-time employees, or the
5 salaries thereof, to which the eligible business certified at the
6 commencement of the eligibility period;

7 (5) a method for the eligible business to certify that it has met the
8 capital investment and employment requirements of the program set
9 forth in subsections b. and c. of section 71 of P.L. , c. (C.)
10 (pending before the Legislature as this bill) and to report annually to
11 the authority the number of new and retained full-time employees,
12 and the salaries thereof, for which the tax credits are to be allowed;

13 (6) representations that the eligible business is in substantial good
14 standing or meets the agreement requirements described in paragraph
15 (1) of subsection b. of section 71 of P.L. , c. (C.) (pending
16 before the Legislature as this bill), the project complies with all
17 applicable laws, and specifically, that the project does not violate any
18 environmental law;

19 (7) a provision permitting an audit of the payroll records of the
20 business from time to time, as the authority deems necessary;

21 (8) a provision that the chief executive officer of the authority
22 receives annual reports from the Department of Environmental
23 Protection, the Department of Labor and Workforce Development,
24 and the Department of the Treasury demonstrating that the eligible
25 business and each contractor and subcontractor performing work at
26 the qualified business facility is in compliance with the respective
27 department, or has entered into an agreement with the respective
28 department that includes a practical corrective action plan, and a
29 provision providing that if the eligible business is not in compliance
30 with its legal obligations of rules administered by these departments
31 and has been given formal notice thereof, then the authority may
32 suspend the issuance of tax credits pending resolution of the dispute;

33 (9) a requirement for the eligible business to engage in on-site
34 consultations with the Division of Workplace Safety and Health in
35 the Department of Health;

36 (10) a provision permitting the authority to amend the agreement;

37 and

38 (11) a provision establishing the conditions under which the
39 authority, the eligible business, or both, may terminate the
40 agreement.

41 b. (1) In addition to the project agreement, an eligible
42 business shall enter into a community benefits agreement with the
43 authority and the county or municipality in which the qualified
44 business facility is located. The agreement may include, but shall not
45 be limited to, requirements for training, employment, and youth
46 development and free services to underserved communities in and
47 around the community in which the qualified business facility is
48 located. Prior to entering a community benefits agreement, the

1 governing body of the county or municipality in which the qualified
2 business facility is located shall hold at least one public hearing at
3 which the governing body shall hear testimony from residents,
4 community groups, and other stakeholders on the needs of the
5 community that the agreement should address.

6 (2) The community benefits agreement shall provide for the
7 creation of a community advisory committee to oversee the
8 implementation of the agreement, monitor successes, ensure
9 compliance with the terms of the agreement, and produce an annual
10 public report. The community advisory committee created pursuant
11 to this paragraph shall be comprised of representatives from
12 community groups and residents of the county or municipality in
13 which the qualified business facility is located.

14 (3) At the time the eligible business submits the annual report
15 required pursuant to section 77 of P.L. , c. (C.) (pending
16 before the Legislature as this bill) to the authority, the eligible
17 business shall certify, under the penalty of perjury, that it is in
18 compliance with the terms of the community benefits agreement. If
19 the eligible business fails to provide the certification required
20 pursuant to this paragraph or the authority determines that the eligible
21 business is not in compliance with the terms of the community
22 benefits agreement based on the reports submitted by the community
23 advisory committee pursuant to paragraph (2) of this subsection, then
24 the authority may rescind the award or recapture all or part of any tax
25 credits awarded.

26
27 74. (New section) a. Commencing with the date six months
28 following the date the authority and an eligible business execute a
29 project agreement, the eligible business shall demonstrate that it has
30 obtained site plan approval and has committed financing for, and site
31 control of, the qualified business facility. If the eligible business
32 obtained site control of the qualified business facility prior to the
33 execution of the letter of intent pursuant to section 72 of P.L. , c.
34 (C.) (pending before the Legislature as this bill), then the
35 authority may rescind approval of the award of tax credits, unless the
36 eligible business disclosed the fact that the eligible business had
37 obtained the site prior to executing the letter of intent and the
38 authority determines that the award of tax credits was still a material
39 factor in the eligible business's decision to create or retain the
40 minimum number of new and retained full-time jobs for eligibility
41 under the program. The eligible business shall provide an estimated
42 date of completion and shall submit periodic progress reports. The
43 authority may rescind an award of tax credits if an eligible business
44 fails to provide the information required under this section within the
45 period indicated in the approval of the tax credits by the board. The
46 authority may rescind an award of tax credits under the program if a
47 project fails to advance in accordance with the project agreement.

1 b. Upon completion of the capital investment and employment
2 requirements of the program, an eligible business shall submit to the
3 authority certifications evidencing that the eligible business has
4 satisfied the conditions relating to the capital investment and
5 employment requirements of the project agreement with supporting
6 evidence satisfactory to the authority. Absent extenuating
7 circumstances and the written approval of the authority, the eligible
8 business shall submit the certification within three years following
9 the date of approval of the application. The authority may grant two
10 six-month extensions of the deadline; provided that the date of
11 completion shall not occur later than four years following the date of
12 approval of the application by the authority; provided further that the
13 authority may grant one additional extension not to exceed one year
14 upon a finding by the authority that: (1) the project is delayed due to
15 unforeseeable acts related to the project beyond the eligible
16 business's control and without its fault or negligence; (2) the eligible
17 business is using best efforts, with all due diligence, to proceed with
18 the completion of the project and the submission of the certification;
19 and (3) the eligible business has made, and continues to make, all
20 reasonable efforts to prevent, avoid, mitigate, and overcome the
21 delay. To qualify for the one-year extension, the eligible business
22 shall provide timely notice to the authority of the delay within 30
23 days after the eligible business has actual or constructive knowledge
24 of the delay, and shall provide periodic reports, not less than every
25 30 days, of the status of the delay and the steps the eligible business
26 is taking to mitigate or overcome the delay.

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

40 d. The owner of the eligible business, or an authorized agent of
41 the owner, shall certify that the information provided pursuant to this
42 section is true under the penalty of perjury.

43

44 75. (New section) a. The total amount of the tax credit for an
45 eligible business for each new or retained full-time job shall be as set
46 forth in subsections b. through g. of this section. The total tax credit
47 amount shall be calculated and credited to the business annually for
48 each year of the eligibility period, notwithstanding any other

1 provisions of P.L. , c. (C.) (pending before the Legislature
2 as this bill) to the contrary.

3 b. The base amount of the tax credit for each new or retained
4 full-time job for an eligible business shall be as follows:

5 (1) for an eligible business facility located within a government-
6 restricted municipality, or which is a mega project, \$4,000 per year;

7 (2) for a qualified business facility located within a distressed
8 municipality, \$3,500 per year;

9 (3) for a qualified business facility located within a transit hub
10 municipality but not qualifying under paragraph (1) of this
11 subsection, 3,000 per year;

12 (4) for a project in a qualified opportunity zone or an employment
13 and investment corridor, \$2,500 per year; and

14 (5) for a project in other eligible areas, \$500 per year.

15 c. (1) In addition to the base amount of the tax credit, the
16 amount of the tax credit to be awarded for each new or retained full-
17 time job shall be increased with the following bonuses:

18 (a) for an eligible business with a qualified business facility
19 located in a municipality with a Municipal Revitalization Index score
20 greater than 50, an increase of \$1,000 per year;

21 (b) for an eligible business with a qualified business facility at
22 which the capital investment in industrial or research and
23 development premises for industrial or research and development use
24 by the business is in excess of the minimum capital investment
25 required for eligibility pursuant to subsection b. of section 71 of
26 P.L. , c. (C.) (pending before the Legislature as this bill), an
27 increase of \$1,000 per year for each additional amount of investment
28 that exceeds the minimum amount required for eligibility by 40
29 percent, with a maximum increase of \$3,000 per year, unless the
30 project qualifies as a mega project or the qualified business facility
31 is located in a government-restricted municipality, in which case the
32 maximum increase is \$5,000 per year;

33 (c) for an eligible business with large numbers of new full-time
34 jobs during the commitment period, the increases shall be in
35 accordance with the following schedule:

36 (i) if the number of new full-time jobs is between 251 and 400,
37 \$500 per year;

38 (ii) if the number of new full-time jobs is between 401 and 600,
39 \$750 per year;

40 (iii) if the number of new full-time jobs is between 601 and 800,
41 \$1000 per year;

42 (iv) if the number of new full-time jobs is between 801 and 1,000,
43 \$1,250 per year;

44 (v) if the number of new full-time jobs is in excess of 1,000,
45 \$1,500 per year;

46 (d) for an eligible business that annually funds an industry-
47 specific training program, which has the capacity to enroll 10 percent
48 or more of the eligible business's full-time workforce, or pays a State

- 1 educational institution to provide to the public an industry-specific
2 training program, an increase of \$500 per year; provided, however,
3 that if the training program is provided by a State educational
4 institution that is within 10 miles of the qualified business facility,
5 then the increase shall be \$1,000 per year;
- 6 (e) for an eligible business that qualifies as a small business, an
7 increase of \$500 per year;
- 8 (f) (i) for an eligible business with new full-time jobs and
9 retained full-time jobs at the qualified business facility with a median
10 salary in excess of the existing median salary for the county in which
11 the project is located, or, in the case of a project in a government-
12 restricted municipality, a business that employees full-time positions
13 at the project with a median salary in excess of the median salary for
14 the government-restricted municipality, an increase of \$250 per year
15 during the eligibility period for each 35 percent by which the
16 project's median salary levels exceeds the county or government-
17 restricted municipality median salary, with a maximum increase of
18 \$1,500 per year;
- 19 (g) for an eligible business with a qualified business facility
20 located in a qualified incentive tract, an increase of \$500 per year;
- 21 (h) for an eligible business engaged primarily in a targeted
22 industry, an increase of \$500 per year;
- 23 (i) for an eligible business with a qualified business facility
24 located in a qualified incubator facility, an increase of \$500 per year;
- 25 (j) for an eligible business that enters into a labor harmony
26 agreement in accordance with subsection c. of section 73 of P.L. ,
27 c. (C.) (pending before the Legislature as this bill), an increase
28 of \$2,000 per year for the portion of the project subject to that labor
29 harmony agreement;
- 30 (k) for an eligible business that provides its employees access to
31 child care either through an on-site quality child care facility free of
32 charge to its employees or through reimbursements paid by the
33 eligible business to its employees for the cost of child care in
34 accordance with standards adopted by the authority, an increase of
35 \$1,000 per year;
- 36 (l) for an eligible business that enters into a partnership with a
37 prisoner re-entry program for the purpose of identifying and
38 promoting employment opportunities at the eligible business for
39 former inmates and current inmates leaving the corrections system,
40 and that hires at least one active participant in the re-entry program,
41 an increase of \$500 per year.
- 42 (m) for an eligible business with a qualified business facility that
43 exceeds the Leadership in Energy and Environmental Design's
44 "Silver" rating standards but does not exceed "Gold" rating standards
45 or completes substantial environmental remediation, an additional
46 increase of \$250 per year, or for an eligible business with a qualified
47 business facility that exceeds the Leadership in Energy and

- 1 Environmental Design's "Gold" rating standards, an additional
2 increase of \$500 per year;
- 3 (n) for an eligible business in a targeted industry with a qualified
4 business facility that is used by the eligible business to conduct a full
5 time collaborative relationship with a college or university,
6 including, but not limited to, a doctoral university, an increase of
7 \$1,000 per year;
- 8 (o) for an eligible business with a project that generates solar
9 energy on site for use within the qualified business facility of an
10 amount that equals at least 50 percent of the qualified business
11 facility electric supply service needs, an increase of \$500 per year;
- 12 (p) for an eligible business with a marine terminal project in a
13 municipality located outside a government-restricted municipality,
14 but within the geographical boundaries of the South Jersey Port
15 District, an increase of \$1,500 per year; and
- 16 (q) for an eligible business with a qualified business facility
17 located in a qualified opportunity zone, an increase of \$1,000 per
18 year.
- 19 (2) The authority shall not award a bonus to an eligible business
20 with full-time jobs at the qualified business facility that pay less than
21 \$15 per hour or 120 percent of the minimum wage fixed under
22 subsection a. of section 5 of P.L.1966, c.113 (C.34:11-56a4),
23 whichever is higher.
- 24 (3) The authority may adopt, pursuant to the provisions of the
25 "Administrative Procedure Act," P.L.1968, c.410 (C.52:14B-1 et
26 seq.), criteria in addition to, or in place of, the criteria set forth in
27 paragraph (1) of this subsection in response to the prevailing
28 economic conditions in the State.
- 29 d. The gross amount of the tax credit available to an eligible
30 business for each new or retained full-time job shall be the sum of
31 the base amount set forth in subsection b. of this section and the
32 various additional bonus amounts for which the business is eligible
33 pursuant to subsection c. of this section, subject to the following
34 limitations:
- 35 (1) for a mega project or a project in a government-restricted
36 municipality, the gross amount for each new or retained full-time job
37 shall not exceed \$8,000 per year;
- 38 (2) for a qualified business facility located within a distressed
39 municipality or qualified opportunity zone, the gross amount for each
40 new or retained full-time job shall not exceed \$6,000 per year;
- 41 (3) for a qualified business facility in a transit hub municipality,
42 the gross amount for each new or retained full-time job shall not
43 exceed \$5,000 per year;
- 44 (4) for a qualified business facility in an employment and
45 investment corridor, the gross amount for each new or retained full-
46 time job shall not exceed \$4,000 per year; and

1 (5) for a qualified business facility in other eligible areas, the
2 gross amount for each new or retained full-time job shall not exceed
3 \$3,000 per year.

4 e. The authority shall reduce the gross amount of tax credits per
5 full-time job if the median salary of new full-time jobs and retained
6 full-time jobs at the qualified business facility is less than the existing
7 median salary for the county in which the qualified business facility
8 is located. The authority shall reduce the gross amount of tax credits
9 per full-time job by an amount, in percentage points, equal to the
10 percentage the median salary of new full-time jobs and retained full-
11 time jobs at the qualified business facility is below the existing
12 median salary for the county in which the qualified business facility
13 is located. The authority shall not award a tax credit to an eligible
14 business if the median salary of new full-time jobs and retained full-
15 time jobs at the qualified business facility is 30 percent or more
16 below the existing median salary for the county in which the qualified
17 business facility is located.

18 f. After the determination by the authority of the gross amount
19 of tax credits for which an eligible business is eligible pursuant to
20 subsection d. of this section, the final total tax credit amount shall be
21 calculated as follows: (1) for each new full-time job, the eligible
22 business shall be allowed tax credits equaling the lesser of 100
23 percent of the gross amount of tax credits for each new full-time job;
24 and (2) for each retained full-time job, the eligible business shall be
25 allowed tax credits equaling 50 percent of the gross amount of tax
26 credits for each retained full-time job.

27 g. Notwithstanding the provisions of subsections a. through f. of
28 this section to the contrary, for each application approved by the
29 board, the amount of tax credits available to be applied by the
30 business annually shall not exceed an amount determined by the
31 authority to be necessary to induce the project to be sited in New
32 Jersey as determined by the board. The authority shall determine the
33 amount necessary to complete the project through staff analysis of all
34 locations under consideration by the eligible business and all lease
35 agreements, ownership documents, or substantially similar
36 documentation for the eligible business's current in-State locations
37 and potential out-of-State location alternatives, competitive
38 proposals from other states, the prevailing economic conditions, and
39 any other information that the authority deems relevant.

40

41 76. (New section) a. (1) If, in any tax period, an eligible
42 business reduces the total number of full-time employees in its
43 Statewide workforce by more than 20 percent from the number of
44 full-time employees in its Statewide workforce in the last tax period
45 prior to the credit amount approval under the program, then the
46 eligible business shall forfeit its credit amount for that tax period and
47 each subsequent tax period, until the first tax period for which
48 documentation demonstrating the restoration of the eligible

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

5 (2) If the annual report filed by an eligible business pursuant to
6 section 77 of P.L. , c. (C.) (pending before the Legislature
7 as this bill) provides that the number of new full-time employees
8 employed by the eligible business at the qualified business facility,
9 or the salaries thereof, was reduced by more than 10 percent of the
10 number of new full-time employees, or salaries thereof, in the annual
11 report of the prior year, or the project agreement if the annual report
12 is the first such report filed, then the authority may reevaluate the net
13 positive economic benefit of the project and reduce the size of the
14 award accordingly. This reduction shall not affect any recapture
15 under subsection f. of this section.

16 b. If, in any tax period, the number of full-time employees
17 employed by the eligible business at the qualified business facility,
18 or the salaries thereof, drops below 80 percent of the number of new
19 and retained full-time jobs, and the salaries thereof, specified in the
20 project agreement or the incentive phase agreement, then the eligible
21 business shall forfeit its tax credit amount for that tax period and each
22 subsequent tax period, until the first tax period for which
23 documentation demonstrating the restoration of the number of full-
24 time employees employed by the eligible business at the qualified
25 business facility to 80 percent of the number of jobs specified in the
26 project agreement or incentive phase agreement or the restoration of
27 80 percent of the salaries specified in the project agreement is
28 reviewed and approved by the authority.

29 c. Except for an eligible business engaged primarily in a targeted
30 industry with less than 50 employees at application:

31 (1) If the qualified business facility is sold in whole or in part
32 during the eligibility period, the new owner shall not acquire the
33 capital investment of the seller, provided, however, that any tax
34 credits of tenants shall remain unaffected. The seller shall forfeit all
35 tax credits for the tax period in which the sale occurs and all
36 subsequent tax periods, provided, however, that an eligible business
37 may change the location of the qualified business facility if:

38 (a) the new facility:

39 (i) meets all applicable location qualifying criteria and has gross
40 leasable area not less than the gross leasable area of the qualified
41 business facility initially approved by the authority and the alternate
42 qualified business facility meets the minimum capital investment and
43 sustainability requirements of the program; or

44 (ii) does not meet all applicable location qualifying criteria or has
45 less gross leasable area than the gross leasable area of the qualified
46 business facility initially approved by the authority, if the alternate
47 qualified business facility meets the minimum capital investment and
48 sustainability requirements of the program, provided that the

1 authority shall require a new cost benefit analysis illustrating the
2 economics of the project which reflect occupancy at the alternate
3 proposed qualified business facility location for the remaining
4 duration of the commitment period and shall re-calculate the net
5 economic benefit of the project to reflect the economics of occupancy
6 at the alternate proposed location for the remaining duration of the
7 net benefit test period in lieu of the economics of continuing
8 occupancy at the qualified business facility proposed to be vacated,
9 and provided further that the award of tax credits shall be reduced
10 consistent with the variations in qualifying criteria for the alternate
11 qualified business facility location as well as in a manner consistent
12 with the revised net economic benefit calculation.

13 (b) in the event that the modified project economics materially
14 deviate from the economics of the initial approval in a manner that
15 undermines the recommendation of approval made by the staff of the
16 authority at the time of the initial approval, then the business
17 requesting to re-locate a qualified business facility shall be required
18 to obtain the approval of the members of the authority.

19 (2) If a tenant subleases its tenancy in whole or in part during the
20 eligibility period, the new tenant shall not acquire the tax credits of
21 the sublessor, and the sublessor shall forfeit all tax credits for any tax
22 period of its sublease in which the sublessor, in continued occupation
23 of a portion of the qualified business facility, fails to maintain the
24 number of jobs required for the sublessor to earn tax credits for the
25 tax period or fails to independently satisfy the minimum capital
26 investment or sustainability requirements for the program as set forth
27 in section 71 of P.L. , c. (C. or C.) (pending before the
28 Legislature as this bill). Provided, however, if the capital investment
29 of the sublessor in the occupied portion of the qualified business
30 facility is below the project minimum capital investment as set forth
31 in section 71 of P.L. , c. (C.) (pending before the Legislature
32 as this bill), the sublessor may include capital investment made by or
33 on behalf of the new tenant in the subleased portion of the qualified
34 business facility, so long as that capital investment is not the subject
35 of an independent application under an incentive program with the
36 authority.

37 d. A small business may move its qualified business facility
38 provided that the business remains in New Jersey during the
39 commitment period.

40 e. The authority may require a small business to submit a growth
41 plan, which specifies the number of new full-time employees at the
42 qualified business facility that the eligible business will hire each
43 year of the eligibility period; provided that by the end of the
44 eligibility period, the eligible business shall have a minimum of 25
45 percent growth of its workforce with new full-time jobs. If the
46 eligible business meets the number of new full-time employees
47 specified in the growth plan each year of the eligibility period, then
48 the eligible business shall be entitled to an increased credit amount

1 for that tax period, and each subsequent tax period, for each
2 additional full-time employee added above the number of full-time
3 employees certified, until the full-time employees number the
4 maximum number projected for the final year of the eligibility
5 period. Failure to meet the projections in any year shall not constitute
6 a default but shall cause the authority to reduce the award in
7 accordance with a schedule attached to the project agreement.

8 f. (1) The authority may recapture all or part of a tax credit
9 awarded if an eligible business does not remain in compliance with
10 the requirements of a project agreement for the duration of the
11 commitment period. A recapture pursuant to this subsection may
12 include interest on the recapture amount, at a rate equal to the
13 statutory rate for corporate business or insurance premiums tax
14 deficiencies, plus any statutory penalties, and all costs incurred by
15 the authority and the Division of Taxation in the Department of the
16 Treasury in connection with the pursuit of the recapture, including,
17 but not limited to, counsel fees, court costs, and other costs of
18 collection. Failure of the eligible business to meet any program
19 criteria shall constitute a default and shall result in the recapture of
20 all or part of the tax credit awarded.

21 (2) If all or part of a tax credit sold or assigned pursuant to section
22 78 of P.L. , c. (C.) (pending before the Legislature as this
23 bill) is subject to recapture, then the authority shall pursue recapture
24 from the eligible business and not from the purchaser or assignee of
25 the tax credit transfer certificate. The purchaser or assignee of a tax
26 credit transfer certificate shall be subject to any limitations and
27 conditions that apply to the use of the tax credits by the eligible
28 business.

29 (3) Any funds recaptured pursuant to this subsection, including
30 penalties and interest, shall be deposited into the General Fund of the
31 State.

32 g. A business may include an affiliate for any period, provided
33 that the business provides a valid tax clearance certificate for the
34 affiliate and a verification of the nature of the affiliate relationship
35 during the relevant period, and provided further that the affiliate
36 provides acceptable responses to the authority's legal disclosures
37 inquiries, as determined by the authority. A formal modification of
38 the authority's approval of the incentive agreement shall not be
39 necessary to add or remove an affiliate after approval or execution of
40 the incentive agreement.

41 h. A business may change its name filed with the authority by
42 providing a copy of the filed amendment to the certificate of
43 incorporation or formation, as the case may be, of the business and a
44 valid tax clearance certificate with the business's new name. A
45 formal modification of the authority's approval shall not be necessary
46 to change a business's name after approval or execution of the
47 incentive agreement.

1 77. (New section) a. (1) An eligible business which is awarded
2 tax credits under the program shall submit annually, no later than the
3 date indicated in the project agreement, commencing in the year in
4 which the grant of tax credits is issued and for the remainder of the
5 commitment period, a report that indicates that the eligible business
6 continues to maintain the number of new and retained full-time jobs,
7 and the salaries thereof, specified in the project agreement. As part
8 of the annual report required pursuant to this subsection, an eligible
9 business shall provide to the authority a copy of its applicable New
10 Jersey tax return showing business income and withholdings as a
11 condition of its continuation in the program, and the quarterly wage
12 report required under R.S.43:21-14 submitted to the Department of
13 Labor and Workforce Development together with an annual payroll
14 report showing: (a) the new full-time jobs which were created in
15 accordance with the project agreement, and (b) the new full-time jobs
16 created during each subsequent year of the commitment period. The
17 failure of an eligible business to submit to the authority a copy of its
18 annual payroll report or submit the quarterly wage report in
19 accordance with the provisions of this subsection during the
20 eligibility period shall result in the forfeiture of the award for that
21 year. An eligible business shall explain, in the reports required by
22 this subsection, the reason for any discrepancies between the annual
23 payroll report submitted by the eligible business and the quarterly
24 wage report. The owner of the eligible business, or an authorized
25 agent of the owner, shall certify that the information provided
26 pursuant to this paragraph is true under the penalty of perjury.
27 Claims, records, or statements submitted by an eligible business to
28 the authority in order to receive tax credits shall not be considered
29 claims, records, or statements made in connection with State tax
30 laws.

31 (2) Upon receipt and review of each report submitted during the
32 eligibility period, the authority shall provide to the eligible business
33 and the director a certificate of compliance indicating the amount of
34 tax credits that the eligible business may apply against its tax
35 liability. The authority shall pro rate the tax credit for the first and
36 last years of the eligibility period based on the number of full months
37 the project was certified in the year the eligible business first
38 certifies.

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

42 (2) An eligible business shall forfeit the credit amount for any tax
43 period for which the eligible business's documentation remains
44 uncertified as of the date for certification indicated in the project
45 agreement, although credit amounts for the remainder of the years of
46 the eligibility period shall remain available to the eligible business.

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

4 d. (1) Upon receipt by the director of the certificate of
5 compliance, the director shall allow the eligible business a tax credit.
6 The eligible business may apply the credit allowed by the director
7 against the eligible business's tax liability for the tax period in which
8 the director allowed the tax credit or may carry forward the credit for
9 use by the eligible business in any of the next seven successive tax
10 periods, which credit shall expire thereafter.

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

16 (b) Credits granted to a partnership shall be passed through to the
17 partners, members, or owners, respectively, pro-rata, or pursuant to
18 an executed agreement among the partners, members, or owners
19 documenting an alternate distribution method provided to the director
20 accompanied by any additional information as the director may
21 prescribe. With respect to credits passed through to a person subject
22 to tax liability due pursuant to sections 2 or 3 of P.L.1945, c.132
23 (C.54:18A-2 and C.54:18A-3), the person shall be allowed to apply
24 credits against the person's tax liability without the provision of a tax
25 credit certificate to the Division of Taxation in the Department of the
26 Treasury for the tax period accompanying the person's tax return and
27 the person shall be considered the tax certificate holder and be subject
28 to subparagraph (c) of this paragraph. The authority may recapture
29 all or part of any tax credits claimed by a person pursuant to
30 subparagraph (b) of this paragraph with penalties and interest from
31 the person or the business in the event the Division of Taxation in the
32 Department of the Treasury does not issue a tax credit certificate in
33 an amount at least equal to the tax credit amount claimed on the
34 person's tax return for the applicable tax period.

35 (3) The director shall prescribe the order of priority of the
36 application of the credit allowed under this section and any other
37 credits allowed by law against the tax imposed under section 5 of
38 P.L.1945, c.162 (C.54:10A-5). The amount of a credit applied under
39 this section against the tax imposed pursuant to section 5 of P.L.1945,
40 c.162 (C.54:10A-5) for a privilege period, together with any other
41 credits allowed by law, shall not reduce the tax liability to an amount
42 less than the statutory minimum provided in subsection (e) of section
43 5 of P.L.1945, c.162 (C.54:10A-5).

44 (4) In lieu of applying any credit certificate or credit transfer
45 certificate against tax liability otherwise due pursuant to section 5 of
46 P.L.1945, c.162 (C.54:10A-5), sections 2 and 3 of P.L.1945, c.132
47 (C.54:18A-2 and C.54:18A-3), section 1 of P.L.1950, c.231
48 (C.17:32-15), or N.J.S.17B:23-5, the credit certificate or credit

1 transfer certificate may be surrendered to the Division of Taxation in
2 the Department of the Treasury for a cash payment equal to 90
3 percent of the amount of tax credits evidenced by the certificate,
4 provided that the issuance date of the credit certificate or credit
5 transfer certificate to the taxpayer surrendering such certificate
6 occurred at least two years prior to the date of surrender.

7
8 78. (New section) a. An eligible business may apply to the
9 director and the chief executive officer of the authority for a tax credit
10 transfer certificate, within three years of the tax period in which the
11 director allows the eligible business a tax credit, in lieu of any amount
12 of the tax credit against the eligible business's State tax liability. The
13 tax credit transfer certificate, upon receipt thereof by the eligible
14 business from the director and the chief executive officer of the
15 authority, may be sold or assigned, in an amount not less than
16 \$25,000, within three years of the tax period in which the eligible
17 business receives the tax credit transfer certificate from the director,
18 to another person that may have a tax liability pursuant to section 5
19 of P.L.1945, c.162 (C.54:10A-5), sections 2 and 3 of P.L.1945, c.132
20 (C.54:18A-2 and 54:18A-3), section 1 of P.L.1950, c.231 (C.17:32-
21 15), or N.J.S.17B:23-5. A purchaser or assignee of a tax credit
22 transfer certificate pursuant to this section shall apply the transferred
23 credit against the same tax for which the eligible business was
24 approved a tax credit under the program. The tax credit transfer
25 certificate provided to the eligible business shall include a statement
26 waiving the eligible business's right to claim the credit that the
27 eligible business has elected to sell or assign.

28 b. (1) The eligible business shall not sell or assign a tax credit
29 transfer certificate allowed under this section for consideration
30 received by the eligible business of less than 85 percent of the
31 transferred credit amount before considering any further discounting
32 to present value which shall be permitted. The tax credit transfer
33 certificate issued to the eligible business by the director shall be
34 subject to any limitations and conditions imposed on the application
35 of State tax credits pursuant to sections 70 through 81 of P.L. , c.
36 (C.) (pending before the Legislature as this bill) and any other
37 terms and conditions that the director may prescribe.

38 (2) With respect to credits to be sold or assigned, in full or in part,
39 pursuant to an application to the authority for a tax credit transfer
40 certificate by a business to a person subject to tax liability due
41 pursuant to sections 2 or 3 of P.L.1945, c.132 (C.54:18A-2 or
42 C.54:18A-3), the person shall be allowed to apply the credits against
43 the person's tax liability without the provision of a tax credit
44 certificate to the Division of Taxation in the Department of the
45 Treasury for the tax period accompanying its tax return, and the
46 person be considered a tax credit transferee and be subject to
47 paragraph (3) of this subsection.

1 (3) The authority may recapture all or part of any tax credits
2 claimed by a person pursuant to paragraph (2) of this subsection with
3 penalties and interest from the person or the business in the event the
4 authority does not issue a tax credit certificate in an amount at least
5 equal to the tax credit amount claimed on the person's tax return for
6 the applicable tax period.

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

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

- 13 (1) the name of the transferrer;
- 14 (2) the name of the transferee;
- 15 (3) the value of the tax credit transfer certificate;
- 16 (4) the State tax against which the transferee may apply the tax
17 credit; and
- 18 (5) the consideration received by the transferrer.

19
20 79. (New section) a. The authority shall establish a dedicated
21 fund to be known as the "Recovery Infrastructure Fund." Money in
22 the fund shall be dedicated to the purpose of funding local
23 infrastructure, which shall include:

- 24 (1) buildings and structures, such as schools, fire houses, police
25 stations, recreation centers, public works garages, and water and
26 sewer treatment and pumping facilities;
- 27 (2) sidewalks, streets, roads, ramps, and jug handles;
- 28 (3) open space with improvements such as athletic fields,
29 playgrounds, and planned parks;
- 30 (4) open space without improvements;
- 31 (5) public transportation facilities such as train stations and
32 public parking facilities; and
- 33 (6) the purchase of equipment considered vital to public safety.

34 b. The fund shall be credited with money remitted by eligible
35 businesses pursuant to paragraph (2) of subsection b. of section 71 of
36 P.L. , c. (C.) (pending before the Legislature as this bill).

37 c. Money remitted to the fund by an eligible business pursuant
38 to paragraph (2) of subsection b. of section 71 of P.L. , c. (C.)
39 (pending before the Legislature as this bill) shall be earmarked for
40 use on local infrastructure projects in the municipality in which the
41 eligible business's project is located.

42 d. A municipality shall apply to the authority, in a form and
43 manner prescribed by the authority, for disbursements from the
44 Recovery Infrastructure Fund. The authority, in consultation with
45 the Department of Community Affairs, shall review and approve
46 applications for disbursements of money from the fund pursuant to
47 the provisions of this section and the rules and regulation

1 promulgated by the authority pursuant to paragraph (1) of subsection
2 f. of this section.

3 e. The Department of Community Affairs shall coordinate with
4 the authority and other boards, commissions, institutions,
5 departments, agencies, State officers, and employees to carry out the
6 local infrastructure projects funded through the Recovery
7 Infrastructure Fund.

8 f. (1) The authority shall adopt rules and regulations pursuant to
9 the "Administrative Procedure Act," P.L.1968, c.410 (C.52:14B-1 et
10 seq.), to effectuate the purposes of subsections a. through d. of this
11 section.

12 (2) The Department of Community Affairs shall adopt rules and
13 regulations pursuant to the "Administrative Procedure Act,"
14 P.L.1968, c.410 (C.52:14B-1 et seq.), to effectuate the purposes of
15 subsection e. of this section.

16
17 80. (New section) Beginning the year next following the year in
18 which P.L. , c. (C.) (pending before the Legislature as this
19 bill) takes effect and every two years thereafter, a State college or
20 university shall, pursuant to an agreement executed between the State
21 college or university and the authority, prepare a report on the
22 implementation of the program, and submit the report to the
23 authority, the Governor, and, pursuant to section 2 of P.L.1991, c.164
24 (C.52:14-19.1), to the Legislature. Each biennial report required
25 under this section shall include a description of each eligible business
26 receiving a tax credit under the program, a detailed analysis of the
27 consideration given to each applicant, an analysis of whether the
28 incentives awarded influenced the eligible business's decisions to
29 locate a qualified business facility in the State, the return on
30 investment for incentives awarded, the eligible business's impact on
31 the State's economy, and any other metrics the State college
32 determines are relevant based upon national best practices. The
33 authority shall prepare a written response to the report, which the
34 authority shall submit to the Governor and, pursuant to section 2 of
35 P.L.1991, c.164 (C.52:14-19.1), to the Legislature.

36
37 81. (New section) Notwithstanding the provisions of the
38 "Administrative Procedure Act," P.L.1968, c.410 (C.52:14B-1 et
39 seq.), to the contrary, the chief executive officer of the authority may
40 adopt, immediately, upon filing with the Office of Administrative
41 Law, regulations that the chief executive officer deems necessary to
42 implement the provisions of sections 70 through 81 of P.L. , c.
43 (C.) (C.) (pending before the Legislature as this bill),
44 including but not limited to examples of and the determination of
45 capital investment and the determination of the limits, if any, on the
46 expense or type of furnishings that may constitute capital
47 improvements, which regulations shall be effective for a period not
48 to exceed 180 days from the date of the filing. The chief executive

1 officer shall thereafter amend, adopt, or readopt the regulations in
2 accordance with the requirements of P.L.1968, c.410 (C.52:14B-1 et
3 seq.).

4
5 82. (New section) Sections 82 through 88 of P.L. , c. (C.)
6 (pending before the Legislature as this bill) shall be known and may
7 be cited as the "Main Street Recovery Finance Program Act."

8
9 83. (New section) As used in sections 82 through 88 of P.L. , c.
10 (C.) (pending before the Legislature as this bill):

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

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

16 "Eligible microbusiness" means a business enterprise located in
17 the State that produces goods or provides services and has fewer than
18 10 full-time equivalent employees and annual gross revenue of less
19 than \$1,000,000 at the time of application for a loan under the
20 program.

21 "Eligible small business" means any business that satisfies the
22 criteria set forth in subsection b. of section 85 of P.L. , c. (C.)
23 (pending before the Legislature as this bill) at the time of application
24 for a grant under the program.

25 "Program" means the Main Street Recovery Finance Program
26 established pursuant to section 84 of P.L. , c. (C.) (pending
27 before the Legislature as this bill).

28 "Small business" means a business engaged in the conduct of a
29 trade or business in this State that qualifies as a "small business
30 concern" within the meaning of the federal "Small Business Act,"
31 Pub.L.85-536 (15 U.S.C. § 631 et seq.) for the purpose of the small
32 business's eligibility assistance from the United States Small
33 Business Administration.

34
35 84. (New section) The Main Street Recovery Finance Program is
36 hereby established as a program under the jurisdiction of the New
37 Jersey Economic Development Authority. The authority shall
38 administer the program for the purpose of providing grants, loans,
39 and loan guarantees to eligible small businesses in accordance with
40 the provisions of sections 82 through 88 of P.L. , c. (C.)
41 (pending before the Legislature as this bill). A business seeking a
42 grant, loan, or loan guarantee under the program shall submit an
43 application to the authority. The authority shall adopt eligibility
44 criteria for the program and may consider a business's benefit to the
45 community in which it is situated and the degree to which the
46 business enhances and promotes job creation and economic
47 development in communities that have been severely impacted by the
48 COVID-19 pandemic when making awards under the program.

1 85. (New section) a. As part of the Main Street Recovery Finance
2 Program, the authority shall provide grants to eligible small
3 businesses from the Main Street Recovery Fund, subject to
4 appropriation or the availability of federal funds provided that not
5 less than 40 percent of such funds shall be made available to eligible
6 microbusinesses certified by the State as a "minority business" or a
7 "women's business" pursuant to P.L.1986, c.195 (C.52:27H-21.17 et
8 seq.). Grants awarded pursuant to the program may be used by an
9 eligible small business for capital improvements or to cover
10 operating expenses. The authority may dedicate up to 10 percent of
11 any amount appropriated for the purposes of this section to provide
12 technical assistance grants to eligible microbusinesses.

13 b. (1) A small business shall be eligible to receive a grant
14 pursuant to this section if the small business demonstrates to the
15 authority that:

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

21 (b) each worker employed by the small business shall be paid not
22 less than \$15 per hour or 120 percent of the minimum wage fixed
23 under subsection a. of section 5 of P.L.1966, c.113 (C.34:11-56a4),
24 whichever is higher.

25 (2) In addition to the requirements of paragraph (1) of this
26 subsection, a small business shall be eligible to receive a grant
27 pursuant to this subsection for capital improvements only if the small
28 business demonstrates to the authority at the time of application that:

29 (a) any capital improvement undertaken with grant funds shall
30 comply with standards established by the authority in accordance
31 with the green building manual prepared by the Commissioner of
32 Community Affairs pursuant to section 1 of P.L.2007, c.132
33 (C.52:27D-130.6), regarding the use of renewable energy, energy-
34 efficient technology, and non-renewable resources to reduce
35 environmental degradation and encourage long-term cost reduction;
36 and

37 (b) each worker employed to perform construction work in
38 connection with a capital improvement undertaken with grant funds
39 in excess of \$50,000 shall be paid not less than the prevailing wage
40 rate for the worker's craft or trade, as determined by the
41 Commissioner of Labor and Workforce Development pursuant to
42 P.L.1963, c.150 (C.34:11-56.25 et seq.).

43 c. Prior to March 1, 2025, an eligible small business seeking a
44 grant pursuant to this section shall submit an application for approval
45 to the authority in the form and manner prescribed in regulations
46 adopted by the authority pursuant to the provisions of the
47 "Administrative Procedure Act," P.L.1968, c.410 (C.52:14B-1 et
48 seq.). Before the board may consider an eligible small business's

1 application for grants, the Department of Labor and Workforce
2 Development, the Department of Environmental Protection, and the
3 Department of the Treasury shall each report to the chief executive
4 officer of the authority whether the eligible small business is in
5 substantial good standing with the respective department, or has
6 entered into an agreement with the respective department that
7 includes a practical corrective action plan for the eligible small
8 business. The authority may also contract with an independent third
9 party to perform a background check on the eligible small business.
10 The eligible small business, or an authorized agent thereof, shall
11 certify under the penalty of perjury that any information provided in
12 the application required pursuant to this subsection is true.

13 d. Following approval by the board, but before the disbursement
14 of grant funds, the authority shall require an eligible small business
15 to enter into a grant agreement. The grant agreement shall specify
16 the amount of the grant to be awarded the eligible small business and
17 the frequency of payments. If the authority determines that an
18 eligible small business made a material misrepresentation on the
19 eligible small business's grant application or the eligible small
20 business has failed to comply with any requirement set forth in
21 paragraphs (1) through (4) of subsection b. of this section, then the
22 small business shall return to the authority any grant awarded
23 pursuant to this section.
24

25 86. (New section) a. As part of the Main Street Recovery Finance
26 Program, the authority shall make available from the Main Street
27 Recovery Fund, subject to annual appropriation and the availability
28 of funds, to eligible community development finance institutions
29 pursuant to subsection b. of this section and to eligible
30 microbusinesses pursuant to subsection c. of this section, provided
31 that not less than 40 percent of such funds shall be made available to
32 eligible microbusinesses certified by the State as a "minority
33 business" or a "women's business" pursuant to P.L.1986, c.195
34 (C.52:27H-21.17 et seq.). The authority may dedicate up to 10
35 percent of any amount appropriated for the purposes of this section
36 to provide technical assistance grants to eligible microbusinesses.

37 b. The authority shall provide loans and grants to eligible
38 community development finance institutions in accordance with this
39 subsection. Loans and grants made available to eligible community
40 development finance institutions pursuant to this paragraph shall be
41 used to strengthen capital structures, leverage additional debt capital,
42 and increase lending and investing in economically disadvantaged
43 communities. The authority shall require an eligible community
44 development finance institutions that receives a grant or loan
45 pursuant to this subsection to enter into an agreement with the
46 authority.

47 c. The authority shall provide loans to eligible microbusinesses
48 in accordance with this subsection. Loans made available to eligible

1 microbusinesses pursuant to this subsection may be used for capital
2 improvements, employee training, salaries for new positions, and to
3 pay for day-to-day operating expenditures, including payroll, rent,
4 utilities, insurance, and purchases of goods and services. The
5 authority shall require an eligible microbusiness to enter into a loan
6 agreement. Loans made pursuant to this subsection shall have a term
7 and an interest rate determined by the authority based on conditions
8 currently prevailing in the market. The authority may forgive loans
9 provided to eligible microbusinesses pursuant to this subsection at
10 the authority's discretion. The authority may, through the terms of
11 the loan agreement, establish terms governing the incidence of
12 default by an eligible microbusiness.

13 d. Prior to March 1, 2025, an eligible community development
14 finance institution seeking a loan or a grant pursuant to subsection b.
15 of this section or an eligible microbusiness seeking a loan pursuant
16 to subsection c. of this section shall submit an application for
17 approval to the authority in the form and manner prescribed in
18 regulations adopted by the authority pursuant to the provisions of the
19 "Administrative Procedure Act," P.L.1968, c.410 (C.52:14B-1 et
20 seq.). Before the authority may consider an application, the
21 Department of Labor and Workforce Development, the Department
22 of Environmental Protection, and the Department of the Treasury
23 shall each report to the chief executive officer of the authority
24 whether the applicant is in substantial good standing with the
25 respective department, or has entered into an agreement with the
26 respective department that includes a practical corrective action plan
27 for the applicant. The authority may also contract with an
28 independent third party to perform a background check on the
29 applicant. The applicant, or an authorized agent thereof, shall certify
30 under the penalty of perjury that any information provided in the
31 application required pursuant to this subsection is true.

32

33 87. (New section) a. To aid in the economic recovery of those
34 communities most impacted by the COVID-19 pandemic and to
35 better ensure their long-term economic growth, there is created the
36 "Main Street Recovery Fund" to be held by the State Treasurer. All
37 moneys deposited in the fund shall be held and disbursed in the
38 amounts necessary to fulfill the purposes of providing grants and
39 loans pursuant to sections 85 and 86 of P.L. , c. (C.) (pending
40 before the Legislature as this bill) and the purposes enumerated in
41 subsection b. of this section, and for reasonable administrative costs
42 of implementing sections 82 through 88 of P.L. , c. (C.)
43 (pending before the Legislature as this bill). The fund may be
44 credited with pay backs; bonuses; entitlements; money received from
45 the federal government; transfers; grants; gifts; bequests; moneys
46 appropriated by the Legislature; or any other money made available
47 from any source. The State Treasurer, in consultation with the
48 authority, may invest and reinvest any moneys in the fund in the State

1 Treasurer's discretion. Any income from, interest on, or increment
2 to moneys so invested or reinvested shall be included in the fund.

3 b. Upon application to the State Treasurer, and in consultation
4 with the Chief Executive Officer of the New Jersey Economic
5 Development Authority, the State Treasurer shall make loan
6 guarantees from the fund to leverage private and public lending to
7 help finance small businesses, real estate developments, and
8 manufacturers that are creditworthy but not receiving the financing
9 needed to expand and create jobs. In making loan guarantees under
10 this section, the State Treasurer shall give due consideration to small
11 businesses and real estate developments in underserved communities
12 throughout the State that have been deeply impacted by the COVID-
13 19 pandemic.

14 c. (1) The State Treasurer shall monitor the activities of the
15 beneficiaries of the loan guarantees issued pursuant to this section on
16 an annual basis to ensure compliance with the terms and conditions
17 imposed on the recipient by the chief executive officer.

18 (2) An entity receiving a loan guarantee and the beneficiaries of
19 such loan guarantee under this section shall provide the State
20 Treasurer with an annual accounting of how the benefit it received
21 from the fund was applied.

22 (3) The annual accounting required under this section shall
23 include certifications by the Department of Labor and Workforce
24 Development, the Department of Environmental Protection, and the
25 Department of the Treasury that the entity and the beneficiaries are
26 in substantial good standing with the respective departments, or have
27 entered into an agreement with the respective department that
28 includes a practical corrective action plan.

29 (4) The entity and beneficiary, or an authorized agent thereof,
30 shall certify under the penalty of perjury that the information
31 provided pursuant to this subsection is true.

32

33 88. (New section) Notwithstanding the provisions of the
34 "Administrative Procedure Act," P.L.1968, c.410 (C.52:14B-1 et
35 seq.), to the contrary, the chief executive officer of the authority may
36 adopt, immediately, upon filing with the Office of Administrative
37 Law, regulations that the chief executive officer deems necessary to
38 implement the provisions of sections 82 through 88 of P.L. , c.
39 (C.) (pending before the Legislature as this bill), which
40 regulations shall be effective for a period not to exceed 180 days from
41 the date of the filing. The chief executive officer shall thereafter
42 amend, adopt, or readopt the regulations in accordance with the
43 requirements of P.L.1968, c.410 (C.52:14B-1 et seq.).

44

45 89. (New section) a. The Director of the Division of Taxation in
46 the Department of the Treasury may purchase unused tax credits
47 awarded under a program listed in subsection b. of this section,
48 including tax credit transfer certificates issued by the director in lieu

1 of a tax credit allowed under such programs. The director shall not
2 pay consideration in excess of 75 percent of the credit amount to be
3 purchased, except for a credit awarded under the " Emerge Program
4 Act," sections 68 through 81 of P.L. , c. (C.) (pending before
5 the Legislature as this bill), which shall be subject to the provisions
6 of paragraph (4) of subsection d. of section 77 of P.L. , c. (C.)
7 (pending before the Legislature as this bill).

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

10 (1) the "Historic Property Reinvestment Act," sections 1 through
11 8 of P.L. , c. (C.) (pending before the Legislature as this
12 bill);

13 (2) the "Brownfield Redevelopment Incentive Program Act,"
14 sections 9 through 19 of P.L. , c. (C.) (pending before the
15 Legislature as this bill);

16 (3) the "New Jersey Innovation Evergreen Act," sections 20
17 through 34 of P.L. , c. (C.) (pending before the Legislature
18 as this bill);

19 (4) the "Food Desert Relief Act," sections 35 through 42 of
20 P.L. , c. (C.) (pending before the Legislature as this bill);

21 (5) the "New Jersey Community-Anchored Development Act,"
22 sections 43 through 53 of P.L. , c. (C.) (pending before the
23 Legislature as this bill);

24 (6) the "New Jersey Aspire Program Act," sections 54 through 67
25 of P.L. , c. (C.) (pending before the Legislature as this bill);

26 (7) the " Emerge Program Act," sections 68 through 81 of P.L. ,
27 c. (C.) (pending before the Legislature as this bill);

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

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

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

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

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

36

37 90. (New section) a. There is established in the New Jersey
38 Economic Development Authority a Working Group on Entrepreneur
39 Zones for the purpose of making recommendations for the
40 establishment of entrepreneur zones throughout the State. The
41 working group shall consider whether the establishment of
42 entrepreneur zones in which the State provides the tax incentives,
43 regulation relief, and financial support to local entrepreneurs is the
44 most effective way to create jobs in the State. The working group
45 shall identify census tracts within the State that are suitable for
46 designation as an entrepreneur zone.

1 b. The working group shall consist of seven members appointed
2 by the chief executive officer of the New Jersey Economic
3 Development Authority.

4 c. Appointments to the working group shall be made within 30
5 days after the effective date of this act. Vacancies in the membership
6 of the working group shall be filled in the same manner as the original
7 appointments were made.

8

9 91. (New section) a. As used in this section:

10 "Personal protective equipment" means coveralls, face shields,
11 gloves, gowns, masks, respirators, and other equipment designed to
12 protect the wearer from the spread of infection or illness.

13 "State agency" means any principal department in the Executive
14 Branch of State government, and any division, board, bureau, office,
15 commission or other instrumentality within or created by such
16 department, and any independent State authority, commission,
17 instrumentality or agency, other than in the Legislative or Judicial
18 Branches of State government, which is authorized by law to award
19 public contracts.

20 b. Notwithstanding the provisions of any other law to the
21 contrary, whenever the Director of the Division of Purchase and
22 Property, or the head of any State agency shall consider bids on any
23 contract for the purchase of personal protective equipment that is
24 publicly advertised for bids, the director or the head of a State agency
25 shall list the bidders in order based upon which bid, conforming to
26 the invitation for bids, would be most advantageous to the State,
27 price, and other factors considered. If the first bidder on the list has
28 its principal place of business in this State it shall be awarded the
29 contract. If no bidder having its principal place of business in this
30 State has submitted a bid that is within five percent of the bid
31 submitted by the bidder at the top of the list that has its principal
32 place of business outside of this State, the contract shall be awarded
33 to the bidder at the top of the list. If the first bidder on the list has its
34 principal place of business outside of this State and a bidder that has
35 its principal place of business in this State is on the list and has
36 submitted a bid that is within five percent of the bid submitted by the
37 bidder at the top of the list that has its principal place of business
38 outside of this State, the contract shall be awarded to the highest
39 listed in-State bidder.

40 Any specifications for the provision or personal protective
41 equipment under this act shall be drafted in a manner to encourage
42 free, open, and competitive bidding.

43 Any specification which knowingly excludes prospective bidders
44 by reason of the impossibility of performance, bidding, or
45 qualifications by any but one bidder shall be null and void and of no
46 effect.

47 c. The State Treasurer shall adopt such rules and regulations as
48 may be necessary to implement the provisions of this section

1 pursuant to the "Administrative Procedure Act," P.L.1968, c.410
2 (C.52:14B-1 et seq.).

3

4 92. (New section) Sections 92 through 97 of P.L. , c. (C.)
5 (pending before the Legislature as this bill) shall be known and may
6 be cited as the "New Jersey Ignite Act."

7

8 93. (New section) As used in sections 92 through 97 of P.L. , c.
9 (C.) (pending before the Legislature as this bill):

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

13 "Authority commitment period" means the period for which the
14 authority commits to provide a start-up rent grant for the payment of
15 rent in a collaborative workspace

16 "Collaborative workspace" means a business facility certified
17 pursuant to section 95 of P.L. , c. (C.) (pending before the
18 Legislature as this bill), located in this State, developed to provide
19 flexible workspaces for early stage innovation economy businesses,
20 and designed to encourage community and collaboration within an
21 inter-connected environment in which multiple start-up businesses
22 have access to shared community events and shared workplace
23 accommodations including, but not limited to, kitchens and
24 makerspaces.

25 "Collaborative workspace commitment period" means a period of
26 months equal to one-half the number of months of the authority
27 commitment period.

28 "Community event" means an event hosted by a collaborative
29 workspace and accessible to start-up tenant or member businesses,
30 without charge or with nominal charge, organized to support an
31 innovation ecosystem, as defined in section 21 of P.L. , c.
32 (C.) (pending before the Legislature as this bill), at the
33 collaborative workspace, including, but not limited to, events such as
34 meet-ups, speaker series, and office hours for lawyers, accountants,
35 consultants, or investors.

36 "Early stage innovation economy business" means a business that
37 operates within a targeted industry with at least one full-time
38 employee, who is assigned to the collaborative workspace, and fewer
39 than 10 employees overall and with less than \$1,000,000 in gross
40 sales over the 12-month period immediately prior to submitting an
41 application for tenancy at a collaborative workspace. To be
42 considered an "early stage innovation economy business" the earliest
43 date of formation for the business must have been not more than three
44 years prior to utilizing or renting space in, or access to, the
45 collaborative workspace under the program, and the business shall
46 not have previously utilized or rented space in, or access to, another
47 collaborative workspace in the State.

1 "Full time employee" means a person who is: employed by the
2 start-up tenant or member business for at least 35 hours a week;
3 working as an independent contractor providing critical capabilities
4 to the start-up tenant or member business for at least 35 hours a week;
5 or an owner or partner of the start-up tenant or member business who
6 works for at start-up tenant or member business for at least 35 hours
7 a week.

8 "Grant agreement" means an agreement between the authority and
9 the owner and operator of a collaborative workspace which
10 memorializes the terms and conditions of the collaborative
11 workspace's participation in the program.

12 "Program" means the New Jersey Ignite Program established
13 pursuant to section 94 of P.L. , c. (C.) (pending before the
14 Legislature as this bill).

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

24 "Start-up rent grant" means a grant provided by the authority to a
25 collaborative workspace for the rent that would otherwise be due to
26 the collaborative workspace from a start-up tenant or member
27 business for the period of the authority commitment period.

28 "Start-up tenant or member business" means an early stage
29 innovation economy business that is registered to do business in New
30 Jersey, rents space in, or access to, a collaborative workspace under
31 the program, and enters into an agreement with the owner and
32 operator of the collaborative workspace to rent space in, or access to,
33 the collaborative workspace for an agreed upon period, which shall
34 include the authority commitment period, collaborative workspace
35 commitment period, and start-up tenant or member business
36 commitment period.

37 "Start-up tenant or member business commitment period" means
38 a period of months equal to the sum of the authority commitment
39 period and the collaborative workspace commitment period.

40

41 94. (New section) The New Jersey Ignite Program is hereby
42 established as a program under the jurisdiction of the authority. The
43 purpose of the program shall be to foster early stage innovation
44 economy businesses and to help those businesses overcome barriers
45 to commercial success. The authority shall structure the program as
46 a public-private partnership through which the authority provides
47 start-up rent grants to collaborative workspaces, certified pursuant to
48 section 95 of P.L. , c. (C.) (pending before the Legislature

1 as this bill), to support the early months of an early stage innovation
2 economy business's rent at the collaborative workspace.

3

4 95. (New section) a. The owner and operator of a business
5 facility located in the State may apply to the authority to have the
6 business facility certified as a collaborative workspace under the
7 program. A business facility shall be eligible for certification as a
8 collaborative workspace if:

9 (1) the business facility is developed to provide flexible
10 workspaces for early stage innovation economy businesses;

11 (2) the business facility is designed to encourage community and
12 collaboration within an inter-connected environment in which
13 multiple start-up businesses have access to shared workplace
14 accommodations;

15 (3) the owner and operator of the business facility commits to
16 hosting at least eight community events at the business facility each
17 year;

18 (4) the owner and operator of the business facility possesses a tax
19 clearance certificate issued by the Division of Taxation in the
20 Department of the Treasury;

21 (5) the owner and operator of the business facility possesses a
22 business registration certificate issued by the Division of Revenue in
23 the Department of the Treasury;

24 (6) at least five unique tenant or member businesses, in which the
25 owner and operator of the business facility does not have a direct
26 financial interest, have paid rent for space in, or access to, the
27 business facility over the two years immediately preceding the
28 submission of the application for certification as a collaborative
29 workspace pursuant to this section or, if the business facility has been
30 open for less than 90 days, the owner and operator of the business
31 facility provides to the authority at least three letters of intent from
32 prospective tenant or member businesses;

33 (7) the business facility is subject to ongoing operating costs,
34 such as rent, mortgage payments, or internal corporate charge-backs,
35 at the time of application for certification pursuant to this section;

36 (8) the owner and operator of the business facility offers at least
37 one type of workspace at the business facility for rent by an early
38 stage innovation economy business;

39 (9) the owner and operator of the business facility charges rent to
40 tenants or members; and

41 (10) the owner and operator of the business facility certifies that
42 any rent charged to a start-up tenant or member business is to be
43 market-rate.

44 b. In addition to the requirements set forth in subsection a. of
45 this section, for a business facility to qualify for certification as a
46 collaborative workspace, the authority may, in its discretion and
47 subject to available funds, require the owner and operator of the
48 business facility shall commit to paying one month's rent for a start-

1 up tenant or member business at the business facility for every two
2 months of rent to be paid by the authority as a start-up rent grant
3 under the program.

4 c. (1) The owner and operator of a business facility eligible for
5 certification as a collaborative workspace pursuant to subsections a.
6 and b. of this section shall submit an application for certification and
7 participation in the program in such form as required by the authority.
8 The application shall include any information the authority
9 determines is necessary to administer the program.

10 (2) In evaluating applications for certification as a collaborative
11 workspace, the authority may conduct site visits or perform any other
12 investigation necessary to confirm any statement made in the
13 application submitted by the owner and operator of the business
14 facility. If the authority later finds that any statement made in the
15 application for certification is inaccurate, then the authority may
16 rescind its certification of the collaborative workspace.

17 d. Following approval of an application for certification, to
18 participate in the program the authority and the owner and operator
19 of a collaborative workspace shall enter into a grant agreement
20 governing the terms, conditions, and timing under which the
21 authority shall pay the start-up rent grant to the owner and operator
22 of the collaborative workspace. The grant agreement shall require a
23 collaborative workspace to share data concerning its participation in
24 the program and on collaborative workspace utilization for the
25 purpose of better program planning and the development of new
26 programs to further support the State's economy.

27
28 96. (New section) a. Up to the limits established in this
29 subsection and in accordance with the grant agreement, the authority
30 shall provide start-up rent grants to the owner and operator of a
31 collaborative workspace through a series of scheduled payments as
32 set forth in the grant agreement. The owner and operator of the
33 collaborative workspace shall utilize the grant funding to provide
34 rent-free space to a start-up tenant or member business that agrees to
35 continue renting space in, or access to, the collaborative workspace
36 for the start-up tenant or member business commitment period. The
37 maximum start-up rent grant that the authority may provide to a
38 collaborative workspace for the tenancy of a single start-up tenant or
39 member business shall not exceed \$25,000.

40 b. The authority may provide a start-up rent grant for the
41 payment of rent for space in, or access to, a collaborative workspace
42 for up to six months; provided, however, if a collaborative workspace
43 or start-up tenant or member business satisfies any of the bonuses set
44 forth in paragraphs (1) through (5) of this subsection, then the
45 authority may provide an additional month of rent for each bonus
46 satisfied by the collaborative workspace or start-up tenant or member
47 business. The authority shall award a bonus to the owner and
48 operator of a collaborative workspace if:

1 (1) the collaborative workspace is located in a qualified
2 opportunity zone designated pursuant to 26 U.S.C. s.1400Z-1;

3 (2) the collaborative workspace is affiliated with a hospital
4 system or a New Jersey university;

5 (3) the collaborative workspace has been open less than 90 days
6 from the date on which the owner and operator of the collaborative
7 workspace applied to the authority to participate in the program and
8 the collaborative workspace is not in the same location as an existing
9 facility;

10 (4) the start-up tenant or member business for which the start-up
11 rent grant is paid is certified by the State as a "minority business" or
12 a "women's business" pursuant to P.L.1986, c.195 (C.52:27H-21.17
13 et seq.); or

14 (5) the start-up tenant or member business for which the start-up
15 rent grant is paid is the first presence of a foreign company entering
16 into the United States.

17 c. (1) The owner and operator of a collaborative workspace
18 shall annually certify to the authority, under the penalty of perjury,
19 that it is in compliance with the grant agreement.

20 (2) In addition to the certification required pursuant to paragraph
21 (1) of this subsection, the authority shall conduct an annual
22 inspection and review of the collaborative workspace and may
23 request documentation evidencing that the collaborative workspace
24 utilized the start-up rent grant it received from the authority in
25 accordance with the requirements of the program and the grant
26 agreement.

27 d. (1) If a start-up tenant or member business stops
28 occupying or accessing a collaborative workspace before the end of
29 the start-up tenant or member business commitment period, then the
30 collaborative workspace shall refund to the authority that portion of
31 the start-up rent grant covering any period in which the start-up
32 tenant or member business did not have space in, or access to, the
33 collaborative workspace.

34 (2) If the authority determines that a collaborative workspace is
35 not in compliance with the requirements of the program or of the
36 grant agreement, then the authority shall rescind the business
37 facility's certification as a collaborative workspace and bar the
38 business facility from further participation in the program.

39
40 97. (New section) The authority shall promulgate rules and
41 regulations necessary for the effective implementation of sections 92
42 through 97 of P.L. , c. (C.) (pending before the Legislature
43 as this bill). Notwithstanding any provision of the "Administrative
44 Procedure Act," P.L.1968, c.410 (C.52:14B-1 et seq.) to the contrary,
45 the authority may adopt, immediately upon filing with the Office of
46 Administrative Law, such regulations as are necessary to implement
47 the provisions of sections 92 through 97 of P.L. , c. (C.)
48 (pending before the Legislature as this bill), which shall be effective

1 for a period not to exceed 12 months following enactment, and shall
2 thereafter be amended, adopted, or readopted by the authority in
3 accordance with the requirements of the "Administrative Procedure
4 Act," P.L.1968, c.410 (C.52:14B-1 et seq.).
5

6 98. (New section) a. The combined value of all tax credits
7 awarded under the "Historic Property Reinvestment Act," sections 1
8 through 8 of P.L. , c. (C.) (pending before the Legislature as
9 this bill), the "Brownfield Redevelopment Incentive Program Act,"
10 sections 9 through 19 of P.L. , c. (C.) (pending before the
11 Legislature as this bill), the "New Jersey Innovation Evergreen Act,"
12 sections 20 through 34 of P.L. , c. (C.) (pending before the
13 Legislature as this bill), the "Food Desert Relief Act," sections 35
14 through 42 of P.L. , c. (C.) (pending before the Legislature
15 as this bill), the "New Jersey Community-Anchored Development
16 Act," sections 43 through 53 of P.L. , c. (C.) (pending before
17 the Legislature as this bill); the "New Jersey Aspire Program Act,"
18 sections 54 through 67 of P.L. , c. (C.) (pending before the
19 Legislature as this bill); and the "Emerge Program Act," sections 68
20 through 81 of P.L. , c. (C.) (pending before the Legislature
21 as this bill) shall not exceed an overall cap of \$11.5 billion over a
22 six-year period, subject to the conditions and limitations set forth in
23 this section. Of this \$11.5 billion, \$2.5 billion shall be reserved for
24 transformative projects approved under the Aspire Program or the
25 Emerge Program.

26 b. (1) The total value of tax credits awarded under any
27 constituent program of the "New Jersey Economic Recovery Act of
28 2020," P.L. , c. (C.) (pending before the Legislature as this
29 bill) shall be subject to the following annual limitations, except as
30 otherwise provided in subsection c. of this section:

31 (a) for tax credits awarded under the "Historic Property
32 Reinvestment Act," sections 1 through 8 of P.L. , c. (C.)
33 (pending before the Legislature as this bill), the total value of tax
34 credits annually awarded during the six-year period shall not exceed
35 \$50 million;

36 (b) for tax credits awarded under the "Brownfield Redevelopment
37 Incentive Program Act," sections 9 through 19 of P.L. , c.
38 (C.) (pending before the Legislature as this bill), the total value
39 of tax credits annually awarded during the six-year period shall not
40 exceed \$50 million;

41 (c) for tax credits awarded under the "New Jersey Innovation
42 Evergreen Act," sections 20 through 34 of P.L. , c. (C.)
43 (pending before the Legislature as this bill), the total value of tax
44 credits annually awarded during the six-year period shall not exceed
45 \$60 million;

46 (d) for tax credits awarded under the "Food Desert Relief Act,"
47 sections 35 through 42 of P.L. , c. (C.) (pending before the

1 Legislature as this bill), the total value of tax credits annually
2 awarded during the six-year period shall not exceed \$40 million;
3 (e) for tax credits awarded under the "New Jersey Community-
4 Anchored Development Act," sections 43 through 53 of P.L. , c.
5 (C.) (pending before the Legislature as this bill), the total value
6 of tax credits annually awarded during the six-year period shall not
7 exceed \$200 million, except that during each of the first three years
8 of the six-year period, the authority shall annually award tax credits
9 valuing no greater than \$130 million for projects located in the 13
10 northern counties of the State, and the authority shall annually award
11 tax credits valuing no greater than \$70 million for projects located in
12 the eight southern counties of the State. If during any of the first
13 three years of the six-year period, the authority awards tax credits in
14 an amount less than the annual limitation for projects located in
15 northern counties or southern counties, as applicable, the
16 uncommitted portion of the annual limitation shall be available to be
17 deployed by the authority in the subsequent year, provided that the
18 uncommitted portion of tax credits shall be awarded for projects
19 located in the applicable geographic area. During each of the final
20 three years of the six-year period, the authority may annually award
21 available tax credits, including the uncommitted portion of the annual
22 limitation for any previous year, without consideration to the county
23 in which the project is located;
24 (f) for tax credits awarded under the "New Jersey Aspire Program
25 Act," sections 54 through 67 of P.L. , c. (C.) (pending before
26 the Legislature as this bill), and the "Emerge Program Act," sections
27 68 through 81 of P.L. , c. (C.) (pending before the Legislature
28 as this bill), not including tax credits awarded for transformative
29 projects, the total value of tax credits annually awarded during the
30 six-year period shall not exceed \$1.1 billion, except that during each
31 of the first three years of the six-year period, the authority shall
32 annually award tax credits valuing no greater than \$715 million for
33 projects located in the northern counties of the State, and the
34 authority shall annually award tax credits valuing no greater than
35 \$385 million for projects located in the southern counties of the State.
36 If during any of the first three years of the six-year period, the
37 authority awards tax credits in an amount less than the annual
38 limitation for projects located in northern counties or southern
39 counties, as applicable, the uncommitted portion of the annual
40 limitation shall be available to be deployed by the authority in the
41 subsequent year, provided that the uncommitted portion of tax credits
42 shall be awarded for projects located in the applicable geographic
43 area. During each of the final three years of the six-year period, the
44 authority may annually award available tax credits, including the
45 uncommitted portion of the annual limitation for any previous year,
46 without consideration to the county in which the project is located;
47 and

1 (g) for tax credits awarded for transformative projects under the
2 "New Jersey Aspire Program Act," sections 54 through 67 of P.L. ,
3 c. (C.) (pending before the Legislature as this bill), and the
4 "Emerge Program Act," sections 68 through 81 of P.L. , c.
5 (C.) (pending before the Legislature as this bill), the total value
6 of tax credits awarded during the six-year period shall not exceed
7 \$2.5 billion. The total value of tax credits awarded for transformative
8 projects in a given year shall not be subject to an annual limitation,
9 except that no more than 10 transformative projects shall be awarded
10 tax credits during the six-year period, and the total value of tax
11 credits awarded to any transformative project shall not exceed \$250
12 million.

13 (2) The authority may in any given year determine that it is in the
14 State's interest to approve an amount of tax credits in excess of the
15 annual limitations set forth in paragraph (1) of this subsection, but in
16 no event more than \$200,000,000 in excess of the annual limitation,
17 upon a determination by the authority board that such increase is
18 warranted based on specific criteria that may include:

19 (i) the increased demand for opportunities to create or retain
20 employment and investment the State as indicated by the volume of
21 project applications and the amount of tax credits being sought by
22 those applications;

23 (ii) the need to protect the State's economic position in the event
24 of an economic downturn;

25 (iii) the quality of project applications and the net economic
26 benefit to the State and municipalities associated with those
27 applications;

28 (iv) opportunities for project applications to strengthen or protect
29 the competitiveness of the state under the prevailing market
30 conditions;

31 (v) enhanced access to employment and investment for
32 underserved populations in distressed municipalities and qualified
33 incentives tracts;

34 (vi) increased investment and employment in high-growth
35 technology sectors and in projects that entail collaboration with
36 education institutions in the State;

37 (vii) increased development proximate to mass transit facilities;

38 (viii) any other factor deemed relevant by the authority.

39 c. In the event that the authority in any year approves projects
40 for tax credits in an amount less than the annual limitations set forth
41 in paragraph (1) of subsection b. of this section, then the
42 uncommitted portion of the annual limitation shall be available to be
43 deployed by the authority in future years for projects; provided
44 however, that in no event shall the aggregate amount of tax credits
45 approved be in excess of the overall cap of \$11.5 billion.

46

47 99. (New section) Sections 99 through 105 of P.L. , c.
48 (C.) (pending before the Legislature as this bill) shall be known

1 and may be cited as the "Economic Development Authority Integrity
2 and Protection Act."

3

4 100. (New section) As used in sections 99 through 105 of P.L. ,
5 c. (C.) (pending before the Legislature as this bill):

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

12 "Fraud" means a deception or misrepresentation made by any
13 person or entity with the knowledge that the deception or
14 misrepresentation could result in some unauthorized benefit to that
15 person or entity or another person or entity, including any act that
16 constitutes fraud under applicable federal or State law.

17 "Economic development investigation" means an investigation of
18 fraud, abuse, or illegal acts perpetrated within economic development
19 incentive programs by applicants for, or recipients of, economic
20 development incentives.

21 "Office of the Economic Development Inspector General" means
22 the Office of the Economic Development Inspector General created
23 by section 102 of P.L. , c. (C.) (pending before the Legislature
24 as this bill).

25

26 101. (New section) a. The New Jersey Economic Development
27 Authority shall employ a Chief Compliance Officer, who shall be
28 appointed by the Chief Executive Officer of the authority to manage
29 the Division of Portfolio Management and Compliance in the
30 authority.

31 b. The Chief Compliance Officer shall:

32 (1) create, maintain, monitor, and coordinate procedures to
33 ensure that all economic development incentive programs, authority
34 employees, and economic development incentive program applicants
35 and recipients comply fully with the requirements of the
36 corresponding economic development incentive program;

37 (2) conduct, on such periodic basis as determined by the
38 authority, systematic audits of economic development incentive
39 programs for compliance with the laws, regulations, codes, orders,
40 procedures, advisory opinions and rulings concerning those
41 programs;

42 (3) maintain a central database of information concerning the
43 management of all economic development incentive programs and
44 information on economic development incentive program applicants
45 and recipients to provide for the regular and ongoing reporting,
46 verification, and monitoring of the State's economic development
47 incentive programs;

1 (4) prior to the adoption of any rule or regulation by the authority
2 or the board related to the general administration of the programs
3 administered by the authority pursuant to section 6 of P.L. , c.
4 (C.) (pending before the Legislature as this bill), section 19 of
5 P.L. , c. (C.) (pending before the Legislature as this bill),
6 section 29 of P.L. , c. (C.) (pending before the Legislature
7 as this bill), section 34 of P.L. , c. (C.) (pending before the
8 Legislature as this bill), section 41 of P.L. , c. (C.) (pending
9 before the Legislature as this bill), section 67 of P.L. , c. (C.)
10 (pending before the Legislature as this bill), section 79 of P.L. , c.
11 (C.) (pending before the Legislature as this bill), section 88 of
12 P.L. , c. (C.) (pending before the Legislature as this bill),
13 and section 97 of P.L. , c. (C.) (pending before the Legislature
14 as this bill), or any other regulation specifically related to the
15 recapture of economic development incentive award values, review
16 and certify that the provisions of program rules or regulations provide
17 the authority with adequate procedures to pursue the recapture of the
18 value of an economic development incentive in the case of substantial
19 noncompliance, fraud, or abuse by the economic development
20 incentive recipient, and that program rules and regulations are
21 sufficient to ensure against economic development incentive fraud,
22 waste, and abuse; and

23 (5) refer, to the Economic Development Inspector General and to
24 the Attorney General, information on suspected fraud or abuse
25 identified by the Division of Portfolio Management and Compliance.

26 c. The Chief Compliance Officer, in consultation with the
27 Department of Labor and Workforce Development and the
28 Department of the Treasury, shall:

29 Develop, adopt, and implement a corrective action plan, within
30 one year of the effective date of sections 99 through 105 of P.L. ,
31 c. (C.) (pending before the Legislature as this bill) and within
32 six months of receiving notice of any program deficiency issued by
33 the Economic Development Inspector General, that is designed to
34 enable the authority to properly manage the economic development
35 incentive programs administered by the authority, and adopt rules
36 and regulations concerning the administration and enforcement of the
37 Division of Portfolio Management and Compliance's duties in a
38 manner that is most compatible with ensuring against fraud and abuse
39 in the State's economic development incentive programs.

40

41 102. (New section) a. There is established, in the authority, the
42 Office of the Economic Development Inspector General, which shall
43 operate independent of the oversight or management of the Chief
44 Executive Officer of the authority. The Office of the Economic
45 Development Inspector General shall operate under the Economic
46 Development Inspector General, who shall be a retired member of
47 the Judicial Branch of the State, to be appointed by the Governor with
48 the advice and consent of the Senate for a term of four years. The

1 Economic Development Inspector General shall direct the work of
2 the Office of the Economic Development Inspector General and have
3 the following general functions, duties, powers, and responsibilities:
4 (1) to appoint such deputies, directors, assistants, and other
5 officers and employees as may be needed for the Office of the
6 Economic Development Inspector General to meet its
7 responsibilities, and to prescribe their duties and fix their
8 compensation within the amounts appropriated therefor;
9 (2) to conduct and supervise State government activities relating
10 to State economic development incentive integrity, fraud, and abuse;
11 (3) to call upon any department, office, division, or agency of
12 State government to provide such information, resources, or other
13 assistance as the Economic Development Inspector General deems
14 necessary to discharge the duties and functions and to fulfill the
15 responsibilities of the Economic Development Inspector General
16 under sections 99 through 105 of P.L. , c. (C.) (pending
17 before the Legislature as this bill). Each department, office, division,
18 and agency of this State shall cooperate with the Economic
19 Development Inspector General and furnish the Office of the
20 Economic Development Inspector General with the assistance
21 necessary to accomplish the purposes of sections 99 through 105 of
22 P.L. , c. (C.) (pending before the Legislature as this bill);
23 (4) to coordinate activities to prevent, detect, and investigate
24 economic development incentive fraud and abuse among the
25 following: the authority, State and local government officials, and all
26 economic development incentive applicants and recipients;
27 (5) to recommend and implement policies relating to economic
28 development incentive integrity, fraud, and abuse, and monitor the
29 implementation of any recommendations made by the Office of the
30 Economic Development Inspector General to the authority for the
31 administration of economic development incentives;
32 (6) to perform any other functions that are necessary or
33 appropriate in furtherance of the mission of the Office of the
34 Economic Development Inspector General; and
35 (7) to direct an economic development incentive applicant or
36 recipient to cooperate with the Office of the Economic Development
37 Inspector General and provide such information or assistance as shall
38 be reasonably required by the Office of the Economic Development
39 Inspector General.
40 b. As it relates to ensuring compliance with applicable economic
41 development incentive standards and requirements, identifying and
42 reducing fraud and abuse, and improving the efficiency and
43 effectiveness of economic development incentives, the functions,
44 duties, powers, and responsibilities of the Economic Development
45 Inspector General shall include, but not be limited to, the following:
46 (1) to establish, in consultation with the authority and the
47 Attorney General, guidelines under which the withholding of
48 payments or exclusion from economic development incentive

- 1 programs shall be imposed on an economic development incentive
2 applicant or recipient;
- 3 (2) to review the utilization of economic development incentives
4 to ensure that economic development incentive funds are
5 appropriately spent to meet the goals and purposes of an individual
6 economic development incentive program;
- 7 (3) to review and audit contracts, reports, documentation, claims,
8 and all awards of economic development incentives to determine
9 compliance with applicable laws, regulations, guidelines, and
10 standards, and enhance program integrity;
- 11 (4) to consult with the authority to optimize the economic
12 development incentive management information system in
13 furtherance of the mission of the Office of the Economic
14 Development Inspector General. The authority shall consult with the
15 Economic Development Inspector General on matters that concern
16 the operation, upgrade, and implementation of the economic
17 development incentive management information system;
- 18 (5) to coordinate the implementation of information technology
19 relating to economic development incentive integrity, fraud, and
20 abuse;
- 21 (6) to conduct educational programs for economic development
22 incentive State and local government officials and economic
23 development incentive recipients designed to limit economic
24 development incentive fraud and abuse; and
- 25 (7) to provide notice to the Chief Compliance Officer, appointed
26 pursuant to section 101 of P.L. , c. (C.) (pending before the
27 Legislature as this bill) if the Economic Development Inspector
28 General determines that a program deficiency exists in an economic
29 development incentive program administered by the authority and to
30 provide notice to the Chief Executive Officer of the Authority of
31 pending investigations if the Economic Development Inspector
32 General determines that such disclosure is consistent with the public
33 interest in maintaining the integrity of an economic development
34 incentive program administered by the authority or to abate the
35 continuation of fraud or abuse.
- 36 c. As it relates to investigating allegations of economic
37 development incentive fraud and abuse and enforcing applicable
38 laws, rules, regulations, and standards, the functions, duties, powers,
39 and responsibilities of the Economic Development Inspector General
40 shall include, but not be limited to, the following:
- 41 (1) to conduct economic development investigations concerning
42 any acts of misconduct within economic development incentive
43 programs;
- 44 (2) to provide information concerning the economic development
45 investigations of the Office of the Economic Development Inspector
46 General to the Attorney General, law enforcement authorities, and
47 any prosecutor of competent jurisdiction, and endeavor to develop
48 these economic development investigations in a manner that

1 expedites and facilitates criminal prosecutions and the recovery of
2 improperly expended economic development incentives, including
3 the maintenance of detailed records for cases processed by the
4 Economic Development Inspector General. The records shall
5 include: information on the total number of cases processed and, for
6 each case, the agency and division to which the case is referred for
7 an economic development investigation; the date on which the case
8 is referred; and the nature of the suspected fraud or abuse.

9 (3) to provide information and evidence relating to suspected
10 criminal acts that the Economic Development Inspector General may
11 obtain in carrying out its duties to law enforcement officials when
12 appropriate, and to provide such information to the Attorney General
13 and county prosecutors in order to facilitate criminal economic
14 development investigations and prosecutions;

15 (4) to refer complaints alleging criminal conduct to the Attorney
16 General or other appropriate prosecutorial authority.;

17 The Economic Development Inspector General shall maintain a
18 record of all matters referred to the Attorney General and shall be
19 authorized to disclose information received, as appropriate and as
20 may be necessary to resolve the matter referred, to the extent
21 consistent with the public interest in disclosure, the need for
22 protecting the confidentiality of complainants and informants, and
23 preserving the confidentiality of ongoing criminal economic
24 development investigations. Notwithstanding any referral made
25 pursuant to this subsection, the Economic Development Inspector
26 General may pursue any administrative or civil remedy under the law.
27 A referral by the inspector general to the Attorney General or a
28 prosecutorial authority shall in no way preclude the inspector general
29 from performing its own separate, independent investigation; and

30 (5) in furtherance of an economic development investigation, to
31 compel at a specific time and place, by subpoena, the appearance and
32 sworn testimony of any person whom the Economic Development
33 Inspector General reasonably believes may be able to give
34 information relating to a matter subject to an economic development
35 investigation:

36 (a) for this purpose, the Economic Development Inspector
37 General is empowered to administer oaths and examine witnesses
38 under oath, and compel any person to produce at a specific time and
39 place, by subpoena, any documents, books, records, papers, objects,
40 or other evidence that the Economic Development Inspector General
41 reasonably believes may relate to a matter subject to an economic
42 development investigation; and

43 (b) if any person to whom a subpoena is issued fails to appear or,
44 having appeared, refuses to give testimony, or fails to produce the
45 books, papers, or other documents required, the Economic
46 Development Inspector General may apply to the Superior Court and
47 the court may order the person to appear and give testimony or
48 produce the books, papers, or other documents, as applicable. Any

1 person failing to obey that order may be held by the court in
2 contempt;

3 (6) subject to applicable State law, to have full and unrestricted
4 access to all records, reports, audits, reviews, documents, papers,
5 data, recommendations, or other material available to the authority
6 and other State and local government agencies with respect to which
7 the Office of the Economic Development Inspector General has
8 responsibilities under sections 102 through 105 of P.L. , c.
9 (C.) (pending before the Legislature as this bill);

10 (7) to solicit, receive, and investigate complaints related to
11 economic development incentive integrity, fraud, and abuse; and

12 (8) to prepare cases, provide expert testimony, and support
13 administrative hearings and other legal proceedings.

14 d. As it relates to recovering improperly obtained economic
15 development incentives, imposing administrative sanctions,
16 damages, or penalties, and negotiating settlements to assure that all
17 governmental resources have been properly expended, the functions,
18 duties, powers, and responsibilities of the Economic Development
19 Inspector General shall include, but not be limited to, the following:

20 (1) to pursue civil and administrative enforcement actions against
21 those who engage in fraud, abuse, or illegal acts perpetrated under
22 economic development incentive programs. These civil and
23 administrative enforcement actions shall include the imposition of
24 administrative sanctions, penalties, suspension of fraudulent or
25 illegal awards, and actions for civil recovery and seizure of property
26 or other assets connected with such economic incentive awards;

27 (2) to initiate civil suits consistent with the provisions of sections
28 99 through 105 of P.L. , c. (C.) (pending before the Legislature
29 as this bill), maintain actions for civil recovery on behalf of the State,
30 and enter into civil settlements;

31 (3) to require that the authority withhold payments to an
32 economic development incentive applicant or recipient if the
33 applicant or recipient unreasonably fails to produce complete and
34 accurate records related to an economic development investigation
35 that is initiated by the Office of the Economic Development Inspector
36 General with reasonable cause; and

37 (4) to monitor and pursue the recoupment of economic
38 development incentive awards or portions thereof, damages,
39 penalties, and sanctions.

40

41 103. (New section) a. The Economic Development Inspector
42 General is authorized to request, and shall be entitled to receive, such
43 information, assistance, and cooperation from any State or local
44 government department, board, bureau, commission, or other agency
45 or unit thereof, as may be necessary to carry out the duties and
46 responsibilities of the Office of the Economic Development Inspector
47 General pursuant to sections 102 through 105 of P.L. , c. (C.)
48 (pending before the Legislature as this bill).

1 b. Upon the request of a prosecutor of competent jurisdiction, an
2 office, department, or any other State or local government entity, the
3 Economic Development Inspector General shall provide information,
4 data, assistance, staff, and other resources as shall be necessary,
5 appropriate and available to aid and facilitate the economic
6 development investigation and prosecution of economic
7 development incentive fraud.

8
9 104. (New section) The Economic Development Inspector
10 General shall report annually to the Governor, to the Legislature,
11 pursuant to section 2 of P.L.1991, c.164 (C.52:14-19.1), and to the
12 Attorney General, the activities of the Office of the Economic
13 Development Inspector General, as well as recommendations, if any,
14 for legislation to provide for the management of the State's economic
15 development incentive programs.

16
17 105. (New section) The Economic Development Inspector
18 General, pursuant to the "Administrative Procedure Act," P.L.1968,
19 c.410 (C.52:14B-1 et seq.), shall adopt rules and regulations, in
20 consultation with the authority, the Department of Labor and
21 Workforce Development, and the Department of the Treasury,
22 concerning the administration and enforcement of the Office of the
23 Economic Development Inspector General's duties pursuant to
24 sections 102 through 105 of P.L. , c. (C.) (pending before
25 the Legislature as this bill) in a manner that is most compatible with
26 ensuring against fraud and abuse in the State's economic
27 development incentive programs.

28
29 106. (New section) a. For privilege periods ending in 2020, 2021,
30 and 2022, a taxpayer, upon approval of an application to the
31 authority, shall be allowed a credit against the tax imposed pursuant
32 to section 5 of P.L.1945, c.162 (C.54:10A-5) in the amount of
33 \$10,000 for each qualifying new hire involved in the manufacture of
34 personal protective equipment in a qualified facility in which the
35 taxpayer made a capital investment during the privilege period.

36 b. The minimum capital investment in a qualified facility
37 required to be eligible for a credit under this section shall be as
38 follows:

39 (1) for the rehabilitation, improvement, fit-out, or retrofit of an
40 existing premises in Atlantic County, Burlington County, Cape May
41 County, Cumberland County, Gloucester County, Ocean County, or
42 Salem County, a minimum investment of \$10 per square foot of gross
43 leasable area;

44 (2) for the rehabilitation, improvement, fit-out, or retrofit of an
45 existing premises in counties in the State not listed in paragraph (1)
46 of this subsection, a minimum investment of \$20 per square foot of
47 gross leasable area;

1 (3) for the new construction of a premises in Atlantic County,
2 Burlington County, Cape May County, Cumberland County,
3 Gloucester County, Ocean County, or Salem County, a minimum
4 investment of \$100 per square foot of gross leasable area; or

5 (4) for the new construction of a premises in counties in the State
6 not listed in paragraph (3) of this subsection, a minimum investment
7 of \$120 per square foot of gross leasable area.

8 c. The minimum number of new or retained qualifying full-time
9 jobs required to be eligible for a credit under this section shall be as
10 follows:

11 (1) for a qualified facility in Atlantic County, Burlington County,
12 Cape May County, Cumberland County, Gloucester County, Ocean
13 County, or Salem County, a minimum of five new or 15 retained
14 qualifying full-time jobs; or

15 (2) for a qualified facility in counties in the State not listed in
16 paragraph (1) of this subsection, a minimum of ten new or 25 retained
17 qualifying full-time jobs.

18 d. In addition to the amount of credit allowed pursuant to
19 subsection a. of this section, a taxpayer shall be allowed the following
20 tax credits for privilege periods ending in 2020, 2021, and 2022:

21 (1) \$1,000 per qualifying full-time job in the privilege period at a
22 qualified facility that is a building vacant for not less than seven years
23 in need of rehabilitation with a minimum of 250,000 square feet;

24 (2) \$1,500 per qualifying full-time job in the privilege period at a
25 qualified facility in which the manufacturing of personal protective
26 equipment is part of a research collaboration between the taxpayer
27 and a college or university located within the State; and

28 (3) \$1,000 per qualifying full-time job in the privilege period at a
29 qualified facility in which the taxpayer has established an
30 apprenticeship program or pre-apprenticeship program with a
31 technical school or county college located within the State.

32 e. The total credit allowed to a taxpayer pursuant to this section
33 during the privilege period shall not exceed \$500,000. A taxpayer
34 shall not be eligible for a tax credit under this section for the same
35 qualifying new hire for which the taxpayer is receiving a tax credit
36 incentive award under the Emerge Program established by sections
37 68 through 81 of P.L. , c. (C.) (pending before the Legislature
38 as this bill).

39 f. Notwithstanding the minimum tax schedule imposed pursuant
40 to subsection (e) of section 5 of P.L.1945, c.162 (C.54:10A-5), if the
41 amount of the tax credit allowed exceeds the amount of corporation
42 business tax otherwise due pursuant to section 5 of P.L.1945, c.162
43 (C.54:10A-5), the amount of excess shall be treated as a refundable
44 overpayment except that interest shall not be paid pursuant to section
45 7 of P.L.1992, c.175 (C.54:49-15.1) on the amount of overpayment
46 attributable to this credit amount. The director shall determine the
47 order of priority of the application of the credit allowed pursuant to
48 this section and any other credits allowed by law.

1 g. The combined value of all tax credits approved by the
2 authority and the director pursuant to this section and pursuant to
3 section 2 of P.L. , c. (C.) (pending before the Legislature as
4 this bill) shall not exceed \$10,000,000 in any State fiscal year to
5 apply against the tax imposed pursuant to the “New Jersey Gross
6 Income Tax Act,” N.J.S.54A:1-1 et seq., and the tax imposed
7 pursuant to section 5 of P.L.1945, c.162 (C.54:10A-5).

8 h. An application for the tax credit shall be submitted to the
9 authority in a form and manner prescribed by the chief executive
10 officer of the authority. As a condition of receiving tax credits under
11 this section, an applicant shall be required to commit to employ
12 qualifying new hires for which tax credits are awarded under this
13 section for a period of five years.

14 i. Notwithstanding any provision of the “Administrative
15 Procedure Act,” P.L.1968, c.410 (C.52:14B-1 et seq.) to the contrary,
16 the director chief executive officer of the authority is authorized to
17 adopt immediately upon filing with the Office of Administrative Law
18 such rules and regulations shall be effective for a period not to exceed
19 360 days following the date of filing and may thereafter be amended,
20 adopted, or readopted by the chief executive officer of the authority
21 in accordance with the requirements of P.L.1968, c.410 (C.52:14B-1
22 et seq.). The chief executive officer of the authority shall consult
23 with the Commissioner of Health related to any specification
24 requirements for what manufactured products are to qualify as
25 personal protective equipment pursuant to this section.

26 j. As used in this section:

27 “Authority” means the New Jersey Economic Development
28 Authority established pursuant to section 4 of P.L.1974, c.80
29 (C.34:1B-4).

30 “Director” means Director of the Division of Taxation in the
31 Department of the Treasury;

32 “Personal protective equipment” means coveralls, face shields,
33 gloves, gowns, masks, respirators, safeguard equipment, and other
34 equipment designed to protect the wearer from the spread of infection
35 or illness as may be modified from time to time by the board of the
36 authority.

37 “Qualified facility” means a facility that is:

38 (1) located in a redevelopment area or rehabilitation area as
39 defined in section 3 of P.L.1992, c.79 (C.40A:12A-3);

40 (2) located in a Smart Growth Area as identified by the Office of
41 Planning Advocacy;

42 (3) a facility in which the manufacturing of personal protective
43 equipment is part of a research collaboration between the taxpayer a
44 college or university located within the State;

45 (4) a facility in which the taxpayer has established an
46 apprenticeship program or pre-apprenticeship program with a
47 technical school or community located within the State; or

1 (5) a building vacant for not less than seven years in need of
2 rehabilitation with a minimum of 250,000 square feet.

3 “Qualifying full-time job” means a full-time position in a business
4 in this State which the business has filled with a full-time employee
5 for the manufacturing of personal protective equipment in this State.
6 The employee shall be employed for at least 35 hours a week and
7 shall be paid employee wages at a rate of not less than \$15 per hour,
8 or render any other standard of service generally accepted by custom
9 or practice as full-time employment, whose wages are subject to
10 withholding as provided in the “New Jersey Gross Income Tax Act,”
11 N.J.S.54A:1-1 et seq. and is paid employee wages at a rate of not less
12 than \$15 per hour. “Qualifying new hire” shall not include any
13 person who works as an independent contractor or on a consulting
14 basis for the business. “Qualifying new or retained job” includes
15 only a position for which the taxpayer provides employee health
16 benefits under a health benefits plan authorized pursuant to State or
17 federal law.

18
19 107. a. For taxable years 2020, 2021, and 2022, a taxpayer, upon
20 approval of an application to the authority shall be allowed a credit
21 against the tax imposed pursuant to the “New Jersey Gross Income
22 Tax Act” N.J.S.54A:1-1 et seq. in the amount of \$10,000 for each
23 qualifying new hire involved in the manufacture of personal
24 protective equipment in a qualified facility in which the taxpayer
25 made a capital investment during the taxable year.

26 b. The minimum capital investment in a qualified facility
27 required to be eligible for a credit under this section shall be as
28 follows:

29 (1) for the rehabilitation, improvement, fit-out, or retrofit of an
30 existing premises in Atlantic County, Burlington County, Cape May
31 County, Cumberland County, Gloucester County, Ocean County, or
32 Salem County, a minimum investment of \$10 per square foot of gross
33 leasable area;

34 (2) for the rehabilitation, improvement, fit-out, or retrofit of an
35 existing premises in counties in the State not listed in paragraph (1)
36 of this subsection, a minimum investment of \$20 per square foot of
37 gross leasable area;

38 (3) for the new construction of a premises in Atlantic County,
39 Burlington County, Cape May County, Cumberland County,
40 Gloucester County, Ocean County, or Salem County, a minimum
41 investment of \$100 per square foot of gross leasable area; or

42 (4) for the new construction of a premises in counties in the State
43 not listed in paragraph (3) of this subsection, a minimum investment
44 of \$120 per square foot of gross leasable area.

45 c. The minimum number of new or retained qualifying full-time
46 jobs required to be eligible for a credit under this section shall be as
47 follows:

1 (1) for a qualified facility in Atlantic County, Burlington County,
2 Cape May County, Cumberland County, Gloucester County, Ocean
3 County, or Salem County, a minimum of five new or 15 retained
4 qualifying full-time jobs; and

5 (2) for a qualified facility in counties in the State not listed in
6 paragraph (1) of this subsection, a minimum of ten new or 25 retained
7 qualifying full-time jobs.

8 d. In addition to the amount of credit allowed pursuant to
9 subsection a. of this section, a taxpayer shall be allowed the following
10 tax credits for taxable years 2020, 2021, and 2022:

11 (1) \$1,000 per qualifying full-time job in a taxable year at a
12 qualified facility that is a building vacant for not less than seven years
13 in need of rehabilitation with a minimum of 250,000 square feet;

14 (2) \$1,500 per qualifying full-time job in a taxable year at a
15 qualified facility in which the manufacturing of personal protective
16 equipment is part of a research collaboration between the taxpayer
17 and a college or university located within the State; and

18 (3) \$1,000 per qualifying full-time job in a taxable year at a
19 qualified facility in which the taxpayer has established an
20 apprenticeship program or pre-apprenticeship program with a
21 technical school or county college located within the State.

22 e. The total credit allowed to a taxpayer pursuant to this section
23 during the taxable year shall not exceed \$500,000. A taxpayer shall
24 not be eligible for a tax credit under this section for the same
25 qualifying new hire for which the taxpayer is receiving a tax credit
26 incentive award under the Emerge Program established by sections
27 68 through 81 of P.L. , c. (C.) (pending before the Legislature
28 as this bill)

29 f. If the amount of the credit exceeds the amount of tax
30 otherwise due, that amount of excess shall be an overpayment for the
31 purposes of N.J.S.54A:9-7; provided however, that subsection (f) of
32 N.J.S.54A:9-7 shall not apply. The director shall determine the order
33 of priority of the application of the credit allowed pursuant to this
34 section and any other credits allowed by law.

35 g. (1) A business entity that is classified as a partnership for
36 federal income tax purposes shall not be allowed a tax credit pursuant
37 to this section directly, but the amount of tax credit of a taxpayer in
38 respect to distributive share of entity income, shall be determined by
39 allocating to the taxpayer that proportion of the tax credit acquired
40 by the entity that is equal to the taxpayer's share, whether or not
41 distributed, of the total distributive income or gain of the entity for
42 its taxable year ending within or with the taxpayer's taxable year.

43 (2) A New Jersey S Corporation shall not be allowed a tax credit
44 pursuant to this section directly, but the amount of the tax credit of a
45 taxpayer in respect of a pro rata share of S Corporation income, shall
46 be determined by allocating to the taxpayer that proportion of the tax
47 credit acquired by the New Jersey S Corporation that is equal to the
48 taxpayer's share, whether or not distributed, of the total pro rata share

- 1 of S Corporation income of the New Jersey S Corporation for its
2 privilege period ending within or with the taxpayer's taxable year.
- 3 h. The combined value of all tax credits approved by the
4 authority and the director pursuant to this section and pursuant to
5 section 1 of P.L. , c. (C.)(pending before the Legislature as
6 this bill) shall not exceed \$10,000,000 in any State fiscal year to
7 apply against the tax imposed pursuant to the "New Jersey Gross
8 Income Tax Act," N.J.S.54A:1-1 et seq., and the tax imposed
9 pursuant to section 5 of P.L.1945, c.162 (C.54:10A-5).
- 10 i. An application for the tax credit shall be submitted to the
11 authority in a form and manner prescribed by the chief executive
12 officer of the authority. As a condition of receiving tax credits under
13 this section, an applicant shall be required to commit to employ
14 qualifying new hires for which tax credits are awarded under this
15 section for a period of five years.
- 16 j. Notwithstanding any provision of the "Administrative
17 Procedure Act," P.L.1968, c.410 (C.52:14B-1 et seq.) to the contrary,
18 the chief executive officer of the authority is authorized to adopt
19 immediately upon filing with the Office of Administrative Law such
20 rules and regulations shall be effective for a period not to exceed 360
21 days following the date of filing and may thereafter be amended,
22 adopted, or readopted by the chief executive officer of the authority
23 in accordance with the requirements of P.L.1968, c.410 (C.52:14B-1
24 et seq.). The chief executive officer of the authority shall consult
25 with the Commissioner of Health related to any specification
26 requirements for what manufactured products are to qualify as
27 personal protective equipment pursuant to this section.
- 28 k. As used in this section:
- 29 "Authority" means the New Jersey Economic Development
30 Authority established pursuant to section 4 of P.L.1974, c.80
31 (C.34:1B-4).
- 32 "Director" means Director of the Division of Taxation in the
33 Department of the Treasury;
- 34 "Personal protective equipment" means coveralls, face shields,
35 gloves, gowns, masks, respirators, safeguard equipment, and other
36 equipment designed to protect the wearer from the spread of infection
37 or illness as may be modified from time to time by the board of the
38 authority.
- 39 "Qualified facility" means a facility that is:
- 40 (1) located in a redevelopment area or rehabilitation area as
41 defined in section 3 of P.L.1992, c.79 (C.40A:12A-3);
- 42 (2) located in a Smart Growth Area as identified by the Office of
43 Planning Advocacy;
- 44 (3) a facility in which the manufacturing of personal protective
45 equipment is part of a research collaboration between the taxpayer a
46 college or university located within the State;

1 (4) a facility in which the taxpayer has established an
2 apprenticeship program or pre-apprenticeship program with a
3 technical school or community located within the State; or

4 (5) a building vacant for not less than seven years in need of
5 rehabilitation with a minimum of 250,000 square feet.

6 "Qualifying full-time job" means a full-time employee hired by
7 the taxpayer during the privilege period for the manufacturing of
8 personal protective equipment in this State. The person hired shall
9 be employed for at least 35 hours a week and shall be paid employee
10 wages at a rate of not less than \$15 per hour, or render any other
11 standard of service generally accepted by custom or practice as full-
12 time employment, whose wages are subject to withholding as
13 provided in the "New Jersey Gross Income Tax Act," N.J.S.54A:1-1
14 et seq. and is paid employee wages at a rate of not less than \$15 per
15 hour. "Qualifying new hire" shall not include any person who works
16 as an independent contractor or on a consulting basis for the business.
17 "Qualifying new or retained job" includes only a position for which
18 the taxpayer provides employee health benefits under a health
19 benefits plan authorized pursuant to State or federal law.
20

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

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

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

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

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

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

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

41 (2) (a) A business shall submit its documentation indicating that it
42 has met the capital investment and employment requirements and all
43 conditions of approvals specified in the incentive agreement for
44 certification of its tax credit amount, to the authority's satisfaction,
45 within three years following the date of approval of its application by
46 the authority. The authority shall have the discretion to grant two
47 six-month extensions of this deadline. If the authority accepts the
48 documentation, the authority shall request that the Division of

1 Taxation in the Department of the Treasury issue a tax credit based
2 on the approved documentation to be used by the business during the
3 eligibility period. Except as provided in subparagraphs (b) and (c) of
4 this paragraph, in no event shall the incentive effective date occur
5 later than four years following the date of approval of an application
6 by the authority.

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

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

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

29 (4) A business seeking a credit for a mega project shall apply for
30 the credit within four years after 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.).

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

36 The credit amount for any tax period for which the documentation
37 of a business's credit amount remains uncertified as of a date three
38 years after the closing date of that period shall be forfeited, although
39 credit amounts for the remainder of the years of the eligibility period
40 shall remain available to it.

41 The credit amount may be taken by the tax certificate holder for
42 the tax period for which it was issued or may be carried forward for
43 use by the tax certificate holder in any of the next 20 successive tax
44 periods, and shall expire thereafter. The tax certificate holder may
45 transfer the tax credit amount on or after the date of issuance or at
46 any time within three years of the date of issuance for use by the
47 transferee in the tax period for which it was issued or in any of the
48 next 20 successive tax periods. Notwithstanding the foregoing, no

1 more than the amount of tax credits equal to the total credit amount
2 divided by the duration of the eligibility period in years may be taken
3 in any tax period.

4 A business may elect to suspend its obligations for the 2020 tax
5 period and, if the public health emergency or state of emergency
6 declared due to the COVID-19 pandemic extends past March 2021,
7 the 2021 tax period, provided that the business shall make such
8 election in writing to the authority before the date the annual report
9 is due and such suspension shall extend the term of the eligibility
10 period by a corresponding amount of time. The authority shall amend
11 the incentive agreement, and the business shall execute the amended
12 incentive agreement within the time period provided by the authority.
13 The amended incentive agreement shall provide that the failure to
14 submit the annual report due to the suspension shall not be a
15 forfeiture or an uncertified tax period.

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

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

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

37 d. (1) 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 period prior to the credit amount approval
41 under section 3 of P.L.2011, c.149 (C.34:1B-244), then the business
42 shall forfeit its credit amount for that tax period and each subsequent
43 tax period, until the first tax period for which documentation
44 demonstrating the restoration of the business's Statewide workforce
45 to the threshold levels required by the incentive agreement has been
46 reviewed and approved by the authority, for which tax period and
47 each subsequent tax period the full amount of the credit shall be
48 allowed.

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

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

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

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

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

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

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

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

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

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

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

4 g. A business that has entered into an incentive agreement may
5 request before December 31, 2022 to terminate the incentive
6 agreement due to the COVID-19 public health emergency; provided
7 that the business shall submit a certification from the business's chief
8 executive officer or equivalent officer stating that the termination is
9 due to the public health emergency and describing the impact of the
10 public health emergency on the business. All credits for the tax
11 period in which the termination occurs and all subsequent tax periods
12 shall be forfeited, provided however that any credits of the business
13 shall remain unaffected.

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

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

31 (cf: P.L.2020, c.8, s.3)

32

33 109. Section 6 of P.L.2010, c.57 (C.34:1B-209.4) is amended to
34 read as follows:

35 6. a. (1) A business, upon application to and approval from the
36 authority, shall be **【allowed】** awarded a credit of 100 percent of its
37 capital investment, made after the effective date of P.L.2010, c.57
38 (C.48:3-87.1 et al.) but prior to its submission of documentation
39 pursuant to subsection c. of this section, in a qualified wind energy
40 facility located **【within an eligible wind energy zone】** in the State,
41 pursuant to the restrictions and requirements of this section. The
42 award of a tax credit pursuant to this section shall be structured so
43 that the authority shall make up to four awards, each equaling 25
44 percent of the total value of the tax credit, to a qualified business over
45 four privilege periods or taxable years in which the business meets
46 the requirements for the minimum number of new, full-time
47 employees. Otherwise eligible businesses with between 150 and 300
48 new, full-time jobs may receive an award based on a prorated formula

1 developed by the authority. To be eligible for any tax credits
2 authorized under this section, a business shall demonstrate to the
3 authority, at the time of application, that the State's financial support
4 of the proposed capital investment in a qualified wind energy facility
5 will yield a net positive benefit to the State. The value of all credits
6 approved by the authority pursuant to this section may be up to
7 \$100,000,000, except as may be increased by the authority if the chief
8 executive officer of the authority judges certain qualified offshore
9 wind projects to be meritorious. Credits provided pursuant to this
10 section shall not be applicable to the cap on the credits provided in
11 section 3 of P.L.2007, c.346 (C.34:1B-209).

12 (2) (a) A business, other than a tenant eligible pursuant to
13 subparagraph (b) of this paragraph, shall make or acquire capital
14 investments totaling not less than \$50,000,000 in a qualified wind
15 energy facility, at which the business, including tenants at the
16 qualified wind energy facility, shall employ **【at least 300】** the
17 minimum number of new, full-time employees, to be eligible for a
18 credit under this section. A business that acquires a qualified wind
19 energy facility after the effective date of P.L.2010, c.57 (C.48:3-87.1
20 et al.) shall also be deemed to have acquired the capital investment
21 made or acquired by the seller.

22 (b) A business that is a tenant in the qualified wind energy
23 facility, the owner of which has made or acquired capital investments
24 in the facility totaling more than \$50,000,000, shall occupy a leased
25 area of the qualified wind energy facility that represents at least
26 \$17,500,000 of the capital investment in the qualified wind energy
27 facility at which **【at least 300】** the minimum number of new, full-
28 time employees in the aggregate are employed, to be eligible for a
29 credit under this section. The amount of capital investment in a
30 facility that a leased area represents shall be equal to that percentage
31 of the owner's total capital investment in the facility that the
32 percentage of net leasable area leased by the tenant is of the total net
33 leasable area of the qualified business facility. Capital investments
34 made by a tenant shall be deemed to be included in the calculation of
35 the capital investment made or acquired by the owner, but only to the
36 extent necessary to meet the owner's minimum capital investment of
37 \$50,000,000. Capital investments made by a tenant and not allocated
38 to meet the owner's minimum capital investment threshold of
39 \$50,000,000 shall be added to the amount of capital investment
40 represented by the tenant's leased area in the qualified wind energy
41 facility.

42 (c) The calculation of the number of new, full-time employees
43 required pursuant to subparagraphs (a) and (b) of this paragraph may
44 include the number of new, full-time positions resulting from an
45 equipment supply coordination agreement with equipment
46 manufacturers, suppliers, installers and operators associated with the
47 supply chain required to support the qualified wind energy facility.

1 For the purposes of this paragraph, "full time employee" shall not
2 include an employee who is a resident of another state and whose
3 income is not subject to the "New Jersey Gross Income Tax Act,"
4 N.J.S.54A:1-1 et seq., unless that state has entered into a reciprocity
5 agreement with the State of New Jersey **[**, provided that any
6 employee whose work is provided pursuant to a collective bargaining
7 agreement with a business in the wind energy zone may be included**]**.

8 (3) A business shall not be **[allowed]** awarded a tax credit
9 pursuant to this section if the business receives a business
10 employment incentive grant pursuant to the "Business Employment
11 Incentive Program Act," P.L.1996, c.26 (C.34:1B-124 et al.), relating
12 to the same capital and employees that qualify the business for this
13 credit, or if the business receives assistance pursuant to the "Business
14 Retention and Relocation Assistance Act," P.L.1996, c.25 (C.34:1B-
15 112 et seq.). A business that is **[allowed]** awarded a tax credit under
16 this section shall not be eligible for incentives authorized pursuant to
17 the "Municipal Rehabilitation and Economic Recovery Act,"
18 P.L.2002, c.43 (C.52:27BBB-1 et al.).

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

22 b. A business shall apply for the credit by July 1, **[2024]** 2025,
23 and a business shall submit its documentation for approval of its
24 credit amount by July 1, **[2027]** 2028.

25 c. The credit **[allowed]** awarded pursuant to this section shall
26 be administered in accordance with the provisions of subsection c. of
27 section 3 of P.L.2007, c.346 (C.34:1B-209) and section 33 of
28 P.L.2009, c.90 (C.34:1B-209.1), except that all references therein to
29 "qualified business facility" shall be deemed to refer to "qualified
30 wind energy facility," as that term is defined in subsection f. of this
31 section.

32 d. The amount of the credit **[allowed]** awarded pursuant to this
33 section shall, except as otherwise provided, be equal to the capital
34 investment made by the business, or the capital investment
35 represented by the business's leased area, and shall be taken over a
36 **[10-year]** five-year period, at the rate of **[one-tenth]** one-fifth of the
37 total amount of the business's credit for each tax accounting or
38 privilege period of the business, beginning with the **[tax period]**
39 privilege period or taxable year in which the business is first
40 approved by the authority as having met the investment capital and
41 employment qualifications, subject to any disqualification 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 relevant
45 to its review. The credit amount for any **[tax period]** privilege period
46 or taxable year ending after the date 18 years after the effective date
47 of P.L.2007, c.346 (C.34:1B-207 et seq.) during which the

1 documentation of a business's credit amount remains unapproved
2 shall be forfeited, although credit amounts for the remainder of the
3 years of the **【10-year】** five-year credit period shall remain available.
4 The amount of the credit **【allowed】** awarded for a **【tax period】**
5 privilege period or taxable year to a business that is a tenant in a
6 qualified wind energy facility shall not exceed the business's total
7 lease payments for occupancy of the qualified wind energy facility
8 for the **【tax period】** privilege period or taxable year.

9 e. The authority shall adopt rules and regulations pursuant to the
10 "Administrative Procedure Act," P.L.1968, c.410 (C.52:14B-1 et
11 seq.) as are necessary to implement this section, including, but not
12 limited to: examples of and the determination of capital investment;
13 the nature of businesses and employment positions constituting and
14 participating in an equipment supply coordination agreement; a
15 determination of the types of businesses that may be eligible and
16 expenses that may constitute capital improvements; the promulgation
17 of procedures and forms necessary to apply for a credit; and
18 provisions for applicants to be charged an initial application fee, and
19 ongoing service fees, to cover the administrative costs related to the
20 credit.

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

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

33 In addition, as used in this section:

34 "Equipment supply coordination agreement" means an agreement
35 between a business and equipment manufacturer, supplier, installer,
36 and operator that supports a qualified offshore wind project, or other
37 wind energy project as determined by the authority, and that indicates
38 the number of new, full-time jobs to be created by the agreement
39 participants towards the employment requirement as set forth in
40 paragraph (2) of subsection a. of this section.

41 "Minimum number of new, full-time employees" means:

42 (1) for the first award, at least a cumulative 100 new, full-time
43 employees compared to the number of full-time employees at the
44 time of application;

45 (2) for the second award, for a privilege period or taxable year
46 following the first award, at least a cumulative 150 new, full-time
47 employees compared to the number of full-time employees at the
48 time of application;

1 (3) for the third award, for a privilege period or taxable year
2 following the second award, at least a cumulative 200 new, full-time
3 employees compared to the number of full-time employees at the
4 time of application; and

5 (4) for the fourth award, for a privilege period or taxable year
6 following the third award, at least a cumulative 300 new, full-time
7 employees compared to the number of full-time employees at the
8 time of application.

9 "Qualified offshore wind project" shall have the same meaning as
10 provided in section 3 of P.L.1999, c.23 (C.48:3-51).

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

19 **["Wind energy zone" means property located in the South Jersey**
20 **Port District established pursuant to "The South Jersey Port**
21 **Corporation Act," P.L.1968, c.60 (C.12:11A-1 et seq.).]**

22 (cf: P.L.2018, c.17, s.7)

23
24 110. Section 1 of P.L.2018, c.56 (C.54:10A-5.39b) is amended to
25 read as follows:

26 1. a. (1) A taxpayer, upon approval of an application to the
27 authority and the director, shall be allowed a credit against the tax
28 imposed pursuant to section 5 of P.L.1945, c.162 (C.54:10A-5) in an
29 amount equal to 30 percent of the qualified film production expenses
30 of the taxpayer during a privilege period commencing on or after July
31 1, 2018 but before July 1, 2028, provided that:

32 (a) at least 60 percent of the total film production expenses,
33 exclusive of post-production costs, of the taxpayer are incurred for
34 services performed, and goods purchased through vendors authorized
35 to do business, in New Jersey, or the qualified film production
36 expenses of the taxpayer during the privilege period exceed
37 \$1,000,000 per production;

38 (b) principal photography of the film commences within the
39 earlier of 180 days from the date of the original application for the
40 tax credit, or 150 days from the date of approval of the application
41 for the tax credit;

42 (c) the film includes, when determined to be appropriate by the
43 commission, at no cost to the State, marketing materials promoting
44 this State as a film and entertainment production destination, which
45 materials shall include placement of a "Filmed in New Jersey" or
46 "Produced in New Jersey" statement, or an approved logo approved
47 by the commission, in the end credits of the film;

1 (d) the taxpayer submits a tax credit verification report prepared
2 by an independent certified public accountant licensed in this State
3 in accordance with subsection f. of this section; and

4 (e) the taxpayer complies with the withholding requirements
5 provided for payments to loan out companies and independent
6 contractors in accordance with subsection g. of this section.

7 (2) Notwithstanding the provisions of paragraph (1) of subsection
8 a. of this section to the contrary, the tax credit allowed pursuant to
9 this subsection against the tax imposed pursuant to section 5 of
10 P.L.1945, c.162 (C.54:10A-5) shall be in an amount equal to 35
11 percent of the qualified film production expenses of the taxpayer
12 during a privilege period that are incurred for services performed and
13 tangible personal property purchased through vendors whose primary
14 place of business is located in Atlantic, Burlington, Camden, Cape
15 May, Cumberland, Gloucester, Mercer or Salem County.

16 b. (1) A taxpayer, upon approval of an application to the authority
17 and the director, shall be allowed a credit against the tax imposed
18 pursuant to section 5 of P.L.1945, c.162 (C.54:10A-5) in an amount
19 equal to 20 percent of the qualified digital media content production
20 expenses of the taxpayer during a privilege period commencing on or
21 after July 1, 2018 but before July 1, 2028, provided that:

22 (a) at least \$2,000,000 of the total digital media content
23 production expenses of the taxpayer are incurred for services
24 performed, and goods purchased through vendors authorized to do
25 business, in New Jersey;

26 (b) at least 50 percent of the qualified digital media content
27 production expenses of the taxpayer are for wages and salaries paid
28 to full-time or full-time equivalent employees in New Jersey;

29 (c) the taxpayer submits a tax credit verification report prepared
30 by an independent certified public accountant licensed in this State
31 in accordance with subsection f. of this section; and

32 (d) the taxpayer complies with the withholding requirements
33 provided for payments to loan out companies and independent
34 contractors in accordance with subsection g. of this section.

35 (2) Notwithstanding the provisions of paragraph (1) of subsection
36 b. of this section to the contrary, the tax credit allowed pursuant to
37 this subsection against the tax imposed pursuant to section 5 of
38 P.L.1945, c.162 (C.54:10A-5) shall be in an amount equal to 25
39 percent of the qualified digital media content production expenses of
40 the taxpayer during a privilege period that are incurred for services
41 performed and tangible personal property purchased through vendors
42 whose primary place of business is located in Atlantic, Burlington,
43 Camden, Cape May, Cumberland, Gloucester, Mercer, or Salem
44 County.

45 c. No tax credit shall be allowed pursuant to this section for any
46 costs or expenses included in the calculation of any other tax credit
47 or exemption granted pursuant to a claim made on a tax return filed
48 with the director, or included in the calculation of an award of

1 business assistance or incentive, for a period of time that coincides
2 with the privilege period for which a tax credit authorized pursuant
3 to this section is allowed. The order of priority in which the tax credit
4 allowed pursuant to this section and any other tax credits allowed by
5 law may be taken shall be as prescribed by the director. The amount
6 of the tax credit applied under this section against the tax imposed
7 pursuant to section 5 of P.L.1945, c.162 (C.54:10A-5), for a privilege
8 period, when taken together with any other payments, credits,
9 deductions, and adjustments allowed by law shall not reduce the tax
10 liability of the taxpayer to an amount less than the statutory minimum
11 provided in subsection (e) of section 5 of P.L.1945, c.162 (C.54:10A-
12 5). The amount of the tax credit otherwise allowable under this
13 section which cannot be applied for the privilege period due to the
14 limitations of this subsection or under other provisions of P.L.1945,
15 c.162 (C.54:10A-1 et seq.) may be carried forward, if necessary, to
16 the seven privilege periods following the privilege period for which
17 the tax credit was allowed.

18 d. A taxpayer, with an application for a tax credit provided for
19 in subsection a. or subsection b. of this section, may apply to the
20 authority and the director for a tax credit transfer certificate in lieu
21 of the taxpayer being allowed any amount of the tax credit against
22 the tax liability of the taxpayer. The tax credit transfer certificate,
23 upon receipt thereof by the taxpayer from the authority and the
24 director, may be sold or assigned, in full or in part, to any other
25 taxpayer that may have a tax liability under the "Corporation
26 Business Tax Act (1945)," P.L.1945, c.162 (C.54:10A-1 et seq.), or
27 the "New Jersey Gross Income Tax Act," N.J.S.54A:1-1 et seq., in
28 exchange for private financial assistance to be provided by the
29 purchaser or assignee to the taxpayer that has applied for and been
30 granted the tax credit. The tax credit transfer certificate provided to
31 the taxpayer shall include a statement waiving the taxpayer's right to
32 claim that amount of the tax credit against the tax imposed pursuant
33 to section 5 of P.L.1945, c.162 (C.54:10A-5) that the taxpayer has
34 elected to sell or assign. The sale or assignment of any amount of a
35 tax credit transfer certificate allowed under this section shall not be
36 exchanged for consideration received by the taxpayer of less than 75
37 percent of the transferred tax credit amount. Any amount of a tax
38 credit transfer certificate used by a purchaser or assignee against a
39 tax liability under P.L.1945, c.162 (C.54:10A-1 et seq.) shall be
40 subject to the same limitations and conditions that apply to the use of
41 a tax credit pursuant to subsection c. of this section. Any amount of
42 a tax credit transfer certificate obtained by a purchaser or assignee
43 under subsection a. or subsection b. of this section may be applied
44 against the purchaser's or assignee's tax liability under N.J.S.54A:1-
45 1 et seq. and shall be subject to the same limitations and conditions
46 that apply to the use of a credit pursuant to subsections c. and d. of
47 section 2 of P.L.2018, c.56 (C.54A:4-12b).

1 e. (1) The value of tax credits, including tax credits allowed
2 through the granting of tax credit transfer certificates, approved by
3 the director and the authority pursuant to subsection a. of this section
4 and pursuant to subsection a. of section 2 of P.L.2018, c.56 (C.54A:4-
5 12b) to taxpayers, other than New Jersey film partners and New
6 Jersey film-lease partners, shall not exceed a cumulative total of
7 \$100,000,000 in fiscal year 2019 and in each fiscal year thereafter
8 prior to fiscal year 2029 to apply against the tax imposed pursuant to
9 section 5 of P.L.1945, c.162 (C.54:10A-5) and the tax imposed
10 pursuant to the "New Jersey Gross Income Tax Act," N.J.S.54A:1-1
11 et seq. In addition to the \$100,000,000 limitation on the value of tax
12 credits approved by the director for New Jersey film-lease partners
13 and the \$100,000,000 limitation on the value of tax credits approved
14 by the director for other taxpayers imposed by this paragraph, the
15 value of tax credits, including tax credits allowed through the
16 granting of tax credit transfer certificates, approved by the director
17 and the authority pursuant to subsection a. of this section and
18 pursuant to subsection a. of section 2 of P.L.2018, c.56 (C.54A:4-
19 12b) to New Jersey film partners shall not exceed a cumulative total
20 of \$100,000,000 in fiscal year 2021 and in each fiscal year thereafter
21 prior to fiscal year 2029 to apply against the tax imposed pursuant to
22 section 5 of P.L.1945, c.162 (C.54:10A-5) and the tax imposed
23 pursuant to the "New Jersey Gross Income Tax Act," N.J.S.54A:1-1
24 et seq. In addition to the \$100,000,000 limitation on the value of tax
25 credits approved by the director for New Jersey film partners and the
26 \$100,000,000 limitation on the value of tax credits approved by the
27 director for other taxpayers imposed by this paragraph, the value of
28 tax credits, including tax credits allowed through the granting of tax
29 credit transfer certificates, approved by the director and the authority
30 pursuant to subsection a. of this section and pursuant to subsection a.
31 of section 2 of P.L.2018, c.56 (C.54A:4-12b) to New Jersey film-
32 lease partners shall not exceed a cumulative total of \$100,000,000 in
33 fiscal year 2021 and in each fiscal year thereafter prior to fiscal year
34 2029 to apply against the tax imposed pursuant to section 5 of
35 P.L.1945, c.162 (C.54:10A-5) and the tax imposed pursuant to the
36 "New Jersey Gross Income Tax Act," N.J.S.54A:1-1 et seq.

37 If the cumulative total amount of tax credits, and tax credit transfer
38 certificates, allowed to taxpayers for privilege periods or taxable
39 years commencing during a single fiscal year under subsection a. of
40 this section and subsection a. of section 2 of P.L.2018, c.56
41 (C.54A:4-12b) exceeds the amount of tax credits available in that
42 fiscal year, then taxpayers who have first applied for and have not
43 been allowed a tax credit or tax credit transfer certificate amount for
44 that reason shall be allowed, in the order in which they have
45 submitted an application, the amount of tax credit or tax credit
46 transfer certificate on the first day of the next succeeding fiscal year
47 in which tax credits and tax credit transfer certificates under
48 subsection a. of this section and subsection a. of section 2 of

1 P.L.2018, c.56 (C.54A:4-12b) are not in excess of the amount of
2 credits available.

3 Notwithstanding any provision of paragraph (1) of this subsection
4 to the contrary, for any fiscal year in which the amount of tax credits
5 approved pursuant to this paragraph is less than the cumulative total
6 amount of tax credits permitted to be approved in that fiscal year, the
7 authority shall certify the amount of the remaining tax credits
8 available for approval in that fiscal year, and shall increase the
9 cumulative total amount of tax credits permitted to be approved in
10 the subsequent fiscal year by the certified amount remaining from the
11 prior fiscal year. The authority shall also certify, for each fiscal year,
12 the amount of tax credits that were previously approved, but that the
13 taxpayer is not able to redeem or transfer to another taxpayer under
14 this section, and shall increase the cumulative total amount of tax
15 credits permitted to be approved in the subsequent fiscal year by the
16 amount of tax credits previously approved, but not subject to
17 redemption or transfer. The combined increase to the cumulative
18 total permitted to be approved in a subsequent fiscal year pursuant to
19 this paragraph shall not exceed \$50,000,000.

20 (2) The value of tax credits, including tax credits allowed through
21 the granting of tax credit transfer certificates, approved by the
22 authority and the director pursuant to subsection b. of this section and
23 pursuant to subsection b. of section 2 of P.L.2018, c.56 (C.54A:4-
24 12b) shall not exceed a cumulative total of \$10,000,000 in fiscal year
25 2019 and in each fiscal year thereafter prior to fiscal year 2029 to
26 apply against the tax imposed pursuant to section 5 of P.L.1945,
27 c.162 (C.54:10A-5) and the tax imposed pursuant to the "New Jersey
28 Gross Income Tax Act," N.J.S.54A:1-1 et seq.

29 If the total amount of tax credits and tax credit transfer certificates
30 allowed to taxpayers for privilege periods or taxable years
31 commencing during a single fiscal year under subsection b. of this
32 section and subsection b. of section 2 of P.L.2018, c.56 (C.54A:4-
33 12.b) exceeds the amount of tax credits available in that year, then
34 taxpayers who have first applied for and have not been allowed a tax
35 credit or tax credit transfer certificate amount for that reason shall be
36 allowed, in the order in which they have submitted an application,
37 the amount of tax credit or tax credit transfer certificate on the first
38 day of the next succeeding fiscal year in which tax credits and tax
39 credit transfer certificates under subsection b. of this section and
40 subsection b. of section 2 of P.L.2018, c.56 (C.54A:4-12.b) are not
41 in excess of the amount of credits available.

42 Notwithstanding any provision of this paragraph to the contrary,
43 for any fiscal year in which the amount of tax credits approved
44 pursuant to this paragraph is less than the cumulative total amount of
45 tax credits permitted to be approved in that fiscal year, the authority
46 shall certify the amount of the remaining tax credits available for
47 approval in that fiscal year, and shall increase the cumulative total
48 amount of tax credits permitted to be approved in the subsequent

1 fiscal year by the certified amount remaining from the prior fiscal
2 year. The authority shall also certify, for each fiscal year, the amount
3 of tax credits that were previously approved, but that the taxpayer is
4 not able to redeem or transfer to another taxpayer under this section,
5 and shall increase the cumulative total amount of tax credits
6 permitted to be approved in the subsequent fiscal year by the amount
7 of tax credits previously approved, but not subject to redemption or
8 transfer.

9 f. A taxpayer shall submit to the authority and the director a
10 report prepared by an independent certified public accountant
11 licensed in this State to verify the taxpayer's tax credit claim
12 following the completion of the production. The report shall be
13 prepared by the independent certified public accountant pursuant to
14 agreed upon procedures prescribed by the authority and the director,
15 and shall include such information and documentation as shall be
16 determined to be necessary by the authority and the director to
17 substantiate the qualified film production expenses or the qualified
18 digital media content production expenses of the taxpayer. A single
19 report with attachments deemed necessary by the authority shall be
20 submitted electronically. Upon receipt of the report, the authority
21 and the director shall review the findings of the independent certified
22 public accountant's report, and shall make a determination as to the
23 qualified film production expenses or the qualified digital media
24 content production expenses of the taxpayer. The determination shall
25 be provided in writing to the taxpayer, and a copy of the written
26 determination shall be included in the filing of a return that includes
27 a claim for a tax credit allowed pursuant to this section.

28 g. A taxpayer shall withhold from each payment to a loan out
29 company or to an independent contractor an amount equal to 6.37
30 percent of the payment otherwise due. The amounts withheld shall
31 be deemed to be withholding of liability pursuant to the "New Jersey
32 Gross Income Tax Act," N.J.S.54A:1-1 et seq., and the taxpayer shall
33 be deemed to have the rights, duties, and responsibilities of an
34 employer pursuant to chapter 7 of Title 54A of the New Jersey
35 Statutes. The director shall allocate the amounts withheld for a
36 taxable year to the accounts of the individuals who are employees of
37 a loan out company in proportion to the employee's payment by the
38 loan out company in connection with a trade, profession, or
39 occupation carried on in this State or for the rendition of personal
40 services performed in this State during the taxable year. A loan out
41 company that reports its payments to employees in connection with
42 a trade, profession, or occupation carried on in this State or for the
43 rendition of personal services performed in this State during a taxable
44 year shall be relieved of its duties and responsibilities as an employer
45 pursuant to chapter 7 of Title 54A of the New Jersey Statutes for the
46 taxable year for any payments relating to the payments on which the
47 taxpayer withheld.

48 h. As used in this section:

1 "Authority" means the New Jersey Economic Development
2 Authority.

3 "Business assistance or incentive" means "business assistance or
4 incentive" as that term is defined pursuant to section 1 of P.L.2007,
5 c.101 (C.54:50-39).

6 "Commission" means the Motion Picture and Television
7 Development Commission.

8 "Digital media content" means any data or information that is
9 produced in digital form, including data or information created in
10 analog form but reformatted in digital form, text, graphics,
11 photographs, animation, sound, and video content. "Digital media
12 content" shall not mean content offerings generated by the end user
13 (including postings on electronic bulletin boards and chat rooms);
14 content offerings comprised primarily of local news, events, weather,
15 or local market reports; public service content; electronic commerce
16 platforms (such as retail and wholesale websites); websites or content
17 offerings that contain obscene material as defined pursuant to
18 N.J.S.2C:34-2 and N.J.S.2C:34-3; websites or content that are
19 produced or maintained primarily for private, industrial, corporate,
20 or institutional purposes; or digital media content acquired or
21 licensed by the taxpayer for distribution or incorporation into the
22 taxpayer's digital media content.

23 "Film" means a feature film, a television series, or a television
24 show of 22 minutes or more in length, intended for a national
25 audience, or a television series or a television show of 22 minutes or
26 more in length intended for a national or regional audience,
27 including, but not limited to, a game show, award show, or other gala
28 event filmed and produced at a nonprofit arts and cultural venue
29 receiving State funding. "Film" shall not include a production
30 featuring news, current events, weather, and market reports or public
31 programming, talk show, or sports event, a production that solicits
32 funds, a production containing obscene material as defined under
33 N.J.S.2C:34-2 and N.J.S.2C:34-3, or a production primarily for
34 private, industrial, corporate, or institutional purposes, or a reality
35 show, except if the production company of the reality show owns,
36 leases, or otherwise occupies a production facility of no less than
37 20,000 square feet of real property for a minimum term of 24 months,
38 and invests no less than \$3,000,000 in such a facility within a
39 designated enterprise zone established pursuant to the "New Jersey
40 Urban Enterprise Zones Act," P.L.1983, c.303 (C.52:27H-60 et al.),
41 or a UEZ-impacted business district established pursuant to section
42 3 of P.L.2001, c.347 (C.52:27H-66.2). "Film" shall not include an
43 award show or other gala event that is not filmed and produced at a
44 nonprofit arts and cultural venue receiving State funding.

45 "Full-time or full-time equivalent employee" means an individual
46 employed by the taxpayer for consideration for at least 35 hours a
47 week, or who renders any other standard of service generally
48 accepted by custom or practice as full-time or full-time equivalent

1 employment, whose wages are subject to withholding as provided in
2 the "New Jersey Gross Income Tax Act," N.J.S.54A:1-1 et seq., or
3 who is a partner of a taxpayer, who works for the partnership for at
4 least 35 hours a week, or who renders any other standard of service
5 generally accepted by custom or practice as full-time or full-time
6 equivalent employment, and whose distributive share of income,
7 gain, loss, or deduction, or whose guaranteed payments, or any
8 combination thereof, is subject to the payment of estimated taxes, as
9 provided in the "New Jersey Gross Income Tax Act," N.J.S.54A:1-1
10 et seq. "Full-time or full-time equivalent employee" shall not include
11 an individual who works as an independent contractor or on a
12 consulting basis for the taxpayer.

13 "Highly compensated individual" means an individual who
14 directly or indirectly receives compensation in excess of \$500,000
15 for the performance of services used directly in a production. An
16 individual receives compensation indirectly when the taxpayer pays
17 a loan out company that, in turn, pays the individual for the
18 performance of services.

19 "Independent contractor" means an individual treated as an
20 independent contractor for federal and State tax purposes who is
21 contracted with by the taxpayer for the performance of services used
22 directly in a production.

23 "Loan out company" means a personal service corporation or other
24 entity that is contracted with by the taxpayer to provide specified
25 individual personnel, such as artists, crew, actors, producers, or
26 directors for the performance of services used directly in a
27 production. "Loan out company" shall not include entities contracted
28 with by the taxpayer to provide goods or ancillary contractor services
29 such as catering, construction, trailers, equipment, or transportation.

30 "New Jersey film partner" means a film production company that
31 has made a commitment to produce films or commercial audiovisual
32 products in New Jersey and has developed, purchased, or executed a
33 10-year contract to lease a production facility of 250,000 square feet
34 or more as a "transformative project" pursuant to section 65 of P.L. ,
35 c. (C.) (pending before the Legislature as this bill). No more
36 than five film production companies may be designated as a New
37 Jersey film partner.

38 "New Jersey film-lease partner" means a taxpayer, including any
39 taxpayer that is a member of a combined group under P.L.2018, c.131
40 (C:54:10A-4.11), that has made a commitment to lease or acquire a
41 New Jersey production facility with an aggregate square footage of
42 at least 50,000 square feet, which includes a sound stage and
43 production support space such as production offices or a backlot, for
44 a period of five or more successive years and commits to spend, on a
45 separate-entity basis or in the aggregate with other members of the
46 taxpayer's combined group, an annual average of \$50,000,000 of
47 qualified film production expenses over the period of at least five but
48 not to exceed 10 years. The authority shall be permitted to recapture

1 any credits awarded to a New Jersey film-lease partner if the New
2 Jersey film-lease partner, or any member of the New Jersey film-
3 lease partner's combined group fails to maintain a New Jersey
4 production facility during the period prescribed or if the New Jersey
5 film-lease partner, on a separate-entity basis or in the aggregate with
6 other members of the New Jersey film-lease partner's combined
7 group, fails to spend an annual average of \$50,000,000 of qualified
8 film production expenses over the prescribed period.

9 "Partnership" means an entity classified as a partnership for
10 federal income tax purposes.

11 "Post-production costs" means the costs of the phase of production
12 of a film that follows principal photography, in which raw footage is
13 cut and assembled into a finished film with sound synchronization
14 and visual effects.

15 "Pre-production costs" means the costs of the phase of production
16 of a film that precedes principal photography, in which a detailed
17 schedule and budget for the production is prepared, the script and
18 location is finalized, and contracts with vendors are negotiated.

19 "Qualified digital media content production expenses" means an
20 expense incurred in New Jersey for the production of digital media
21 content. "Qualified digital media content production expenses" shall
22 include but not be limited to: wages and salaries of individuals
23 employed in the production of digital media content on which the tax
24 imposed by the "New Jersey Gross Income Tax Act," N.J.S.54A:1-1
25 et seq. has been paid or is due; and the costs of computer software
26 and hardware, data processing, visualization technologies, sound
27 synchronization, editing, and the rental of facilities and equipment.
28 Payment made to a loan out company or to an independent contractor
29 shall not be deemed a "qualified digital media content production
30 expense" unless the payment is made in connection with a trade,
31 profession, or occupation carried on in this State or for the rendition
32 of personal services performed in this State and the taxpayer has
33 made the withholding required pursuant to subsection g. of this
34 section. "Qualified digital media content production expenses" shall
35 not include expenses incurred in marketing, promotion, or
36 advertising digital media or other costs not directly related to the
37 production of digital media content. Costs related to the acquisition
38 or licensing of digital media content by the taxpayer for distribution
39 or incorporation into the taxpayer's digital media content shall not be
40 deemed "qualified digital media content production expenses."

41 "Qualified film production expenses" means an expense incurred
42 in New Jersey for the production of a film including pre-production
43 costs and post-production costs incurred in New Jersey. "Qualified
44 film production expenses" shall include but not be limited to: wages
45 and salaries of individuals employed in the production of a film on
46 which the tax imposed by the "New Jersey Gross Income Tax Act,"
47 N.J.S.54A:1-1 et seq. has been paid or is due; and the costs for
48 tangible personal property used, and services performed, directly and

1 exclusively in the production of a film, such as expenditures for film
2 production facilities, props, makeup, wardrobe, film processing,
3 camera, sound recording, set construction, lighting, shooting, editing,
4 and meals. Payment made to a loan out company or to an
5 independent contractor shall not be deemed a "qualified film
6 production expense" unless the payment is made in connection with
7 a trade, profession, or occupation carried on in this State or for the
8 rendition of personal services performed in this State and the
9 taxpayer has made the withholding required pursuant to subsection
10 g. of this section. "Qualified film production expenses" shall not
11 include: expenses incurred in marketing or advertising a film; and
12 payment in excess of \$500,000 to a highly compensated individual
13 for costs for a story, script, or scenario used in the production of a
14 film and wages or salaries or other compensation for writers,
15 directors, including music directors, producers, and performers, other
16 than background actors with no scripted lines, except as follows:

17 (1) for a New Jersey film partner that incurs more than
18 \$30,000,000, but less than \$100,000,000, in qualified film production
19 expenses in the State, an amount, not to exceed \$15,000,000, of the
20 wages or salaries or other compensation for writers, directors,
21 including music directors, producers, and performers, other than
22 background actors with no scripted lines, shall constitute qualified
23 film production expenses;

24 (2) for a New Jersey film partner that incurs \$100,000,000 or
25 more, but less than \$150,000,000, in qualified film production
26 expenses in the State, an amount, not to exceed \$30,000,000, of the
27 wages or salaries or other compensation for writers, directors,
28 including music directors, producers, and performers, other than
29 background actors with no scripted lines, shall constitute qualified
30 film production expenses; and

31 (3) for a New Jersey film partner that incurs \$150,000,000 or more
32 in qualified film production expenses in the State, an amount, not to
33 exceed \$60,000,000, of the wages or salaries or other compensation
34 for writers, directors, including music directors, producers, and
35 performers, other than background actors with no scripted lines, shall
36 constitute qualified film production expenses.

37 "Total digital media content production expenses" means costs for
38 services performed and property used or consumed in the production
39 of digital media content.

40 "Total film production expenses" means costs for services
41 performed and tangible personal property used or consumed in the
42 production of a film.

43 i. A business that is not a "taxpayer" as defined and used in the
44 "Corporation Business Tax Act (1945)," P.L.1945, c.162 (C.54:10A-
45 1 et seq.) and therefore is not directly allowed a credit under this
46 section, but is a business entity that is classified as a partnership for
47 federal income tax purposes and is ultimately owned by a business
48 entity that is a "corporation" as defined in subsection (c) of section 4

1 of P.L.1945, c.162 (C.54:10A-4), or a limited liability company
2 formed under the "Revised Uniform Limited Liability Company
3 Act," P.L.2012, c.50 (C.42:2C-1 et seq.), or qualified to do business
4 in this State as a foreign limited liability company, with one member,
5 and is wholly owned by the business entity that is a "corporation" as
6 defined in subsection (c) of section 4 of P.L.1945, c.162 (C.54:10A-
7 4), but otherwise meets all other requirements of this section, shall
8 be considered an eligible applicant and "taxpayer" as that term is used
9 in this section.

10 (cf: P.L.2019, c.506, s.1)

11

12 111. Section 2 of P.L.2018, c.56 (C.54A:4-12b) is amended to
13 read as follows:

14 2. a. (1) A taxpayer, upon approval of an application to the
15 authority and the director, shall be allowed a credit against the tax
16 otherwise due for the taxable year under the "New Jersey Gross
17 Income Tax Act," N.J.S.54A:1-1 et seq., in an amount equal to 30
18 percent of the qualified film production expenses of the taxpayer
19 during a taxable year commencing on or after July 1, 2018 but before
20 July 1, 2028, provided that:

21 (a) at least 60 percent of the total film production expenses,
22 exclusive of post-production costs, of the taxpayer are incurred for
23 services performed, and goods purchased through vendors authorized
24 to do business, in New Jersey, or the qualified film production
25 expenses of the taxpayer during the taxable year exceed \$1,000,000
26 per production;

27 (b) principal photography of the film commences within the
28 earlier of 180 days from the date of the original application for the
29 tax credit, or 150 days from the date of approval of the application
30 for the tax credit;

31 (c) the film includes, when determined to be appropriate by the
32 commission, at no cost to the State, marketing materials promoting
33 this State as a film and entertainment production destination, which
34 materials shall include placement of a "Filmed in New Jersey" or
35 "Produced in New Jersey" statement, or an appropriate logo approved
36 by the commission, in the end credits of the film;

37 (d) the taxpayer submits a tax credit verification report prepared
38 by an independent certified public accountant licensed in this State
39 in accordance with subsection g. of this section; and

40 (e) the taxpayer complies with the withholding requirements
41 provided for payments to loan out companies and independent
42 contractors in accordance with subsection h. of this section.

43 (2) Notwithstanding the provisions of paragraph (1) of subsection
44 a. of this section to the contrary, the tax credit allowed pursuant to
45 this subsection against the tax otherwise due for the taxable year
46 under the "New Jersey Gross Income Tax Act," N.J.S.54A:1-1 et
47 seq., shall be in an amount equal to 35 percent of the qualified film
48 production expenses of the taxpayer during a taxable year that are

1 incurred for services performed and tangible personal property
2 purchased through vendors whose primary place of business is
3 located in Atlantic, Burlington, Camden, Cape May, Cumberland,
4 Gloucester, Mercer, or Salem County.

5 b. (1) A taxpayer, upon approval of an application to the authority
6 and the director, shall be allowed a credit against the tax otherwise
7 due for the taxable year under the "New Jersey Gross Income Tax
8 Act," N.J.S.54A:1-1 et seq., in an amount equal to 20 percent of the
9 qualified digital media content production expenses of the taxpayer
10 during a taxable year commencing on or after July 1, 2018 but before
11 July 1, 2028, provided that:

12 (a) at least \$2,000,000 of the total digital media content
13 production expenses of the taxpayer are incurred for services
14 performed, and goods purchased through vendors authorized to do
15 business, in New Jersey;

16 (b) at least 50 percent of the qualified digital media content
17 production expenses of the taxpayer are for wages and salaries paid
18 to full-time or full-time equivalent employees in New Jersey;

19 (c) the taxpayer submits a tax credit verification report prepared
20 by an independent certified public accountant licensed in this State
21 in accordance with subsection g. of this section; and

22 (d) the taxpayer complies with the withholding requirements
23 provided for payments to loan out companies and independent
24 contractors in accordance with subsection h. of this section.

25 (2) Notwithstanding the provisions of paragraph (1) of subsection
26 b. of this section to the contrary, the tax credit allowed pursuant to
27 this subsection against the tax otherwise due for the taxable year
28 under the "New Jersey Gross Income Tax Act," N.J.S.54A:1-1 et
29 seq., shall be in an amount equal to 25 percent for the qualified digital
30 media content production expenses of the taxpayer during a taxable
31 year that are incurred for services performed and tangible personal
32 property purchased through vendors whose primary place of business
33 is located in Atlantic, Burlington, Camden, Cape May, Cumberland,
34 Gloucester, Mercer, or Salem County.

35 c. No tax credit shall be allowed pursuant to this section for any
36 costs or expenses included in the calculation of any other tax credit
37 or exemption granted pursuant to a claim made on a tax return filed
38 with the director, or included in the calculation of an award of
39 business assistance or incentive, for a period of time that coincides
40 with the taxable year for which a tax credit authorized pursuant to
41 this section is allowed. The order of priority in which the tax credit
42 allowed pursuant to this section and any other tax credits allowed by
43 law may be taken shall be as prescribed by the director. The amount
44 of the tax credit applied under this section against the tax otherwise
45 due under the "New Jersey Gross Income Tax Act," N.J.S.54A:1-1 et
46 seq., for a taxable year, when taken together with any other payments,
47 credits, deductions, and adjustments allowed by law shall not reduce
48 the tax liability of the taxpayer to an amount less than zero. The

1 amount of the tax credit otherwise allowable under this section which
2 cannot be applied for the taxable year due to the limitations of this
3 subsection or under other provisions of N.J.S.54A:1-1 et seq., may
4 be carried forward, if necessary, to the seven taxable years following
5 the taxable year for which the tax credit was allowed.

6 d. (1) A business entity that is classified as a partnership for
7 federal income tax purposes shall not be allowed a tax credit pursuant
8 to this section directly, but the amount of tax credit of a taxpayer in
9 respect of a distributive share of entity income, shall be determined
10 by allocating to the taxpayer that proportion of the tax credit acquired
11 by the entity that is equal to the taxpayer's share, whether or not
12 distributed, of the total distributive income or gain of the entity for
13 its taxable year ending within or with the taxpayer's taxable year.

14 (2) A New Jersey S Corporation shall not be allowed a tax credit
15 pursuant to this section directly, but the amount of tax credit of a
16 taxpayer in respect of a pro rata share of S Corporation income, shall
17 be determined by allocating to the taxpayer that proportion of the tax
18 credit acquired by the New Jersey S Corporation that is equal to the
19 taxpayer's share, whether or not distributed, of the total pro rata share
20 of S Corporation income of the New Jersey S Corporation for its
21 privilege period ending within or with the taxpayer's taxable year.

22 A business entity that is not a gross income "taxpayer" as defined
23 and used in the "New Jersey Gross Income Tax Act," N.J.S.54A:1-1
24 et seq., and therefore is not directly allowed a credit under this
25 section, but otherwise meets all the other requirements of this section,
26 shall be considered an eligible applicant and "taxpayer" as that term
27 is used in this section, and the application of an otherwise allowed
28 credit amount shall be distributed to appropriate gross income
29 taxpayers pursuant to the other requirements of this subsection.

30 e. A taxpayer, with an application for a tax credit provided for
31 in subsection a. or subsection b. of this section, may apply to the
32 authority and the director for a tax credit transfer certificate in lieu
33 of the taxpayer being allowed any amount of the tax credit against
34 the tax liability of the taxpayer. The tax credit transfer certificate,
35 upon receipt thereof by the taxpayer from the authority and the
36 director, may be sold or assigned, in full or in part, to any other
37 taxpayer that may have a tax liability under the "New Jersey Gross
38 Income Tax Act," N.J.S.54A:1-1 et seq., or the "Corporation
39 Business Tax Act (1945)," P.L.1945, c.162 (C.54:10A-1 et seq.), in
40 exchange for private financial assistance to be provided by the
41 purchaser or assignee to the taxpayer that has applied for and been
42 granted the tax credit. The tax credit transfer certificate provided to
43 the taxpayer shall include a statement waiving the taxpayer's right to
44 claim that amount of the tax credit against the tax imposed pursuant
45 to N.J.S.54A:1-1 et seq. that the taxpayer has elected to sell or assign.
46 The sale or assignment of any amount of a tax credit transfer
47 certificate allowed under this section shall not be exchanged for
48 consideration received by the taxpayer of less than 75 percent of the

1 transferred tax credit amount. Any amount of a tax credit transfer
2 certificate used by a purchaser or assignee against a tax liability under
3 N.J.S.54A:1-1 et seq. shall be subject to the same limitations and
4 conditions that apply to the use of a tax credit pursuant to subsections
5 c. and d. of this section. Any amount of a tax credit transfer
6 certificate obtained by a purchaser or assignee under subsection e. of
7 this section may be applied against the purchaser's or assignee's tax
8 liability under P.L.1945, c.162 (C.54:10A-1 et seq.) and shall be
9 subject to the same limitations and conditions that apply to the use of
10 a credit pursuant to subsection c. of section 1 of P.L.2018, c.56
11 (C.54:10A-5.39b).

12 f. (1) The value of tax credits, including tax credits allowed
13 through the granting of tax credit transfer certificates, approved by
14 the director and the authority pursuant to subsection a. of this section
15 and pursuant to subsection a. of section 1 of P.L.2018, c.56
16 (C.54:10A-5.39b) to taxpayers, other than New Jersey film partners
17 and New Jersey film-lease partners, shall not exceed a cumulative
18 total of \$100,000,000 in fiscal year 2019 and in each fiscal year
19 thereafter prior to fiscal year 2029 to apply against the tax imposed
20 pursuant to the "New Jersey Gross Income Tax Act," N.J.S.54A:1-1
21 et seq., and pursuant to section 5 of P.L.1945, c.162 (C.54:10A-5).
22 In addition to the \$100,000,000 limitation on the value of tax credits
23 approved by the director for New Jersey film-lease partners and the
24 \$100,000,000 limitation on the value of tax credits approved by the
25 director for other taxpayers imposed by this paragraph, the value of
26 tax credits, including tax credits allowed through the granting of tax
27 credit transfer certificates, approved by the director and the authority
28 pursuant to subsection a. of this section and pursuant to subsection a.
29 of section 2 of P.L.2018, c.56 (C.54A:4-12b) to New Jersey film
30 partners shall not exceed a cumulative total of \$100,000,000 in fiscal
31 year 2021 and in each fiscal year thereafter prior to fiscal year 2029
32 to apply against the tax imposed pursuant to section 5 of P.L.1945,
33 c.162 (C.54:10A-5) and the tax imposed pursuant to the "New Jersey
34 Gross Income Tax Act," N.J.S.54A:1-1 et seq. In addition to the
35 \$100,000,000 limitation on the value of tax credits approved by the
36 director for New Jersey film partners and the \$100,000,000 limitation
37 on the value of tax credits approved by the director for other
38 taxpayers imposed by this paragraph, the value of tax credits,
39 including tax credits allowed through the granting of tax credit
40 transfer certificates, approved by the director and the authority
41 pursuant to subsection a. of this section and pursuant to subsection a.
42 of section 1 of P.L.2018, c.56 (C.54A:4-12b) to New Jersey film-
43 lease partners shall not exceed a cumulative total of \$100,000,000 in
44 fiscal year 2021 and in each fiscal year thereafter prior to fiscal year
45 2029 to apply against the tax imposed pursuant to section 5 of
46 P.L.1945, c.162 (C.54:10A-5) and the tax imposed pursuant to the
47 "New Jersey Gross Income Tax Act," N.J.S.54A:1-1 et seq.

1 If the cumulative total amount of tax credits, and tax credit transfer
2 certificates, allowed to taxpayers for taxable years or privilege
3 periods commencing during a single fiscal year under subsection a.
4 of this section and subsection a. of section 1 of P.L.2018, c.56
5 (C.54:10A-5.39b) exceeds the amount of tax credits available in that
6 fiscal year, then taxpayers who have first applied for and have not
7 been allowed a tax credit or tax credit transfer certificate amount for
8 that reason shall be allowed, in the order in which they have
9 submitted an application, the amount of tax credit or tax credit
10 transfer certificate on the first day of the next succeeding fiscal year
11 in which tax credits and tax credit transfer certificates under
12 subsection a. of this section and subsection a. of section 1 of
13 P.L.2018, c.56 (C.54:10A-5.39b) are not in excess of the amount of
14 credits available.

15 Notwithstanding any provision of paragraph (1) of this subsection
16 to the contrary, for any fiscal year in which the amount of tax credits
17 approved pursuant to this paragraph is less than the cumulative total
18 amount of tax credits permitted to be approved in that fiscal year, the
19 authority shall certify the amount of the remaining tax credits
20 available for approval in that fiscal year, and shall increase the
21 cumulative total amount of tax credits permitted to be approved in
22 the subsequent fiscal year by the certified amount remaining from the
23 prior fiscal year. The authority shall also certify, for each fiscal year,
24 the amount of tax credits that were previously approved, but that the
25 taxpayer is not able to redeem or transfer to another taxpayer under
26 this section, and shall increase the cumulative total amount of tax
27 credits permitted to be approved in the subsequent fiscal year by the
28 amount of tax credits previously approved, but not subject to
29 redemption or transfer. The combined increase to the cumulative
30 total permitted to be approved in a subsequent fiscal year pursuant to
31 this paragraph shall not exceed \$50,000,000.

32 (2) The value of tax credits, including tax credits allowed through
33 the granting of tax credit transfer certificates, approved by the
34 authority and the director pursuant to subsection b. of this section and
35 pursuant to subsection b. of section 1 of P.L.2018, c.56 (C.54:10A-
36 5.39b) shall not exceed a cumulative total of \$10,000,000 in fiscal
37 year 2019 and in each fiscal year thereafter prior to fiscal year 2029
38 to apply against the tax imposed pursuant to the "New Jersey Gross
39 Income Tax Act," N.J.S.54A:1-1 et seq. and the tax imposed pursuant
40 to section 5 of P.L.1945, c.162 (C.54:10A-5).

41 If the total amount of tax credits and tax credit transfer certificates
42 allowed to taxpayers for taxable years or privilege periods
43 commencing during a single fiscal year under subsection b. of this
44 section and subsection b. of section 1 of P.L.2018, c.56 (C.54:10A-
45 5.39b) exceeds the amount of tax credits available in that year, then
46 taxpayers who have first applied for and have not been allowed a tax
47 credit or tax credit transfer certificate amount for that reason shall be
48 allowed, in the order in which they have submitted an application,

1 the amount of tax credit or tax credit transfer certificate on the first
2 day of the next succeeding fiscal year in which tax credits and tax
3 credit transfer certificates under subsection b. of this section and
4 subsection b. of section 1 of P.L.2018, c.56 (C.54:10A-5.39b) are not
5 in excess of the amount of credits available.

6 Notwithstanding any provision of this paragraph to the contrary,
7 for any fiscal year in which the amount of tax credits approved
8 pursuant to this paragraph is less than the cumulative total amount of
9 tax credits permitted to be approved in that fiscal year, the authority
10 shall certify the amount of the remaining tax credits available for
11 approval in that fiscal year, and shall increase the cumulative total
12 amount of tax credits permitted to be approved in the subsequent
13 fiscal year by the certified amount remaining from the prior fiscal
14 year. The authority shall also certify, for each fiscal year, the amount
15 of tax credits that were previously approved, but that the taxpayer is
16 not able to redeem or transfer to another taxpayer under this section,
17 and shall increase the cumulative total amount of tax credits
18 permitted to be approved in the subsequent fiscal year by the amount
19 of tax credits previously approved, but not subject to redemption or
20 transfer.

21 g. A taxpayer shall submit to the authority and the director a
22 report prepared by an independent certified public accountant
23 licensed in this State to verify the taxpayer's tax credit claim
24 following the completion of the production. The report shall be
25 prepared by the independent certified public accountant pursuant to
26 agreed upon procedures prescribed by the authority and the director,
27 and shall include such information and documentation as shall be
28 determined to be necessary by the authority and the director to
29 substantiate the qualified film production expenses or the qualified
30 digital media content production expenses of the taxpayer. A single
31 report with attachments deemed necessary by the authority shall be
32 submitted electronically. Upon receipt of the report, the authority
33 and the director shall review the findings of the independent certified
34 public accountant's report, and shall make a determination as to the
35 qualified film production expenses or the qualified digital media
36 content production expenses of the taxpayer. The determination shall
37 be provided in writing to the taxpayer, and a copy of the written
38 determination shall be included in the filing of a return that includes
39 a claim for a tax credit allowed pursuant to this section.

40 h. A taxpayer shall withhold from each payment to a loan out
41 company or to an independent contractor an amount equal to 6.37
42 percent of the payment otherwise due. The amounts withheld shall
43 be deemed to be withholding of liability pursuant to the "New Jersey
44 Gross Income Tax Act," N.J.S.54A:1-1 et seq., and the taxpayer shall
45 be deemed to have the rights, duties, and responsibilities of an
46 employer pursuant to chapter 7 of Title 54A of the New Jersey
47 Statutes. The director shall allocate the amounts withheld for a
48 taxable year to the accounts of the individuals who are employees of

1 a loan out company in proportion to the employee's payment by the
2 loan out company in connection with a trade, profession, or
3 occupation carried on in this State or for the rendition of personal
4 services performed in this State during the taxable year. A loan out
5 company that reports its payments to employees in connection with
6 a trade, profession, or occupation carried on in this State or for the
7 rendition of personal services performed in this State during a taxable
8 year shall be relieved of its duties and responsibilities as an employer
9 pursuant to chapter 7 of Title 54A of the New Jersey Statutes for the
10 taxable year for any payments relating to the payments on which the
11 taxpayer withheld.

12 i. As used in this section:

13 "Authority" means the New Jersey Economic Development
14 Authority.

15 "Business assistance or incentive" means "business assistance or
16 incentive" as that term is defined pursuant to section 1 of P.L.2007,
17 c.101 (C.54:50-39).

18 "Commission" means the Motion Picture and Television
19 Development Commission.

20 "Digital media content" means any data or information that is
21 produced in digital form, including data or information created in
22 analog form but reformatted in digital form, text, graphics,
23 photographs, animation, sound, and video content. "Digital media
24 content" shall not mean content offerings generated by the end user
25 (including postings on electronic bulletin boards and chat rooms);
26 content offerings comprised primarily of local news, events, weather
27 or local market reports; public service content; electronic commerce
28 platforms (such as retail and wholesale websites); websites or content
29 offerings that contain obscene material as defined pursuant to
30 N.J.S.2C:34-2 and N.J.S.2C:34-3; websites or content that are
31 produced or maintained primarily for private, industrial, corporate,
32 or institutional purposes; or digital media content acquired or
33 licensed by the taxpayer for distribution or incorporation into the
34 taxpayer's digital media content.

35 "Film" means a feature film, a television series, or a television
36 show of 22 minutes or more in length, intended for a national
37 audience, or a television series or a television show of 22 minutes or
38 more in length intended for a national or regional audience,
39 including, but not limited to, a game show, award show, or other gala
40 event filmed and produced at a nonprofit arts and cultural venue
41 receiving State funding. "Film" shall not include a production
42 featuring news, current events, weather, and market reports or public
43 programming, talk show, sports event, or reality show, a production
44 that solicits funds, a production containing obscene material as
45 defined under N.J.S.2C:34-2 and N.J.S.2C:34-3, or a production
46 primarily for private, industrial, corporate, or institutional purposes.
47 "Film" shall not include an award show or other gala event that is not

1 filmed and produced at a nonprofit arts and cultural venue receiving
2 State funding.

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

19 "Highly compensated individual" means an individual who
20 directly or indirectly receives compensation in excess of \$500,000
21 for the performance of services used directly in a production. An
22 individual receives compensation indirectly when the taxpayer pays
23 a loan out company that, in turn, pays the individual for the
24 performance of services.

25 "Independent contractor" means an individual treated as an
26 independent contractor for federal and State tax purposes who is
27 contracted with by the taxpayer for the performance of services used
28 directly in a production.

29 "Loan out company" means a personal service corporation or other
30 entity that is contracted with by the taxpayer to provide specified
31 individual personnel, such as artists, crew, actors, producers, or
32 directors for the performance of services used directly in a
33 production. "Loan out company" shall not include entities contracted
34 with by the taxpayer to provide goods or ancillary contractor services
35 such as catering, construction, trailers, equipment, or transportation.

36 "New Jersey film partner" means a film production company that
37 has made a commitment to produce films or commercial audiovisual
38 products in New Jersey and has developed, purchased, or executed a
39 10-year contract to lease a production facility of 250,000 square feet
40 or more as a "transformative project" pursuant to section 65 of P.L. ,
41 c. (C.) (pending before the Legislature as this bill). No more
42 than five film production companies may be designated as a New
43 Jersey film partner.

44 "New Jersey film-lease partner" means a taxpayer, including any
45 taxpayer that is a member of a combined group under P.L.2018, c.131
46 (C:54:10A-4.11), that has made a commitment to lease or acquire a
47 New Jersey production facility with an aggregate square footage of
48 at least 50,000 square feet, which includes a sound stage and

1 production support space such as production offices or a backlot, for
2 a period of five or more successive years and commits to spend, on a
3 separate-entity basis or in the aggregate with other members of the
4 taxpayer's combined group, an annual average of \$50,000,000 of
5 qualified film production expenses over the period of at least five but
6 not to exceed 10 years. The authority shall be permitted to recapture
7 any credits awarded to a New Jersey film-lease partner if the New
8 Jersey film-lease partner, or any member of the New Jersey film-
9 lease partner's combined group fails to maintain a New Jersey
10 production facility during the period prescribed or if the New Jersey
11 film-lease partner, on a separate-entity basis or in the aggregate with
12 other members of the New Jersey film-lease partner's combined
13 group, fails to spend an annual average of \$50,000,000 of qualified
14 film production expenses over the prescribed period.

15 "Partnership" means an entity classified as a partnership for
16 federal income tax purposes.

17 "Post-production costs" means the costs of the phase of production
18 of a film that follows principal photography, in which raw footage is
19 cut and assembled into a finished film with sound synchronization
20 and visual effects.

21 "Pre-production costs" means the costs of the phase of production
22 of a film that precedes principal photography, in which a detailed
23 schedule and budget for the production is prepared, the script and
24 location is finalized, and contracts with vendors are negotiated.

25 "Qualified digital media content production expenses" means an
26 expense incurred in New Jersey for the production of digital media
27 content. "Qualified digital media content production expenses" shall
28 include but not be limited to: wages and salaries of individuals
29 employed in the production of digital media content on which the tax
30 imposed by the "New Jersey Gross Income Tax Act," N.J.S.54A:1-1
31 et seq. has been paid or is due; and the costs of computer software
32 and hardware, data processing, visualization technologies, sound
33 synchronization, editing, and the rental of facilities and equipment.
34 Payment made to a loan out company or to an independent contractor
35 shall not be deemed a "qualified digital media content production
36 expense" unless the payment is made in connection with a trade,
37 profession, or occupation carried on in this State or for the rendition
38 of personal services performed in this State and the taxpayer has
39 made the withholding required pursuant to subsection h. of this
40 section. "Qualified digital media content production expenses" shall
41 not include expenses incurred in marketing, promotion, or
42 advertising digital media or other costs not directly related to the
43 production of digital media content. Costs related to the acquisition
44 or licensing of digital media content by the taxpayer for distribution
45 or incorporation into the taxpayer's digital media content shall not be
46 deemed "qualified digital media content production expenses."

47 "Qualified film production expenses" means an expense incurred
48 in New Jersey for the production of a film including pre-production

1 costs and post-production costs incurred in New Jersey. "Qualified
2 film production expenses" shall include but not be limited to: wages
3 and salaries of individuals employed in the production of a film on
4 which the tax imposed by the "New Jersey Gross Income Tax Act,"
5 N.J.S.54A:1-1 et seq. has been paid or is due; and the costs for
6 tangible personal property used, and services performed, directly and
7 exclusively in the production of a film, such as expenditures for film
8 production facilities, props, makeup, wardrobe, film processing,
9 camera, sound recording, set construction, lighting, shooting, editing,
10 and meals. Payment made to a loan out company or to an
11 independent contractor shall not be deemed a "qualified film
12 production expense" unless the payment is made in connection with
13 a trade, profession, or occupation carried on in this State or for the
14 rendition of personal services performed in this State and the
15 taxpayer has made the withholding required by subsection h. of this
16 section. "Qualified film production expenses" shall not include:
17 expenses incurred in marketing or advertising a film; and payment in
18 excess of \$500,000 to a highly compensated individual for costs for
19 a story, script, or scenario used in the production of a film and wages
20 or salaries or other compensation for writers, directors, including
21 music directors, producers, and performers, other than background
22 actors with no scripted lines, except as follows:

23 (1) for a New Jersey film partner that incurs more than
24 \$30,000,000, but less than \$100,000,000, in qualified film production
25 expenses in the State, an amount, not to exceed \$15,000,000, of the
26 wages or salaries or other compensation for writers, directors,
27 including music directors, producers, and performers, other than
28 background actors with no scripted lines, shall constitute qualified
29 film production expenses;

30 (2) for a New Jersey film partner that incurs \$100,000,000 or
31 more, but less than \$150,000,000, in qualified film production
32 expenses in the State, an amount, not to exceed \$30,000,000, of the
33 wages or salaries or other compensation for writers, directors,
34 including music directors, producers, and performers, other than
35 background actors with no scripted lines, shall constitute qualified
36 film production expenses; and

37 (3) for a New Jersey film partner that incurs \$150,000,000 or more
38 in qualified film production expenses in the State, an amount, not to
39 exceed \$60,000,000, of the wages or salaries or other compensation
40 for writers, directors, including music directors, producers, and
41 performers, other than background actors with no scripted lines, shall
42 constitute qualified film production expenses.

43 "Total digital media content production expenses" means costs for
44 services performed and property used or consumed in the production
45 of digital media content.

46 "Total film production expenses" means costs for services
47 performed and tangible personal property used or consumed in the

1 production of a film.
2 (cf: P.L.2019, c.506, s.2)

3

4 112. Section 1 of P.L.1979, c.303 (C.34:1b-5.1) is amended to
5 read as follows:

6 1. a. The New Jersey Economic Development Authority shall
7 adopt rules and regulations requiring that not less than the prevailing
8 wage rate be paid to workers employed in the performance of any
9 construction contract, including contracts for millwork fabrication,
10 undertaken in connection with authority financial assistance or any
11 of its projects, those projects which it undertakes pursuant to
12 P.L.2002, c.43 (C.52:27BBB-1 et al.), or undertaken to fulfill any
13 condition of receiving authority financial assistance, including the
14 performance of any contract to construct, renovate or otherwise
15 prepare a facility for operations which are necessary for the receipt
16 of authority financial assistance, unless the work performed under the
17 contract is performed on a facility owned by a landlord of the entity
18 receiving the assistance and less than 55% of the facility is leased by
19 the entity at the time of the contract and under any agreement to
20 subsequently lease the facility. The prevailing wage rate shall be the
21 rate determined by the Commissioner of Labor and Workforce
22 Development pursuant to the provisions of P.L.1963, c.150 (C.34:11-
23 56.25 et seq.). For the purposes of this section, "authority financial
24 assistance" means any loan, loan guarantee, grant, incentive, tax
25 exemption or other financial assistance that is approved, funded,
26 authorized, administered or provided by the authority to any entity
27 and is provided before, during or after completion of a project,
28 including but not limited to, all authority financial assistance
29 received by the entity pursuant to the "Business Employment
30 Incentive Program Act," P.L.1996, c.26 (C.34:1B-124 et al.) that
31 enables the entity to engage in a construction contract, but this
32 section shall not be construed as requiring the payment of the
33 prevailing wage for construction commencing more than two years
34 after an entity has executed with the authority a commitment letter
35 regarding authority financial assistance and the first payment or other
36 provision of the assistance is received.

37 b. The New Jersey Economic Development Authority shall adopt
38 rules and regulations requiring that not less than the prevailing wage
39 rate be paid to workers employed in the performance of any contract,
40 for construction, demolition, remediation, removal of hazardous
41 substances, alteration, custom fabrication, repair work, or
42 maintenance work, including painting and decorating, or excavation,
43 grading, pile driving, concrete form, or other types of foundation
44 work in connection with the "New Jersey Aspire Program Act,"
45 sections 54 through 67 of P.L. , c. (C.) (pending before the
46 Legislature as this bill) and the "New Jersey Community-Anchored
47 Development Act," sections 43 through 53 of P.L. , c. (C.)
48 (pending before the Legislature as this bill). The requirements of this

1 subsection shall apply to any site preparation work performed 24
2 months prior to and during the incentive eligibility period of any
3 project receiving tax credits under the "New Jersey Aspire Program
4 Act," sections 54 through 67 of P.L. , c. (C.) (pending before
5 the Legislature as this bill) and the "New Jersey Community-
6 Anchored Development Act," sections 43 through 53 of P.L. , c.
7 (C.) (pending before the Legislature as this bill), in which there
8 is a continuity of ownership in the site of the redevelopment project,
9 including work undertaken to fulfill any condition of receiving tax
10 credits under the programs. Work that is subject to the requirements
11 of this subsection shall include the performance of any contract for
12 construction, demolition, remediation, removal of hazardous
13 substances, alteration, custom fabrication, repair work, or
14 maintenance work, including painting and decorating, or excavation,
15 grading, pile driving, concrete form, or other types of foundation
16 work undertaken on a facility for operations which are necessary for
17 the receipt of tax credits under the "New Jersey Aspire Program Act,"
18 sections 54 through 67 of P.L. , c. (C.) (pending before the
19 Legislature as this bill) and the "New Jersey Community-Anchored
20 Development Act," sections 43 through 53 of P.L. , c. (C.)
21 (pending before the Legislature as this bill), unless the work
22 performed under the contract is performed on a facility owned by a
23 landlord of the entity receiving the tax credit and less than 35 percent
24 of the facility is leased by the entity at the time of the contract and
25 under any agreement to subsequently lease the facility. The
26 prevailing wage rate shall be the rate determined by the
27 Commissioner of Labor and Workforce Development pursuant to the
28 provisions of P.L.1963, c.150 (C.34:11-56.25 et seq.), and all
29 contractors and subcontractors subject to the prevailing wage
30 requirement set forth in this section shall be registered with the
31 Department of Labor and Workforce Development pursuant to the
32 provisions of section 5 of P.L.1999, c.238 (C.34:11-56.52). An
33 applicant for tax credits under the "New Jersey Aspire Program Act,"
34 sections 54 through 67 of P.L. , c. (C.) (pending before the
35 Legislature as this bill) and the "New Jersey Community-Anchored
36 Development Act," sections 43 through 53 of P.L. , c. (C.)
37 (pending before the Legislature as this bill), shall certify under
38 penalty of perjury as part of its application that all construction
39 contracts undertaken on any project in connection with an award
40 under the programs comply with the prevailing wage requirements of
41 this subsection. If at any time the authority determines that the
42 developer made a material misrepresentation regarding compliance
43 with the provisions of this subsection on the developer's application,
44 the developer shall forfeit 35 percent of the tax credits allowed under
45 the programs, and pay to the affected workers back wages in an
46 amount that compensates the workers at the prevailing wage rate for
47 the work performed.

48 (cf: P.L.2007, c.245, s.1)

1 113. Section 1 of P.L.1997, c. 334 (C.34:1B-7.42a) is amended to
2 read as follows:

3 1. a. The New Jersey Economic Development Authority shall
4 establish within the New Jersey Emerging Technology and
5 Biotechnology Financial Assistance Program established pursuant to
6 P.L.1995, c.137 (C.34:1B-7.37 et seq.), a corporation business tax
7 benefit certificate transfer program to allow new or expanding
8 emerging technology and biotechnology companies in this State with
9 unused amounts of research and development tax credits otherwise
10 allowable which cannot be applied for the credit's tax year due to the
11 limitations of subsection b. of section 1 of P.L.1993, c.175
12 (C.54:10A-5.24) and unused net operating loss carryover pursuant to
13 subparagraph (B) of paragraph (6) of subsection (k) of section 4 of
14 P.L.1945, c.162 (C.54:10A-4), to surrender those tax benefits for use
15 by other corporation business taxpayers in this State, provided that
16 the taxpayer receiving the surrendered tax benefits is not affiliated
17 with a corporation that is surrendering its tax benefits under the
18 program established under P.L.1997, c.334. For the purposes of this
19 section, the test of affiliation is whether the same entity directly or
20 indirectly owns or controls 5% or more of the voting rights or 5% or
21 more of the value of all classes of stock of both the taxpayer receiving
22 the benefits and a corporation that is surrendering the benefits. The
23 tax benefits may be used on the corporation business tax returns to
24 be filed by those taxpayers in exchange for private financial
25 assistance to be provided by the corporation business taxpayer that is
26 the recipient of the corporation business tax benefit certificate to
27 assist in the funding of costs incurred by the new or expanding
28 emerging technology and biotechnology company.

29 b. The authority, in cooperation with the Division of Taxation in
30 the Department of the Treasury, shall review and approve
31 applications by new or expanding emerging technology and
32 biotechnology companies in this State with unused but otherwise
33 allowable carryover of research and development tax credits pursuant
34 to section 1 of P.L.1993, c.175 (C.54:10A-5.24), and unused but
35 otherwise allowable net operating loss carryover pursuant to
36 paragraph (6) of subsection (k) of section 4 of P.L.1945, c.162
37 (C.54:10A-4), to surrender those tax benefits in exchange for private
38 financial assistance to be made by the corporation business taxpayer
39 that is the recipient of the corporation business tax benefit certificate
40 in an amount equal to at least 80% of the amount of the surrendered
41 tax benefit. Provided that the amount of the surrendered tax benefit
42 for a surrendered research and development tax credit carryover is
43 the amount of the credit, and provided that the amount of the
44 surrendered tax benefit for a surrendered net operating loss carryover
45 is the amount of the loss multiplied by the new or expanding
46 emerging technology or biotechnology company's anticipated
47 allocation factor, as determined pursuant to section 6 of P.L.1945,
48 c.162 (C.54:10A-6) for the tax year in which the benefit is transferred

1 and subsequently multiplied by the corporation business tax rate
2 provided pursuant to subsection (c) of section 5 of P.L.1945, c.162
3 (C.54:10A-5). The authority shall be authorized to approve the
4 transfer of no more than **[\$60,000,000]** \$75,000,000 of tax benefits
5 in a State fiscal year. If the total amount of transferable tax benefits
6 requested to be surrendered by approved applicants exceeds
7 **[\$60,000,000]** \$75,000,000 for a State fiscal year, the authority, in
8 cooperation with the Division of Taxation in the Department of the
9 Treasury, shall not be authorized to approve the transfer of more than
10 **[\$60,000,000]** \$75,000,000 for that State fiscal year and shall
11 allocate the transfer of tax benefits by approved companies using the
12 following method:

13 (1) an eligible applicant with \$250,000 or less of transferable tax
14 benefits shall be authorized to surrender the entire amount of its
15 transferable tax benefits;

16 (2) an eligible applicant with more than \$250,000 of transferable
17 tax benefits shall be authorized to surrender a minimum of \$250,000
18 of its transferable tax benefits;

19 (3) (Deleted by amendment, P.L.2009, c.90.)

20 (4) an eligible applicant with more than \$250,000 shall also be
21 authorized to surrender additional transferable tax benefits
22 determined by multiplying the applicant's transferable tax benefits
23 less the minimum transferable tax benefits that company is
24 authorized to surrender under paragraph (2) of this subsection by a
25 fraction, the numerator of which is the total amount of transferable
26 tax benefits that the authority is authorized to approve less the total
27 amount of transferable tax benefits approved under paragraphs (1),
28 (2), and (5) of this subsection and the denominator of which is the
29 total amount of transferable tax benefits requested to be surrendered
30 by all eligible applicants less the total amount of transferable tax
31 benefits approved under paragraphs (1), (2), and (5) of this
32 subsection;

33 (5) The authority shall establish the boundaries for three
34 innovation zones to be geographically distributed in the northern,
35 central, and southern portions of this State. Of the **[\$60,000,000]**
36 \$75,000,000 of transferable tax benefits authorized for each State
37 fiscal year, \$10,000,000 shall be allocated for the surrender of
38 transferable tax benefits exclusively by new and expanding emerging
39 technology and biotechnology companies that operate within the
40 boundaries of the innovation zones, except that any portion of the
41 \$10,000,000 that is not so approved shall be available for that State
42 fiscal year for the surrender of transferable tax benefits by new and
43 expanding emerging technology and biotechnology companies that
44 do not operate within the boundaries of an innovation zone.

45 If the total amount of transferable tax benefits that would be
46 authorized using the above method exceeds **[\$60,000,000]**
47 \$75,000,000 for a State fiscal year, then the authority, in cooperation

1 with the Division of Taxation in the Department of the Treasury, shall
2 limit the total amount of tax benefits authorized to be transferred to
3 **[\$60,000,000]** \$75,000,000 by applying the above method on an
4 apportioned basis.

5 For purposes of this section transferable tax benefits include an
6 eligible applicant's unused but otherwise allowable carryover of net
7 operating losses multiplied by the applicant's anticipated allocation
8 factor as determined pursuant to section 6 of P.L.1945, c.162
9 (C.54:10A-6) for the tax year in which the benefit is transferred and
10 subsequently multiplied by the corporation business tax rate as
11 provided in subsection (c) of section 5 of P.L.1945, c.162 (C.54:10A-
12 5) plus the total amount of the applicant's unused but otherwise
13 allowable carryover of research and development tax credits. An
14 eligible applicant's transferable tax benefits shall be limited to net
15 operating losses and research and development tax credits that the
16 applicant requests to surrender in its application to the authority and
17 shall not, in total, exceed the maximum amount of tax benefits that
18 the applicant is eligible to surrender.

19 No application for a corporation business tax benefit transfer
20 certificate shall be approved in which the new or expanding emerging
21 technology or biotechnology company (1) has demonstrated positive
22 net operating income in any of the two previous full years of ongoing
23 operations as determined on its financial statements issued according
24 to generally accepted accounting standards endorsed by the Financial
25 Accounting Standards Board; or (2) is directly or indirectly at least
26 50 percent owned or controlled by another corporation that has
27 demonstrated positive net operating income in any of the two
28 previous full years of ongoing operations as determined on its
29 financial statements issued according to generally accepted
30 accounting standards endorsed by the Financial Accounting
31 Standards Board or is part of a consolidated group of affiliated
32 corporations, as filed for federal income tax purposes, that in the
33 aggregate has demonstrated positive net operating income in any of
34 the two previous full years of ongoing operations as determined on
35 its combined financial statements issued according to generally
36 accepted accounting standards endorsed by the Financial Accounting
37 Standards Board.

38 The maximum lifetime value of surrendered tax benefits that a
39 corporation shall be permitted to surrender pursuant to the program
40 is **[\$15,000,000]** \$20,000,000. Applications must be received on or
41 before June 30 of each State fiscal year.

42 The authority, in consultation with the Division of Taxation, shall
43 establish rules for the recapture of all, or a portion of, the amount of
44 a grant of a corporation business tax benefit certificate from the new
45 or emerging technology and biotechnology company having
46 surrendered tax benefits pursuant to this section in the event the
47 taxpayer fails to use the private financial assistance received for the
48 surrender of tax benefits as required by this section or fails to

1 maintain a headquarters or a base of operation in this State during the
2 five years following receipt of the private financial assistance; except
3 if the failure to maintain a headquarters or a base of operation in this
4 State is due to the liquidation of the new or expanding emerging
5 technology and biotechnology company.

6 c. The authority, in cooperation with the Division of Taxation in
7 the Department of the Treasury, shall review and approve
8 applications by taxpayers under the Corporation Business Tax Act
9 (1945), P.L.1945, c.162 (C.54:10A- 1 et seq.), to acquire surrendered
10 tax benefits approved pursuant to subsection b. of this section which
11 shall be issued in the form of corporation business tax benefit transfer
12 certificates, in exchange for private financial assistance to be made
13 by the taxpayer in an amount equal to at least 80% of the amount of
14 the surrendered tax benefit of an emerging technology or
15 biotechnology company in the State. A corporation business tax
16 benefit transfer certificate shall not be issued unless the applicant
17 certifies that as of the date of the exchange of the corporation
18 business tax benefit certificate it is operating as a new or expanding
19 emerging technology or biotechnology company and has no current
20 intention to cease operating as a new or expanding emerging
21 technology or biotechnology company.

22 The private financial assistance shall assist in funding expenses
23 incurred in connection with the operation of the new or expanding
24 emerging technology or biotechnology company in the State,
25 including but not limited to the expenses of fixed assets, such as the
26 construction and acquisition and development of real estate,
27 materials, start-up, tenant fit-out, working capital, salaries, research
28 and development expenditures and any other expenses determined by
29 the authority to be necessary to carry out the purposes of the New
30 Jersey Emerging Technology and Biotechnology Financial
31 Assistance Program.

32 The authority shall require a corporation business taxpayer that
33 acquires a corporation business tax benefit certificate to enter into a
34 written agreement with the new or expanding emerging technology
35 or biotechnology company concerning the terms and conditions of
36 the private financial assistance made in exchange for the certificate.
37 The written agreement may contain terms concerning the
38 maintenance by the new or expanding emerging technology or
39 biotechnology company of a headquarters or a base of operation in
40 this State.

41 d. (Deleted by amendment, P.L.2009, c.90.)
42 (cf: P.L.2009, c.90, s.29)

43

44 114. Section 1 of P.L.1999, c.140 (C.34:1B-7.42b) is amended to
45 read as follows:

46 1. As used in P.L.1997, c.334 (C.34:1B-7.42a et al.):

1 “Authority” means the New Jersey Economic Development
2 Authority established pursuant to section 4 of P.L.1974, c.80
3 (C.34:1B-4).

4 “Biotechnology” means the continually expanding body of
5 fundamental knowledge about the functioning of biological systems
6 from the macro level to the molecular and sub-atomic levels, as well
7 as novel products, services, technologies and sub-technologies
8 developed as a result of insights gained from research advances that
9 add to that body of fundamental knowledge. This definition may be
10 modified by regulation to conform to definitions in other programs
11 administered by the authority.

12 “Biotechnology company” means an emerging corporation that
13 has its headquarters or base of operations in this State; that owns, has
14 filed for, or has a valid license to use protected, proprietary
15 intellectual property; and that is engaged in the research,
16 development, production, or provision of biotechnology for the
17 purpose of developing or providing products or processes for specific
18 commercial or public purposes, including but not limited to, medical,
19 pharmaceutical, nutritional, and other health-related purposes,
20 agricultural purposes, and environmental purposes. This definition
21 may be modified by regulation to conform to definitions in other
22 programs administered by the authority.

23 “Full-time employee” means a person employed by a new or
24 expanding emerging technology or biotechnology company for
25 consideration for at least 35 hours a week, or who renders any other
26 standard of service generally accepted by custom or practice as full-
27 time employment and whose wages are subject to withholding as
28 provided in the “New Jersey Gross Income Tax Act,” N.J.S.54A:1-1
29 et seq., or who is a partner of a new or expanding emerging
30 technology or biotechnology company who works for the partnership
31 for at least 35 hours a week, or who renders any other standard of
32 service generally accepted by custom or practice as full-time
33 employment, and whose distributive share of income, gain, loss, or
34 deduction, or whose guaranteed payments, or any combination
35 thereof, is subject to the payment of estimated taxes, as provided in
36 the “New Jersey Gross Income Tax Act,” N.J.S.54A:1-1 et seq. To
37 qualify as a “full-time employee,” an employee shall also receive
38 from the new or expanding emerging technology or biotechnology
39 company health benefits under **【**a group health plan as defined under
40 section 14 of P.L.1997, c.146 (C.17B:27-54), a health benefits plan
41 as defined under section 1 of P.L.1992, c.162 (C.17B:27A-17), or a
42 policy or contract of health insurance covering more than one person
43 issued pursuant to Article 2 **【**N.J.S.17B:27-26 et seq.**】** of chapter 27
44 of Title 17B of the New Jersey Statutes **】** a health benefits plan
45 authorized pursuant to State or federal law. “Full-time employee”
46 shall not include any person who works as an independent contractor
47 or on a consulting basis for the new or expanding emerging
48 technology or biotechnology company.

1 “New or expanding” means a technology or biotechnology
2 company that (1) on June 30 of the year in which the company files
3 an application for surrender of unused but otherwise allowable tax
4 benefits under P.L.1997, c.334 (C.34:1B-7.42a et al.) and on the date
5 of the exchange of the corporation business tax benefit certificate,
6 has fewer than 225 employees in the United States of America; (2)
7 on June 30 of the year in which the company files such an application,
8 has at least one full-time employee working in this State if the
9 company has been incorporated for less than three years, has at least
10 five full-time employees working in this State if the company has
11 been incorporated for more than three years but less than five years,
12 and has at least 10 full-time employees working in this State if the
13 company has been incorporated for more than five years; and (3) on
14 the date of the exchange of the corporation business tax benefit
15 certificate, the company has the requisite number of full-time
16 employees in New Jersey that were required on June 30 as set forth
17 in part (2) of this definition.

18 “Technology company” means an emerging corporation that has
19 its headquarters or base of operations in this State; that owns, has
20 filed for, or has a valid license to use protected, proprietary
21 intellectual property; and that employs some combination of the
22 following: highly educated or trained managers and workers, or both,
23 employed in this State who use sophisticated scientific research
24 service or production equipment, processes or knowledge to
25 discover, develop, test, transfer or manufacture a product or service.
26 This definition may be modified by regulation to conform to
27 definitions in other programs administered by the authority.
28 (cf: P.L.2010, c.10, s.2)
29

30 115. Section 5 of P.L.1974, c.80 (C.34:1B-5) is amended to read
31 as follows:

- 32 5. The authority shall have the following powers:
- 33 a. To adopt bylaws for the regulation of its affairs and the
34 conduct of its business;
 - 35 b. To adopt and have a seal and to alter the same at pleasure;
 - 36 c. To sue and be sued;
 - 37 d. To acquire in the name of the authority by purchase or
38 otherwise, on such terms and conditions and such manner as it may
39 deem proper, or by the exercise of the power of eminent domain in
40 the manner provided by the "Eminent Domain Act of 1971,"
41 P.L.1971, c.361 (C.20:3-1 et seq.), any lands or interests therein or
42 other property which it may determine is reasonably necessary for
43 any project; provided, however, that the authority in connection with
44 any project shall not take by exercise of the power of eminent domain
45 any real property except upon consent thereto given by resolution of
46 the governing body of the municipality in which such real property
47 is located; and provided further that the authority shall be limited in
48 its exercise of the power of eminent domain in connection with any

1 project in qualifying municipalities as defined under the provisions
2 of P.L.1978, c.14 (C.52:27D-178 et seq.), or to municipalities which
3 had a population, according to the latest federal decennial census, in
4 excess of 10,000;

5 e. To enter into contracts with a person upon such terms and
6 conditions as the authority shall determine to be reasonable,
7 including, but not limited to, reimbursement for the planning,
8 designing, financing, construction, reconstruction, improvement,
9 equipping, furnishing, operation and maintenance of the project and
10 to pay or compromise any claims arising therefrom;

11 f. To establish and maintain reserve and insurance funds with
12 respect to the financing of the project or the school facilities project
13 and any project financed pursuant to the "Municipal Rehabilitation
14 and Economic Recovery Act," P.L.2002, c.43 (C.52:27BBB-1 et al.);

15 g. To sell, convey or lease to any person all or any portion of a
16 project for such consideration and upon such terms as the authority
17 may determine to be reasonable;

18 h. To mortgage, pledge or assign or otherwise encumber all or
19 any portion of a project, or revenues, whenever it shall find such
20 action to be in furtherance of the purposes of this act, P.L.2000, c.72
21 (C.18A:7G-1 et al.), the "Municipal Rehabilitation and Economic
22 Recovery Act," P.L.2002, c.43 (C.52:27BBB-1 et al.), P.L.2007,
23 c.137 (C.52:18A-235 et al.), and sections 3 through 18 of P.L.2009,
24 c.90 (C.52:27D-489c et al.);

25 i. To grant options to purchase or renew a lease for any of its
26 projects on such terms as the authority may determine to be
27 reasonable;

28 j. To contract for and to accept any gifts or grants or loans of
29 funds or property or financial or other aid in any form from the
30 United States of America or any agency or instrumentality thereof,
31 or from the State or any agency, instrumentality or political
32 subdivision thereof, or from any other source and to comply, subject
33 to the provisions of P.L.1974, c.80 (C.34:1B-1 et seq.), section 6 of
34 P.L.2001, c.401 (C.34:1B-4.1), P.L.2000, c.72 (C.18A:7G-1 et al.),
35 the "Municipal Rehabilitation and Economic Recovery Act,"
36 P.L.2002, c.43 (C.52:27BBB-1 et al.), and P.L.2007, c.137
37 (C.52:18A-235 et al.), with the terms and conditions thereof;

38 k. In connection with any action undertaken by the authority in
39 the performance of its duties and any application for assistance or
40 commitments therefor and modifications thereof, to require and
41 collect such fees and charges as the authority shall determine to be
42 reasonable, including but not limited to fees and charges for the
43 authority's administrative, organizational, insurance, operating,
44 legal, and other expenses;

45 l. To adopt, amend and repeal regulations to carry out the
46 provisions of P.L.1974, c.80 (C.34:1B-1 et seq.), section 6 of
47 P.L.2001, c.401 (C.34:1B-4.1), P.L.2000, c.72 (C.18A:7G-1 et al.),
48 the "Municipal Rehabilitation and Economic Recovery Act,"

- 1 P.L.2002, c.43 (C.52:27BBB-1 et al.), and P.L.2007, c.137
2 (C.52:18A-235 et al.);
- 3 m. To acquire, purchase, manage and operate, hold and dispose
4 of real and personal property or interests therein, take assignments of
5 rentals and leases and make and enter into all contracts, leases,
6 agreements and arrangements necessary or incidental to the
7 performance of its duties;
- 8 n. To purchase, acquire and take assignments of notes,
9 mortgages and other forms of security and evidences of indebtedness;
- 10 o. To purchase, acquire, attach, seize, accept or take title to any
11 project or school facilities project by conveyance or by foreclosure,
12 and sell, lease, manage or operate any project or school facilities
13 project for a use specified in this act, P.L.2000, c.72 (C.18A:7G-1 et
14 al.), the "Municipal Rehabilitation and Economic Recovery Act,"
15 P.L.2002, c.43 (C.52:27BBB-1 et al.), P.L.2007, c.137 (C.52:18A-
16 235 et al.), and sections 3 through 18 of P.L.2009, c.90 (C.52:27D-
17 489c et al.);
- 18 p. To borrow money and to issue bonds of the authority and to
19 provide for the rights of the holders thereof, as provided in P.L.1974,
20 c.80 (C.34:1B-1 et seq.), section 6 of P.L.2001, c.401 (C.34:1B-4.1),
21 P.L.2000, c.72 (C.18A:7G-1 et al.), the "Municipal Rehabilitation
22 and Economic Recovery Act," P.L.2002, c.43 (C.52:27BBB-1 et al.),
23 P.L.2007, c.137 (C.52:18A-235 et al.), and sections 3 through 18 of
24 P.L.2009, c.90 (C.52:27D-489c et al.);
- 25 q. To extend credit or make loans to any person for the planning,
26 designing, acquiring, constructing, reconstructing, improving,
27 equipping and furnishing of a project or school facilities project,
28 which credits or loans may be secured by loan and security
29 agreements, mortgages, leases and any other instruments, upon such
30 terms and conditions as the authority shall deem reasonable,
31 including provision for the establishment and maintenance of reserve
32 and insurance funds, and to require the inclusion in any mortgage,
33 lease, contract, loan and security agreement or other instrument, of
34 such provisions for the construction, use, operation and maintenance
35 and financing of a project or school facilities project as the authority
36 may deem necessary or desirable;
- 37 r. To guarantee up to 90% of the amount of a loan to a person,
38 if the proceeds of the loan are to be applied to the purchase and
39 installation, in a building devoted to industrial or commercial
40 purposes, or in an office building, of an energy improvement system;
- 41 s. To employ consulting engineers, architects, attorneys, real
42 estate counselors, appraisers, and such other consultants and
43 employees as may be required in the judgment of the redevelopment
44 utility to carry out the purposes of P.L.1974, c.80 (C.34:1B-1 et seq.),
45 section 6 of P.L.2001, c.401 (C.34:1B-4.1), P.L.2000, c.72
46 (C.18A:7G-1 et al.), the "Municipal Rehabilitation and Economic
47 Recovery Act," P.L.2002, c.43 (C.52:27BBB-1 et al.), P.L.2007,
48 c.137 (C.52:18A-235 et al.), and sections 3 through 18 of P.L.2009,

1 c.90 (C.52:27D-489c et al.), and to fix and pay their compensation
2 from funds available to the redevelopment utility therefor, all without
3 regard to the provisions of Title 11A of the New Jersey Statutes;

4 t. To do and perform any acts and things authorized by
5 P.L.1974, c.80 (C.34:1B-1 et seq.), section 6 of P.L.2001, c.401
6 (C.34:1B-4.1), P.L.2000, c.72 (C.18A:7G-1 et al.), the "Municipal
7 Rehabilitation and Economic Recovery Act," P.L.2002, c.43
8 (C.52:27BBB-1 et al.), P.L.2007, c.137 (C.52:18A-235 et al.), and
9 sections 3 through 18 of P.L.2009, c.90 (C.52:27D-489c et al.),
10 under, through or by means of its own officers, agents and
11 employees, or by contract with any person;

12 u. To procure insurance against any losses in connection with its
13 property, operations or assets in such amounts and from such insurers
14 as it deems desirable;

15 v. To do any and all things necessary or convenient to carry out
16 its purposes and exercise the powers given and granted in P.L.1974,
17 c.80 (C.34:1B-1 et seq.), section 6 of P.L.2001, c.401 (C.34:1B-4.1),
18 P.L.2000, c.72 (C.18A:7G-1 et al.), the "Municipal Rehabilitation
19 and Economic Recovery Act," P.L.2002, c.43 (C.52:27BBB-1 et al.),
20 P.L.2007, c.137 (C.52:18A-235 et al.), and sections 3 through 18 of
21 P.L.2009, c.90 (C.52:27D-489c et al.);

22 w. To construct, reconstruct, rehabilitate, improve, alter, equip,
23 maintain or repair or provide for the construction, reconstruction,
24 improvement, alteration, equipping or maintenance or repair of any
25 development property and lot, award and enter into construction
26 contracts, purchase orders and other contracts with respect thereto,
27 upon such terms and conditions as the authority shall determine to be
28 reasonable, including, but not limited to, reimbursement for the
29 planning, designing, financing, construction, reconstruction,
30 improvement, equipping, furnishing, operation and maintenance of
31 any such development property and the settlement of any claims
32 arising therefrom and the establishment and maintenance of reserve
33 funds with respect to the financing of such development property;

34 x. When authorized by the governing body of a municipality
35 exercising jurisdiction over an urban growth zone, to construct, cause
36 to be constructed or to provide financial assistance to projects in an
37 urban growth zone which shall be exempt from the terms and
38 requirements of the land use ordinances and regulations, including,
39 but not limited to, the master plan and zoning ordinances, of such
40 municipality;

41 y. To enter into business employment incentive agreements as
42 provided in the "Business Employment Incentive Program Act,"
43 P.L.1996, c.26 (C.34:1B-124 et al.);

44 z. To enter into agreements or contracts, execute instruments,
45 and do and perform all acts or things necessary, convenient or
46 desirable for the purposes of the redevelopment utility to carry out
47 any power expressly provided pursuant to P.L.1974, c.80 (C.34:1B-
48 1 et seq.), P.L.2000, c.72 (C.18A:7G-1 et al.), and P.L.2007, c.137

1 (C.52:18A-235 et al.), including, but not limited to, entering into
2 contracts with the State Treasurer, the Commissioner of Education,
3 districts, the New Jersey Schools Development Authority, and any
4 other entity which may be required in order to carry out the
5 provisions of P.L.2000, c.72 (C.18A:7G-1 et al.), P.L.2007, c.137
6 (C.52:18A-235 et al.), and sections 3 through 18 of P.L.2009, c.90
7 (C.52:27D-489c et al.);

8 aa. (Deleted by amendment, P.L.2007, c.137);

9 bb. To make and contract to make loans to local units to finance
10 the cost of school facilities projects and to acquire and contract to
11 acquire bonds, notes or other obligations issued or to be issued by
12 local units to evidence the loans, all in accordance with the provisions
13 of P.L.2000, c.72 (C.18A:7G-1 et al.), and P.L.2007, c.137
14 (C.52:18A-235 et al.);

15 cc. Subject to any agreement with holders of its bonds issued to
16 finance a project or school facilities project, obtain as security or to
17 provide liquidity for payment of all or any part of the principal of and
18 interest and premium on the bonds of the authority or for the purchase
19 upon tender or otherwise of the bonds, lines of credit, letters of credit,
20 reimbursement agreements, interest rate exchange agreements,
21 currency exchange agreements, interest rate floors or caps, options,
22 puts or calls to hedge payment, currency, rate, spread or similar
23 exposure or similar agreements, float agreements, forward
24 agreements, insurance contract, surety bond, commitment to
25 purchase or sell bonds, purchase or sale agreement, or commitments
26 or other contracts or agreements, and other security agreements or
27 instruments in any amounts and upon any terms as the authority may
28 determine and pay any fees and expenses required in connection
29 therewith;

30 dd. To charge to and collect from local units, the State and any
31 other person, any fees and charges in connection with the authority's
32 actions undertaken with respect to school facilities projects,
33 including, but not limited to, fees and charges for the authority's
34 administrative, organization, insurance, operating and other expenses
35 incident to the financing of school facilities projects;

36 ee. To make loans to refinance solid waste facility bonds through
37 the issuance of bonds or other obligations and the execution of any
38 agreements with counties or public authorities to effect the refunding
39 or rescheduling of solid waste facility bonds, or otherwise provide
40 for the payment of all or a portion of any series of solid waste facility
41 bonds. Any county or public authority refunding or rescheduling its
42 solid waste facility bonds pursuant to this subsection shall provide
43 for the payment of not less than fifty percent of the aggregate debt
44 service for the refunded or rescheduled debt of the particular county
45 or public authority for the duration of the loan; except that, whenever
46 the solid waste facility bonds to be refinanced were issued by a public
47 authority and the county solid waste facility was utilized as a regional
48 county solid waste facility, as designated in the respective adopted

1 district solid waste management plans of the participating counties
2 as approved by the department prior to November 10, 1997, and the
3 utilization of the facility was established pursuant to tonnage
4 obligations set forth in their respective interdistrict agreements, the
5 public authority refunding or rescheduling its solid waste facility
6 bonds pursuant to this subsection shall provide for the payment of a
7 percentage of the aggregate debt service for the refunded or
8 rescheduled debt of the public authority not to exceed the percentage
9 of the specified tonnage obligation of the host county for the duration
10 of the loan. Whenever the solid waste facility bonds are the
11 obligation of a public authority, the relevant county shall execute a
12 deficiency agreement with the authority, which shall provide that the
13 county pledges to cover any shortfall and to pay deficiencies in
14 scheduled repayment obligations of the public authority. All costs
15 associated with the issuance of bonds pursuant to this subsection may
16 be paid by the authority from the proceeds of these bonds. Any
17 county or public authority is hereby authorized to enter into any
18 agreement with the authority necessary, desirable or convenient to
19 effectuate the provisions of this subsection.

20 The authority shall not issue bonds or other obligations to effect
21 the refunding or rescheduling of solid waste facility bonds after
22 December 31, 2002. The authority may refund its own bonds issued
23 for the purposes herein at any time;

24 ff. To pool loans for any local government units that are
25 refunding bonds and do and perform any and all acts or things
26 necessary, convenient or desirable for the purpose of the authority to
27 achieve more favorable interest rates and terms for those local
28 governmental units;

29 gg. To finance projects approved by the board, provide staff
30 support to the board, oversee and monitor progress on the part of the
31 board in carrying out the revitalization, economic development and
32 restoration projects authorized pursuant to the "Municipal
33 Rehabilitation and Economic Recovery Act," P.L.2002, c.43
34 (C.52:27BBB-1 et al.) and otherwise fulfilling its responsibilities
35 pursuant thereto;

36 hh. To offer financial assistance to qualified film production
37 companies as provided in the "New Jersey Film Production
38 Assistance Act," P.L.2003, c.182 (C.34:1B-178 et al.);

39 ii. To finance or develop private or public parking facilities or
40 structures, which may include the use of solar photovoltaic
41 equipment, in municipalities qualified to receive State aid pursuant
42 to the provisions of P.L.1978, c.14 (C.52:27D-178 et seq.) and
43 municipalities that contain areas designated pursuant to P.L.1985,
44 c.398 (C.52:18A-196 et al.) as Planning Area 1 (Metropolitan),
45 Planning Area 2 (Suburban), or a town center, and to provide
46 appropriate assistance, including but not limited to, extensions of
47 credit, loans, and guarantees, to municipalities qualified to receive
48 State aid pursuant to the provisions of P.L.1978, c.14 (C.52:27D-178

1 et seq.) and municipalities that contain areas designated pursuant to
2 P.L.1985, c.398 (C.52:18A-196 et seq.) as Planning Area 1
3 (Metropolitan), Planning Area 2 (Suburban), or a town center, and
4 their agencies and instrumentalities or to private entities whose
5 projects are located in those municipalities, in order to facilitate the
6 financing and development of parking facilities or structures in such
7 municipalities. The authority may serve as the issuing agent of bonds
8 to finance the undertaking of a project for the purposes of this
9 subsection; **[and]**

10 jj. To make grants for the planning, designing, acquiring,
11 constructing, reconstructing, improving, equipping, and furnishing of
12 a project, including, but not limited to, grants for working capital and
13 meeting payroll requirements, upon such terms and conditions as the
14 authority shall deem reasonable, during periods of emergency
15 declared by the Governor and for the duration of economic
16 disruptions due to the emergency;

17 kk. To purchase and lease real property at a nominal rate when it
18 would result in a net economic benefit to the State, enhance access to
19 employment and investment for underserved populations, or increase
20 investment and employment in high-growth technology sectors; and
21 (cf: P.L.2020, c.8, s.1)

22

23 116. Section 4 of P.L.1992, c.16 (C.34:1B-7.13) is amended to
24 read as follows:

25 4. The authority may use the moneys in the fund to pay principal
26 of, premium, if any, and interest on bonds or notes, which shall be
27 entitled "Economic Recovery Fund Bonds or Notes," as appropriate,
28 the proceeds, or net proceeds, of which shall be deposited into the
29 fund, or used for purposes of the fund, and moneys in the fund,
30 including money received from the sale of bonds shall, in such
31 manner as is determined by the authority, and pursuant to subsections
32 d., e., and f. of this section, be used for the financing of projects as
33 set forth in section 3 of P.L.1974, c.80 (C.34:1B-3) and to establish:

34 a. an economic growth account for **[business]** programs and
35 initiatives, which will support and invest in small and medium-size
36 businesses and other entities engaged in economic, community, and
37 workforce development that have the greatest potential for creating
38 jobs and stimulating economic growth through such elements **[as]**
39 including, but not limited to:

40 (1) a Statewide lending pool and guarantee pool for small
41 business, whether directly or through a community development
42 financial institution;

43 (2) a business composite bond guarantee **[.]** ;

44 (3) a fund to further supplement the export finance program of
45 the authority to provide direct loans and working capital necessary
46 for New Jersey businesses to compete in the global market, real estate
47 partnerships **[.]** ;

- 1 (4) a Statewide composite bond pool to assist municipalities in
2 acquiring needed financing for capital expenditures **[,]** ;
- 3 (5) **[community-based]** financial assistance to assist
4 municipalities **[in establishing local development corporations]** ,
5 municipal entities, counties, county entities, regional entities, State
6 instrumentalities, and not-for-profit local economic and community
7 development entities to execute programs and initiative to stimulate
8 community and economic development**[,]** ;
- 9 (6) a venture, seed, or angel capital fund for start-up costs for
10 businesses developing new concepts and inventions **[,]** ;
- 11 (7) a fund to assist businesses, either directly or through a not-
12 for-profit or for-profit entity with expansion or transition to a new
13 business model in such areas **[as]** including, but not limited to,
14 manufacturing retooling to improve quality, to reduce production
15 costs and to train employees to apply the latest technology **[, and]** ;
- 16 (8) a "Main Street Business Assistance Program" to provide
17 guarantees and loans to small and mid-size businesses and not-for-
18 profit **[corporations]** entities to stimulate the economy;
- 19 (9) in consultation with the Department of Labor and Workforce
20 Development and the Office of the Secretary of Higher Education, a
21 fund to support and invest in innovative workforce development
22 approaches and programs, including those that could benefit
23 individuals directly, either undertaken directly by the authority or
24 through a governmental, not-for-profit, or for-profit entity, that align
25 with targeted industries as defined by the authority's board or support
26 a high-demand occupation;
- 27 (10) a fund to provide grants, financing, or equity to collaborations
28 between large corporations, small-to-medium sized businesses,
29 academic institutions, government entities, or not-for-profit entities,
30 where one of the purposes of the collaboration is to stimulate
31 community or economic development;
- 32 (11) a fund to provide grants, financing, or equity in innovation
33 centers, research centers, incubators, and accelerators, and other
34 similar innovation-oriented entities, which are focused on the
35 targeted industries as defined by the authority's board or support
36 increasing diversity and inclusion within the state's entrepreneurial
37 economy; the fund may also be used to pay for membership fees, or
38 other similar arrangements, for the authority to join or participate in
39 such innovation-oriented entities;
- 40 (12) a fund to provide grants or competition prizes to fund
41 initiative-based activities which stimulate growth in targeted
42 industries as defined by the authority's board or supports increasing
43 diversity and inclusion within the state's entrepreneurial economy;
44 this fund may also support not-for-profit industry, trade, and labor
45 organization initiatives; and
- 46 (13) a fund to provide grants or competition prizes, either directly
47 or through a not-for-profit entity, that is consistent with economic

1 development priorities as defined by the authority's board, where
2 funds have been specifically allocated to the economic recovery fund
3 for this purpose, including but not limited to an appropriation or
4 transfer from another government entity).

5 The authority may promulgate rules and regulations for the
6 effective implementation of the "Main Street Business Assistance
7 Program." Notwithstanding any provision of the "Administrative
8 Procedure Act," P.L.1968, c.410 (C.52:14B-1 et seq.) to the contrary,
9 the authority may adopt, immediately upon filing with the Office of
10 Administrative Law, such regulations as are necessary to implement
11 the provisions of this act, which shall be effective for a period not to
12 exceed 12 months following enactment, and may thereafter be
13 amended, adopted, or readopted by the authority in accordance with
14 the requirements of the "Administrative Procedure Act," P.L.1968,
15 c.410 (C.52:14B-1 et seq.). **【**During periods of emergency declared
16 by the Governor and for the duration of economic disruptions due to
17 the emergency, the**】** The authority may use the economic growth
18 account for the planning, designing, acquiring, constructing,
19 reconstructing, improving, equipping, and furnishing by small and
20 medium-size businesses and not-for-profit corporations of a project
21 as defined in section 3 of P.L.1974, c. 80 (C.34:1B-3), including, but
22 not limited to, grants for working capital and meeting payroll
23 requirements, upon such terms and conditions as the authority shall
24 deem reasonable;

25 b. an economic development infrastructure program account,
26 which shall provide for the financing and development of
27 infrastructure and transportation projects, including but not limited
28 to ports, terminal and transit facilities, roads and airports, parking
29 facilities used in connection with transit facilities, and related
30 facilities, including public-private partnerships, that are integral to
31 economic growth;

32 c. an account for a cultural, recreational, fine and performing
33 arts, military and veterans memorial, historic preservation project
34 and tourism facilities and improvements program, which shall
35 provide for the financing and development of cultural, recreational,
36 fine and performing arts, military and veterans memorial, historic
37 preservation and tourism projects, including partnerships with public,
38 private and nonprofit entities;

39 d. an account, into which shall be deposited an amount not less
40 than \$45,000,000, out of the total amounts deposited or credited to
41 the fund from the proceeds of the sale of Economic Recovery Fund
42 Bonds or Notes, for the financing of capital facilities for primary and
43 secondary schools in the State for the purpose of the renovation,
44 repair or alteration of existing school buildings, the construction of
45 new school buildings or the conversion of existing school buildings
46 to other instructional purposes.

47 (1) Of the amount deposited in the account, not less than
48 \$25,000,000 shall be deposited in the "Public School Facilities Code

1 Compliance Loan Fund" established pursuant to section 4 of
2 P.L.1993, c.102 (C.34:1B-7.23).

3 (2) Of the amount deposited in the account, not less than
4 \$20,000,000 shall be deposited in the "Public School Facilities Loan
5 Assistance Fund" established pursuant to section 5 of P.L.1993, c.102
6 (C.34:1B-7.24);

7 e. an environmental cleanup assistance account, into which shall
8 be deposited an amount not less than \$10,000,000, out of the total
9 amounts deposited or credited to the fund from the proceeds of the
10 sale of Economic Recovery Fund Bonds or Notes, to provide
11 financial assistance to the persons and other entities entitled to apply
12 for financial assistance pursuant to P.L.1993, c.139; and

13 f. an account, into which shall be deposited an amount not less
14 than \$15,000,000, out of the total amounts deposited or credited to
15 the fund from the proceeds of the sale of Economic Recovery Fund
16 Bonds or Notes, for the financing of shore restoration, maintenance,
17 monitoring, protection and preservation projects pursuant to the
18 shore protection master plan prepared by the Department of
19 Environmental Protection pursuant to P.L.1978, c.157.
20 (cf: P.L.2020, c.8, s.2)

21

22 117. Section 2 of P.L.1997, c.349 (C.54:10A-5.29) is amended to
23 read as follows:

24 2. As used in sections 1 through 3 of P.L.1997, c.349 (C.54:10A-
25 5.28 through C.54:10A-5.30):

26 "Advanced computing" means a technology used in the designing
27 and developing of computing
28 hardware and software, including innovations in designing the full
29 spectrum of hardware from hand- held calculators to super
30 computers, and peripheral equipment.

31 "Advanced materials" means materials with engineered properties
32 created through the development of specialized processing and
33 synthesis technology, including ceramics, high value-added metals,
34 electronic materials, composites, polymers, and biomaterials.

35 "Biotechnology" means the continually expanding body of
36 fundamental knowledge about the functioning of biological systems
37 from the macro level to the molecular and sub-atomic levels, as well
38 as novel products, services, technologies, and sub-technologies
39 developed as a result of insights gained from research advances
40 which add to that body of fundamental knowledge.

41 "Carbon footprint reduction technology" means a technology
42 using equipment for the commercial, institutional, and industrial
43 sectors that: increases energy efficiency; develops and delivers
44 renewable or non-carbon-emitting energy technologies; develops
45 innovative carbon emissions abatement with significant carbon
46 emissions reduction potential; or promotes measurable electricity
47 end-use energy efficiency.

1 “Control” with respect to a corporation means ownership, directly
2 or indirectly, of stock possessing 80 percent or more of the total
3 combined voting power of all classes of the stock of the corporation
4 entitled to vote; and “control” with respect to a trust means
5 ownership, directly or indirectly, of 80 percent or more of the
6 beneficial interest in the principal or income of the trust. The
7 ownership of stock in a corporation, of a capital or profits interest in
8 a partnership or association or of a beneficial interest in a trust shall
9 be determined in accordance with the rules for constructive
10 ownership of stock provided in subsection (c) of section 267 of the
11 federal Internal Revenue Code of 1986 (26 U.S.C. § 267), other than
12 paragraph (3) of subsection (c) of that section.

13 “Controlled group” means one or more chains of corporations
14 connected through stock ownership with a common parent
15 corporation if stock possessing at least 80 percent of the voting power
16 of all classes of stock of each of the corporations is owned directly
17 or indirectly by one or more of the corporations and the common
18 parent owns directly stock possessing at least 80 percent of the voting
19 power of all classes of stock of at least one of the other corporations.

20 “Director” means the Director of the Division of Taxation in the
21 Department of the Treasury.

22 “Diverse entrepreneur” means a New Jersey based business that
23 meets the criteria for a minority business or female business set forth
24 in section 2 of P.L.1983, c.482 (C.52:32-19).

25 “Electronic device technology” means a technology involving
26 microelectronics, semiconductors, electronic equipment and
27 instrumentation, radio frequency, microwave and millimeter
28 electronics, and optical and optic-electrical devices, or data and
29 digital communications and imaging devices.

30 “Information technology” means software publishing, motion
31 picture and video production, television production and post-
32 production services, telecommunications, data processing, hosting
33 and related services, custom computer programming services,
34 computer system design, computer facilities management services,
35 other computer related services, and computer training.

36 “Life sciences” means the production of medical equipment,
37 ophthalmic goods, medical or dental instruments, diagnostic
38 substances, biopharmaceutical products, or physical and biological
39 research.

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

44 “Mobile communications technology” means a technology
45 involving the functionality and reliability of the transmission of voice
46 and multimedia data using a communication infrastructure via a
47 computer or a mobile device, that shall include, but not be limited to,
48 smartphones, electronic books and tablets, digital audio players,

1 motor vehicle electronics, home entertainment systems, and other
2 wireless appliances, without having connected to any physical or
3 fixed link.

4 “New Jersey based business” means a company with fewer than
5 225 employees, of whom at least 75 percent are filling a position in
6 New Jersey, that is doing business, employing or owning capital or
7 property, or maintaining an office in this State.

8 “New Jersey emerging technology business” means a company
9 with fewer than 225 employees, of whom at least 75 percent are
10 filling a position in New Jersey, that is doing business, employing or
11 owning capital or property, or maintaining an office in this State and:
12 has qualified research expenses paid or incurred for research
13 conducted in this State; conducts pilot scale manufacturing in this
14 State; or conducts technology commercialization in this State in the
15 fields of advanced computing, advanced materials, biotechnology,
16 carbon footprint reduction technology, electronic device technology,
17 information technology, life sciences, medical device technology,
18 mobile communications technology, or renewable energy
19 technology.

20 “New Jersey emerging technology business holding company”
21 means any corporation, association, firm, partnership, trust, or other
22 form of business organization, but not a natural person, which
23 directly or indirectly, owns, has the power or right to control, or has
24 the power to vote, a controlling share of the outstanding voting
25 securities of a corporation or other form of a New Jersey emerging
26 technology business.

27 “Partnership” means a syndicate, group, pool, joint venture, or
28 other unincorporated organization through or by means of which any
29 business, financial operation, or venture is carried on, and which is
30 not a trust or estate, a corporation, or a sole proprietorship.

31 “Pilot scale manufacturing” means the design, construction, and
32 testing of preproduction prototypes and models in the fields of
33 advanced computing, advanced materials, biotechnology, carbon
34 footprint reduction technology electronic device technology,
35 information technology, life sciences, medical device technology,
36 mobile communications technology, and renewable energy
37 technology, other than for commercial sale, excluding sales of
38 prototypes or sales for market testing if the total gross receipts, as
39 calculated in the manner provided in section 6 of P.L.1945, c.162
40 (C.54:10A-6), from the sales of the product, service, or process do
41 not exceed \$1,000,000.

42 “Qualified investment” means the non-refundable transfer of cash
43 to a New Jersey emerging technology business or to a New Jersey
44 emerging technology business holding company by a taxpayer that is
45 not a related person of the New Jersey emerging technology business
46 or the New Jersey emerging technology business holding company,
47 the transfer of which is in connection with either: a transaction
48 between or among the taxpayer and the New Jersey emerging

1 technology business or the New Jersey emerging technology holding
2 company or both in exchange for stock, interests in partnerships or
3 joint ventures, licenses (exclusive or non-exclusive), rights to use
4 technology, marketing rights, warrants, options, or any items similar
5 to those included herein, including, but not limited to, options or
6 rights to acquire any of the items included herein; or a purchase,
7 production, or research agreement between or among the taxpayer
8 and the New Jersey emerging technology business or the New Jersey
9 emerging technology holding company or both. “Qualified
10 investment” also means the non-refundable transfer of cash or
11 irrevocable contractual commitment to transfer cash to a qualified
12 venture fund.

13 “Qualified research expenses” means qualified research expenses,
14 as defined in section 41 of the federal Internal Revenue Code of 1986
15 (26 U.S.C. § 41), as in effect on June 30, 1992, in the fields of
16 advanced computing, advanced materials, biotechnology, carbon
17 footprint reduction technology, electronic device technology,
18 information technology, life sciences, medical device technology,
19 mobile communications technology, or renewable energy
20 technology.

21 “Qualified venture fund” means a venture fund required by
22 contract to invest a minimum of 50 percent of its funds in New Jersey
23 based businesses that the authority, in its sole discretion, based upon
24 the qualified venture fund’s investment history, if any, its private
25 placement memorandum and other relevant information, has
26 determined has the capacity to make the minimum investment.

27 “Related person” means:

28 a corporation, partnership, association or trust controlled by the
29 taxpayer;

30 an individual, corporation, partnership, association or trust that is
31 in the control of the taxpayer;

32 a corporation, partnership, association or trust controlled by an
33 individual, corporation, partnership, association or trust that is in the
34 control of the taxpayer; or

35 a member of the same controlled group as the taxpayer.

36 “Renewable energy technology” means a technology involving
37 the generation of electricity from solar energy; wind energy; wave or
38 tidal action; geothermal energy; the combustion of gas from the
39 anaerobic digestion of food waste and sewage sludge at a biomass
40 generating facility; the combustion of methane gas captured from a
41 landfill; and a fuel cell powered by methanol, ethanol, landfill gas,
42 digester gas, biomass gas, or other renewable fuel but not powered
43 by a fossil fuel.

44 “Tax year” means the fiscal or calendar accounting period of a
45 taxpayer.

46 “Venture fund” means a partnership, corporation, trust, or limited
47 liability company that invests cash in a business during the early or
48 expansion stages of a business in exchange for an equity stake in the

1 business in,” which the investment is made. Venture firm may
2 include a venture capital fund, a family office fund, or a corporate
3 investor fund, provided that a professional manager administers the
4 venture firm.

5 “Verified transfer of funds” means a non-refundable transfer of
6 funds equal to 100 percent of the taxpayer’s qualified investment in
7 the New Jersey emerging technology business holding company to a
8 New Jersey emerging technology business by the New Jersey
9 emerging technology business holding company that is accompanied
10 by documentation, as required by the New Jersey Economic
11 Development Authority, which provides proof of a cash transaction
12 originating with a taxpayer and concluding with a New Jersey
13 emerging technology business, provided that the transactions from
14 origin to destination occur within the same tax year.

15 The definitions of “advanced computing,” “advanced materials,”
16 “biotechnology,” carbon footprint reduction technology,” “electronic
17 device technology,” “information technology,”” life sciences,””
18 medical device technology,” mobile communications technology,””
19 “New Jersey emerging technology business,” “pilot scale
20 manufacturing,” and “renewable energy technology may be
21 modified by regulation to conform to definitions in other programs
22 administered by the authority.

23 (cf: P.L.2017, c.40, s.1)

24
25 118. Section 3 of P.L.1997, c.349 (C.54:10A-5.30) is amended to
26 read as follows:

27 3. a. (1) A taxpayer, upon approval of the taxpayer’s application
28 therefor by the New Jersey Economic Development Authority and in
29 consultation with the director, shall be allowed a credit against the
30 tax imposed pursuant to section 5 of P.L.1945, c.162 (C.54:10A-5),
31 in an amount equal to 20 percent of the qualified investment made by
32 the taxpayer in a New Jersey emerging technology business, **[or]** in
33 a New Jersey emerging technology business holding company that
34 makes a verified transfer of funds to a New Jersey emerging
35 technology business, or in a qualified venture fund; provided,
36 however, a taxpayer may be allowed a tax credit in an amount equal
37 to 25 percent of the qualified investment if the taxpayer satisfies one
38 of the requirements set forth in paragraph (2) of this subsection. The
39 value of tax credits allowed to a taxpayer pursuant to this section
40 shall not exceed \$500,000 for the privilege period for each qualified
41 investment made by the taxpayer.

42 (2) Subject to the limits established in paragraph (1) of this
43 subsection, the New Jersey Economic Development Authority, in
44 consultation with the director, shall increase the amount of a tax
45 credit allowed pursuant to this section by five percent if the taxpayer
46 makes a qualified investment in a New Jersey emerging technology
47 business, or in a New Jersey emerging technology business holding
48 company that makes a verified transfer of funds to a New Jersey

1 emerging technology business, or in a qualified venture fund, if the
2 New Jersey emerging technology business is **【**:

3 (a) **【** either located in a qualified opportunity zone pursuant to 26
4 U.S.C. § 1400Z-1, or a low-income community as defined in
5 subparagraph (e) of 26 U.S.C. § 45D **【;】** or

6 **【(b)】** certified by the State as a minority business or a women’s
7 business pursuant to P.L.1986, c.195 (C.52:27H-21.17 et seq.) and,
8 in the case of a qualified venture fund, if the qualified venture fund
9 commits by contract to invest 50 percent of its funds in diverse
10 entrepreneurs.

11 b. A credit shall not be allowed pursuant to section 1 of
12 P.L.1993, c.175 (C.54:10A-5.24), for expenses paid from funds for
13 which a credit is allowed, or which are includable in the calculation
14 of a credit allowed, under this section.

15 Notwithstanding any other provision of law, the order of priority in
16 which the credit allowed by this section and any other credits allowed
17 by law may be taken shall be as prescribed by the director.

18 c. Except as provided in subsection d. of this section, the amount
19 of credit otherwise allowable under this section which cannot be
20 applied for the privilege period against tax liability otherwise due for
21 that privilege period may either be carried over, if necessary, to the
22 15 privilege periods following the privilege period for which the
23 credit was allowed or, at the election of the taxpayer, be claimed as
24 and treated as an overpayment for the purposes of R.S.54:49-15,
25 provided, however, that section 7 of P.L.1992, c.175 (C.54:49-15.1)
26 shall not apply.

27 d. A taxpayer may not carry over any amount of credit allowed
28 under subsection a. of this section to a privilege period during which
29 a corporate acquisition with respect to which the taxpayer was a
30 target corporation occurred or during which the taxpayer was a party
31 to a merger or a consolidation, or to any subsequent privilege period,
32 if the credit was allowed for a privilege period prior to the year of
33 acquisition, merger or consolidation, except that if in the case of a
34 corporate merger or corporate consolidation the taxpayer can
35 demonstrate, through the submission of a copy of the plan of merger
36 or consolidation and such other evidence as may be required by the
37 director, the identity of the constituent corporation which was the
38 acquiring person, a credit allowed to the acquiring person may be
39 carried over by the taxpayer. As used in this subsection, “acquiring
40 person” means the constituent corporation the stockholders of which
41 own the largest proportion of the total voting power in the surviving
42 or consolidated corporation after the merger or consolidation.

43 e. The Executive Director of the New Jersey Economic
44 Development Authority, in consultation with the director, shall
45 adopt, pursuant to the “Administrative Procedure Act,” P.L.1968,
46 c.410 (C.52:14B-1 et seq.), rules and regulations that are necessary
47 to implement sections 1 through 3 of P.L.1997, c.349 (C.54:10A-5.28

1 through C.54:10A-5.30) and section 4 of P.L.2013, c.14 (C.54A:4-
2 13), including, but not limited to: examples of and the determination
3 of qualified investments of which applicants shall provide
4 documentation with their tax credit application; the promulgation of
5 procedures and forms necessary to apply for a credit; provisions for
6 recapture in the event a taxpayer receives a credit on the basis of its
7 commitment to transfer cash to a qualified venture fund and it does
8 not fund its commitment; and provisions for credit applicants to be
9 charged an initial application fee and ongoing service fees to cover
10 the administrative costs related to the credit.

11 The amount of credits approved by the Executive Director of the
12 New Jersey Economic Development Authority, and in consultation
13 with the director, pursuant to subsection a. of this section and
14 pursuant to section 4 of P.L.2013, c.14 (C.54A:4-13), shall not
15 exceed a cumulative total of ~~【\$25,000,000】~~ \$35,000,000 in any
16 calendar year to apply against the tax imposed pursuant to section 5
17 of P.L.1945, c.162 (C.54:10A-5) and the tax imposed pursuant to the
18 “New Jersey Gross Income Tax Act,” N.J.S.54A:1-1 et seq. If the
19 cumulative amount of credits allowed to taxpayers in a calendar year
20 exceeds the amount of credits available in that year, then taxpayers
21 who have first applied for and have not been allowed a credit amount
22 for that reason shall be allowed, in the order in which they have
23 submitted an application, the amount of the tax credit on the first day
24 of the next succeeding calendar year in which tax credits under this
25 section and section 4 of P.L.2013, c.14 (C.54A:4-13) are not in
26 excess of the amount of credits available.

27 (cf: P.L.2017, c.40, s.2)

28

29 119. Section 4 of P.L.2013, c.14 (C.54A:4-13) is amended to read
30 as follows:

31 4. a. (1) A taxpayer, upon approval of the taxpayer's application
32 therefor by the New Jersey Economic Development Authority, and
33 in consultation with the director, shall be allowed a credit against the
34 tax otherwise due for the taxable year under the "New Jersey Gross
35 Income Tax Act," N.J.S.54A:1-1 et seq., in an amount equal to 20
36 percent of the qualified investment made by the taxpayer in a New
37 Jersey emerging technology business, ~~【or】~~ in a New Jersey emerging
38 technology business holding company that makes a verified transfer
39 of funds to a New Jersey emerging technology business, or in a
40 qualified venture fund; provided, however, a taxpayer may be
41 allowed a tax credit in an amount equal to 25 percent of the qualified
42 investment if the taxpayer satisfies one of the requirements set forth
43 in paragraph (2) of this subsection. The value of tax credits allowed
44 to a taxpayer pursuant to this section shall not exceed \$500,000 for
45 the taxable year for each qualified investment made by the taxpayer.

46 (2) Subject to the limits established in paragraph (1) of this
47 subsection, the New Jersey Economic Development Authority, in
48 consultation with the director, shall increase the amount of a tax

1 credit allowed pursuant to this section by five percent if the taxpayer
2 makes a qualified investment in a New Jersey emerging technology
3 business, **[or]** in a New Jersey emerging technology business
4 holding company that makes a verified transfer of funds to a New
5 Jersey emerging technology business, or in a qualified venture fund,
6 if the New Jersey emerging technology business is **[**:

7 (a) **]** either located in a qualified opportunity zone pursuant to 26
8 U.S.C. § 1400Z-1, or a low-income community as defined in
9 subparagraph (e) of 26 U.S.C. § 45D **;** **]** or

10 **[**(b)**]** certified by the State as a minority business or a women's
11 business pursuant to P.L.1986, c.195 (C.52:27H-21.17 et seq.) and,
12 in the case of a qualified venture fund, if the qualified venture fund
13 commits by contract to invest 50 percent of its funds in diverse
14 entrepreneurs.

15 b. The amount of the credit allowed pursuant to this section shall
16 be applied against the tax otherwise due under the "New Jersey Gross
17 Income Tax Act," N.J.S.54A:1-1 et seq., after all other credits and
18 payments. If the credit exceeds the amount of tax liability otherwise
19 due, that amount of excess shall be an overpayment for the purposes
20 of N.J.S.54A:9-7, provided, however, that subsection (f) of
21 N.J.S.54A:9-7 shall not apply.

22 c. (1) A partnership shall not be allowed a credit under this section
23 directly, but the amount of credit of a taxpayer in respect of a
24 distributive share of partnership income under the "New Jersey Gross
25 Income Tax Act," N.J.S.54A:1-1 et seq., shall be determined by
26 allocating to the taxpayer that proportion of the credit acquired by
27 the partnership that is equal to the taxpayer's share, whether or not
28 distributed, of the total distributive income or gain of the partnership
29 for its taxable year ending within or with the taxpayer's taxable year.
30 For the purposes of subsection b. of this section, the amount of tax
31 liability that would be otherwise due of a taxpayer is that proportion
32 of the total liability of the taxpayer that the taxpayer's share of the
33 partnership income or gain included in gross income bears to the total
34 gross income of the taxpayer.

35 (2) The credit for a corporation that has made a valid election as
36 a New Jersey S corporation pursuant to section 3 of P.L.1993, c.173
37 (C.54:10A-5.22) may be applied by the shareholders of the S
38 corporation against the tax liability otherwise due under the "New
39 Jersey Gross Income Tax Act," N.J.S.54A:1-1 et seq., provided that
40 the amount of credit that may be used by a shareholder of the S
41 corporation shall be determined by allocating to each shareholder of
42 the S corporation that proportion of the tax credit of the S corporation
43 that is equal to the shareholder's proportionate share of the S
44 corporation, whether or not distributed, of the total distributive
45 income or gain of the S corporation for its tax period ending with or
46 within the shareholder's tax period, and the credit may be applied by

1 the shareholders against the tax liability otherwise due pursuant to
2 the "New Jersey Gross Income Tax Act," N.J.S.54A:1-1 et seq.

3 d. The Executive Director of the New Jersey Economic
4 Development Authority, in consultation with the director, shall
5 adopt, pursuant to the "Administrative Procedure Act," P.L.1968,
6 c.410 (C.52:14B-1 et seq.), rules and regulations that are necessary
7 to implement sections 1 through 3 of P.L.1997, c.349 (C.54:10A-5.28
8 through C.54:10A-5.30) and this section, including, but not limited
9 to: examples of and the determination of qualified investments of
10 which applicants shall provide documentation with their tax credit
11 application; the promulgation of procedures and forms necessary to
12 apply for a credit; provisions for recapture in the event a taxpayer
13 receives a credit on the basis of its commitment to transfer cash to a
14 qualified venture fund and it does not fund its commitment; and
15 provisions for credit applicants to be charged an initial application
16 fee and ongoing service fees to cover the administrative costs related
17 to the credit.

18 The amount of credits approved by the Executive Director of the
19 New Jersey Economic Development Authority and the Director of
20 the Division of Taxation in the Department of the Treasury, pursuant
21 to subsection a. of this section and pursuant to section 3 of P.L.1997,
22 c.349 (C.54:10A-5.30), shall not exceed a cumulative total of
23 **[\$25,000,000]** \$35,000,000 in any calendar year to apply against the
24 tax imposed pursuant to section 5 of P.L.1945, c.162 (C.54:10A-5),
25 and the tax imposed pursuant to the "New Jersey Gross Income Tax
26 Act," N.J.S.54A:1-1 et seq. If the cumulative amount of credits
27 allowed to taxpayers in a calendar year exceeds the amount of credits
28 available in that year, then taxpayers who have first applied for and
29 have not been allowed a credit amount for that reason shall be
30 allowed, in the order in which they have submitted an application,
31 the amount of the tax credit on the first day of the next succeeding
32 calendar year in which tax credits under this section and section 3 of
33 P.L.1997, c.349 (C.54:10A-5.30) are not in excess of the amount of
34 credits available.

35 e. As used in this section:

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

40 "Advanced materials" means materials with engineered properties
41 created through the development of specialized processing and
42 synthesis technology, including ceramics, high value-added metals,
43 electronic materials, composites, polymers, and biomaterials.

44 "Biotechnology" means the continually expanding body of
45 fundamental knowledge about the functioning of biological systems
46 from the macro level to the molecular and sub-atomic levels, as well
47 as novel products, services, technologies, and sub-technologies

1 developed as a result of insights gained from research advances
2 which add to that body of fundamental knowledge.

3 "Carbon footprint reduction technology" means a technology
4 using equipment for the commercial, institutional, and industrial
5 sectors that: increases energy efficiency; develops and delivers
6 renewable or non-carbon-emitting energy technologies; develops
7 innovative carbon emissions abatement with significant carbon
8 emissions reduction potential; or promotes measurable electricity
9 end-use energy efficiency.

10 "Control" with respect to a corporation, means ownership, directly
11 or indirectly, of stock possessing 80 percent or more of the total
12 combined voting power of all classes of the stock of the corporation
13 entitled to vote; and "control," with respect to a trust, means
14 ownership, directly or indirectly, of 80 percent or more of the
15 beneficial interest in the principal or income of the trust. The
16 ownership of stock in a corporation, of a capital or profits interest in
17 a partnership or association or of a beneficial interest in a trust shall
18 be determined in accordance with the rules for constructive
19 ownership of stock provided in subsection (c) of section 267 of the
20 federal Internal Revenue Code of 1986 (26 U.S.C. s.267), other than
21 paragraph (3) of subsection (c) of that section.

22 "Controlled group" means one or more chains of corporations
23 connected through stock ownership with a common parent
24 corporation if stock possessing at least 80 percent of the voting power
25 of all classes of stock of each of the corporations is owned directly
26 or indirectly by one or more of the corporations and the common
27 parent owns directly stock possessing at least 80 percent of the voting
28 power of all classes of stock of at least one of the other corporations.

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

31 "Diverse entrepreneur" means a New Jersey based business that
32 meets the criteria for a minority business or female business set forth
33 in section 2 of P.L.1983, c.482 (C.52:32-19).

34 "Electronic device technology" means a technology involving
35 microelectronics, semiconductors, electronic equipment and
36 instrumentation, radio frequency, microwave and millimeter
37 electronics, and optical and optic-electrical devices, or data and
38 digital communications and imaging devices.

39 "Information technology" means software publishing, motion
40 picture and video production, television production and post-
41 production services, telecommunications, data processing, hosting
42 and related services, custom computer programming services,
43 computer system design, computer facilities management services,
44 other computer related services, and computer training.

45 "Life sciences" means the production of medical equipment,
46 ophthalmic goods, medical or dental instruments, diagnostic
47 substances, biopharmaceutical products, or physical and biological
48 research.

1 "Medical device technology" means a technology involving any
2 medical equipment or product (other than a pharmaceutical product)
3 that has therapeutic value, diagnostic value, or both, and is regulated
4 by the federal Food and Drug Administration.

5 "Mobile communications technology" means a technology
6 involving the functionality and reliability of the transmission of voice
7 and multimedia data using a communication infrastructure via a
8 computer or a mobile device, that shall include, but not be limited to,
9 smartphones, electronic books and tablets, digital audio players,
10 motor vehicle electronics, home entertainment systems, and other
11 wireless appliances, without having connected to any physical or
12 fixed link.

13 "New Jersey based business" means a company with fewer than
14 225 employees, of whom at least 75 percent are filling a position in
15 New Jersey, that is doing business, employing or owning capital or
16 property, or maintaining an office in this State.

17 "New Jersey emerging technology business" means a company
18 with fewer than 225 employees, of whom at least 75 percent are
19 filling a position in New Jersey, that is doing business, employing or
20 owning capital or property, or maintaining an office in this State and:
21 has qualified research expenses paid or incurred for research
22 conducted in this State; conducts pilot scale manufacturing in this
23 State; or conducts technology commercialization in this State in the
24 fields of advanced computing, advanced materials, biotechnology,
25 carbon footprint reduction technology, electronic device technology,
26 information technology, life sciences, medical device technology,
27 mobile communications technology, or renewable energy
28 technology.

29 "New Jersey emerging technology business holding company"
30 means any corporation, association, firm, partnership, trust or other
31 form of business organization, but not a natural person, which
32 directly or indirectly, owns, has the power or right to control, or has
33 the power to vote, a controlling share of the outstanding voting
34 securities of a corporation or other form of a New Jersey emerging
35 technology business.

36 "Partnership" means a syndicate, group, pool, joint venture, or
37 other unincorporated organization through or by means of which any
38 business, financial operation, or venture is carried on, and which is
39 not a trust or estate, a corporation, or a sole proprietorship.

40 "Pilot scale manufacturing" means design, construction, and
41 testing of preproduction prototypes and models in the fields of
42 advanced computing, advanced materials, biotechnology, carbon
43 footprint reduction technology electronic device technology,
44 information technology, life sciences, medical device technology,
45 mobile communications technology, or renewable energy
46 technology, other than for commercial sale, excluding sales of
47 prototypes or sales for market testing if the total gross receipts, as
48 calculated in the manner provided in section 6 of P.L.1945, c.162

1 (C.54:10A-6), from the sales of the product, service, or process do
2 not exceed \$1,000,000.

3 "Qualified investment" means the non-refundable transfer of cash
4 to a New Jersey emerging technology business or to a New Jersey
5 emerging technology business holding company by a taxpayer that is
6 not a related person of the New Jersey emerging technology business
7 or the New Jersey emerging technology business holding company,
8 the transfer of which is in connection with either: a transaction
9 between or among the taxpayer and the New Jersey emerging
10 technology business or the New Jersey emerging technology holding
11 company or both in exchange for stock, interests in partnerships or
12 joint ventures, licenses (exclusive or non-exclusive), rights to use
13 technology, marketing rights, warrants, options, or any items similar
14 to those included herein, including, but not limited to, options or
15 rights to acquire any of the items included herein; or a purchase,
16 production, or research agreement between or among the taxpayer
17 and the New Jersey emerging technology business or the New Jersey
18 emerging technology holding company or both. "Qualified
19 investment" also means the non-refundable transfer of cash or
20 irrevocable contractual commitment to transfer cash to a qualified
21 venture fund.

22 "Qualified research expenses" means qualified research expenses,
23 as defined in section 41 of the federal Internal Revenue Code of 1986
24 (26 U.S.C. s.41), as in effect on June 30, 1992, in the fields of
25 advanced computing, advanced materials, biotechnology, electronic
26 device technology, information technology, life sciences, medical
27 device technology, mobile communications technology, or
28 renewable energy technology.

29 "Qualified venture fund" means a venture fund required by
30 contract to invest a minimum of 50 percent of its funds in New Jersey
31 based businesses that the authority, in its sole discretion, based upon
32 the qualified venture fund's investment history, if any, its private
33 placement memorandum and other relevant information, has
34 determined has the capacity to make the minimum investment.

35 "Related person" means:

36 a corporation, partnership, association or trust controlled by the
37 taxpayer;

38 an individual, corporation, partnership, association or trust that is
39 in the control of the taxpayer;

40 a corporation, partnership, association or trust controlled by an
41 individual, corporation, partnership, association or trust that is in the
42 control of the taxpayer; or

43 a member of the same controlled group as the taxpayer.

44 "Renewable energy technology" means a technology involving the
45 generation of electricity from solar energy; wind energy; wave or
46 tidal action; geothermal energy; the combustion of gas from the
47 anaerobic digestion of food waste and sewage sludge at a biomass
48 generating facility; the combustion of methane gas captured from a

1 landfill; and a fuel cell powered by methanol, ethanol, landfill gas,
2 digester gas, biomass gas, or other renewable fuel but not powered
3 by a fossil fuel.

4 “Venture fund” means a partnership, corporation, trust, or limited
5 liability company that invests cash in a business during the early or
6 expansion stages of a business in exchange for an equity stake in the
7 business in,” which the investment is made. Venture firm may
8 include a venture capital fund, a family office fund, or a corporate
9 investor fund, provided that a professional manager administers the
10 venture firm.

11 "Verified transfer of funds" means a non-refundable transfer of
12 funds equal to 100 percent of the taxpayer's qualified investment in
13 the New Jersey emerging technology business holding company to a
14 New Jersey emerging technology business by the New Jersey
15 emerging technology business holding company that is accompanied
16 by documentation, as required by the New Jersey Economic
17 Development Authority, which provides proof of a cash transaction
18 originating with a taxpayer and concluding with a New Jersey
19 emerging technology business, provided that the transactions from
20 origin to destination occur within the same taxable year.

21 The definitions of “advanced computing,” “advanced materials,”
22 “biotechnology,” carbon footprint reduction technology,” “electronic
23 device technology,” “information technology,”” life sciences,””
24 medical device technology,” mobile communications technology,””
25 “New Jersey emerging technology business,” “pilot scale
26 manufacturing,” and “renewable energy technology may be
27 modified by regulation to conform to definitions in other programs
28 administered by the authority.

29 (cf: P.L.2019, c.145, s.3)

30

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

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

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

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

3 "Aviation district" means all areas within the boundaries of the
4 "Atlantic City International Airport," established pursuant to section
5 24 of P.L.1991, c.252 (C.27:25A-24), and the Federal Aviation
6 Administration William J. Hughes Technical Center and the area
7 within a one-mile radius of the outermost boundary of the "Atlantic
8 City International Airport" and the Federal Aviation Administration
9 William J. Hughes Technical Center.

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

12 a corporation that is subject to the tax imposed pursuant to section
13 5 of P.L.1945, c.162 (C.54:10A-5);

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

17 a partnership;

18 an S corporation;

19 a limited liability company; or

20 a non-profit corporation.

21 If the business or tenant is a cooperative or part of a cooperative,
22 then the cooperative may qualify for credits by counting the full-time
23 employees and capital investments of its member organizations, and
24 the cooperative may distribute credits to its member organizations.
25 If the business or tenant is a cooperative that leases to its member
26 organizations, the lease shall be treated as a lease to an affiliate or
27 affiliates.

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

31 "Capital investment" in a qualified business facility means
32 expenses by a business or any affiliate of the business incurred after
33 application for:

34 a. site preparation and construction, repair, renovation,
35 improvement, equipping, or furnishing on real property or of a
36 building, structure, facility, or improvement to real property;

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

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

46 d. any of the foregoing.

47 In addition to the foregoing, in a Garden State Growth Zone, the
48 following qualify as a capital investment: any development,

1 redevelopment, and relocation costs, including, but not limited to,
2 site acquisition if made within 24 months of application to the
3 authority, engineering, legal, accounting, and other professional
4 services required; and relocation, environmental remediation, and
5 infrastructure improvements for the project area, including, but not
6 limited to, on- and off-site utility, road, pier, wharf, bulkhead, or
7 sidewalk construction or repair.

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

26 "College or university" means a county college, an independent
27 institution of higher education, a public research university, or a State
28 college.

29 "Commitment period" means the period of time that is 1.5 times
30 the eligibility period.

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

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

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

1 development and in need of economic development incentive
2 assistance.

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

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

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

24 "Eligible position" or "full-time job" means a full-time position in
25 a business in this State which the business has filled with a full-time
26 employee.

27 "Full-time employee" means a person:

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

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

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

1 d. who, except for purposes of the Statewide workforce, is
2 provided, by the business, with employee health benefits under a
3 health benefits plan authorized pursuant to State or federal law.

4 With respect to a logistics, manufacturing, energy, defense,
5 aviation, or maritime business, excluding primarily warehouse or
6 distribution operations, located in a port district having a container
7 terminal:

8 the requirement that employee health benefits are to be provided
9 shall be deemed to be satisfied if the benefits are provided in
10 accordance with industry practice by a third party obligated to
11 provide such benefits pursuant to a collective bargaining agreement;

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

15 35 hours of employment per week at a qualified business facility
16 shall constitute one "full-time employee," regardless of whether or
17 not the hours of work were performed by one or more persons.

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

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

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

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

46 "Garden State Growth Zone" or "growth zone" means the four
47 New Jersey cities with the lowest median family income based on the
48 2009 American Community Survey from the US Census, (Table 708.

1 Household, Family, and Per Capita Income and Individuals, and
2 Families Below Poverty Level by City: 2009); a municipality which
3 contains a Tourism District as established pursuant to section 5 of
4 P.L.2011, c.18 (C.5:12-219) and regulated by the Casino
5 Reinvestment Development Authority; or an aviation district.

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

12 "Incentive agreement" means the contract between the business
13 and the authority, which sets forth the terms and conditions under
14 which the business shall be eligible to receive the incentives
15 authorized pursuant to the program.

16 "Incentive effective date" means the date **【**the authority issues a
17 tax credit based on**】** a business submits the documentation
18 **【**submitted by a business**】** required pursuant to paragraph (1) of
19 subsection b. of section 6 of P.L.2011, c.149 (C.34:1B-247) in a form
20 satisfactory to the authority.

21 "Independent institution of higher education" means a college or
22 university incorporated and located in New Jersey, which by virtue
23 of law or character or license is a nonprofit educational institution
24 authorized to grant academic degrees and which provides a level of
25 education which is equivalent to the education provided by the State's
26 public institutions of higher education, as attested by the receipt of
27 and continuation of regional accreditation by the Middle States
28 Association of Colleges and Schools, and which is eligible to receive
29 State aid under the provisions of the Constitution of the United States
30 and the Constitution of the State of New Jersey, but does not include
31 any educational institution dedicated primarily to the education or
32 training of ministers, priests, rabbis or other professional persons in
33 the field of religion.

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

38 "Mega project" means:

39 a. a qualified business facility located in a port district housing
40 a business in the logistics, manufacturing, energy, defense, or
41 maritime industries, either:

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

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

47 b. a qualified business facility located in an aviation district
48 housing a business in the aviation industry, in a Garden State Growth

1 Zone, or in a priority area housing the United States headquarters and
2 related facilities of an automobile manufacturer, either:

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

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

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

12 d. a project located in an area designated in need of
13 redevelopment, pursuant to P.L.1992, c.79 (C.40A:12A-1 et al.) prior
14 to the enactment of P.L.2014, c.63 (C.34:1B-251 et al.) within
15 Atlantic, Burlington, Camden, Cape May, Cumberland, Gloucester,
16 Ocean, or Salem counties having a capital investment in excess of
17 \$20,000,000, and at which more than 150 full-time employees of the
18 business are created or retained; or

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

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

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

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

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

44 "Municipal Revitalization Index" means the 2007 index by the
45 Office for Planning Advocacy within the Department of State
46 measuring or ranking municipal distress.

47 "New full-time job" means an eligible position created by the
48 business at the qualified business facility that did not previously exist

1 in this State. For the purposes of determining a number of new full-
2 time jobs, the eligible positions of an affiliate shall be considered
3 eligible positions of the business.

4 "Other eligible area" means the portions of the qualified incentive
5 area that are not located within a distressed municipality, or the
6 priority area.

7 "Partnership" means an entity classified as a partnership for
8 federal income tax purposes.

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

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

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

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

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

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

31 c. are the proposed site of a disaster recovery project, a qualified
32 incubator facility, a highlands development credit receiving area or
33 redevelopment area, a tourism destination project, or transit oriented
34 development; or

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

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

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

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

1 "Qualified business facility" means any building, complex of
2 buildings or structural components of buildings, and all machinery
3 and equipment located within a qualified incentive area, used in
4 connection with the operation of a business that is not engaged in
5 final point of sale retail business at that location unless the building,
6 complex of buildings or structural components of buildings, and all
7 machinery and equipment located within a qualified incentive area,
8 are used in connection with the operation of:

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

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

16 "Qualified incentive area" means:

17 a. an aviation district;

18 b. a port district;

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

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

22 (a) Planning Area 1 (Metropolitan);

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

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

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

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

36 (4) located within a regional growth area, rural development area
37 zoned for industrial use as of the effective date of P.L.2016, c.75,
38 town, village, or a military and federal installation area designated in
39 the comprehensive management plan prepared and adopted by the
40 Pinelands Commission pursuant to the "Pinelands Protection Act,"
41 P.L.1979, c.111 (C.13:18A-1 et seq.);

42 (5) located within the planning area of the Highlands Region as
43 defined in section 3 of P.L.2004, c.120 (C.13:20-3) or a highlands
44 development credit receiving area or redevelopment area;

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

46 (7) located within land approved for closure under any federal
47 Commission on Base Realignment and Closure action; or

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

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

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

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

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

23 (e) the planning area of the Highlands Region as defined in
24 section 3 of P.L.2004, c.120 (C.13:20-3) or a highlands development
25 credit receiving area or redevelopment area; or

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

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

31 "Qualified incubator facility" means a commercial building
32 located within a qualified incentive area: which contains 50,000 or
33 more square feet of office, laboratory, or industrial space; which is
34 located near, and presents opportunities for collaboration with, a
35 research institution, teaching hospital, college, or university; and
36 within which, at least 50 percent of the gross leasable area is
37 restricted for use by one or more technology startup companies
38 during the commitment period.

39 "Retained full-time job" means an eligible position that currently
40 exists in New Jersey and is filled by a full-time employee but which,
41 because of a potential relocation by the business, is at risk of being
42 lost to another state or country, or eliminated. For the purposes of
43 determining a number of retained full-time jobs, the eligible positions
44 of an affiliate shall be considered eligible positions of the business.
45 For the purposes of the certifications and annual reports required in
46 the incentive agreement pursuant to subsection e. of section 4 of
47 P.L.2011, c.149 (C.34:1B-245), to the extent an eligible position that
48 was the basis of the award no longer exists, a business shall include

1 as a retained full-time job a new eligible position that is filled by a
2 full-time employee provided that the position is included in the order
3 of date of hire and is not the basis for any other incentive award. For
4 a project located in a Garden State Growth Zone which qualified for
5 the "Municipal Rehabilitation and Economic Recovery Act,"
6 P.L.2002, c.43 (C.52:27BBB-1 et al.), retained full-time job shall
7 include any employee previously employed in New Jersey and
8 transferred to the new location in the Garden State Growth Zone
9 which qualified for the "Municipal Rehabilitation and Economic
10 Recovery Act," P.L.2002, c.43 (C.52:27BBB-1 et al.).

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

13 "SDA municipality" means a municipality in which an SDA
14 district is situate.

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

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

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

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

39 "Transit oriented development" means a qualified business facility
40 located within a 1/2-mile radius, or one-mile radius for projects
41 located in a Garden State Growth Zone, surrounding the mid-point of
42 a New Jersey Transit Corporation, Port Authority Transit
43 Corporation, or Port Authority Trans-Hudson Corporation rail, bus,
44 or ferry station platform area, including all light rail stations.

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

1 "Urban transit hub municipality" means a municipality: a. which
2 qualifies for State aid pursuant to P.L.1978, c.14 (C.52:27D-178 et
3 seq.), or which has continued to be a qualified municipality
4 thereunder pursuant to P.L.2007, c.111; and b. in which 30 percent
5 or more of the value of real property was exempt from local property
6 taxation during tax year 2006. The percentage of exempt property
7 shall be calculated by dividing the total exempt value by the sum of
8 the net valuation which is taxable and that which is tax exempt.
9 (cf: P.L.2018, c.120, s.1)

10
11 121. Section 4 of P.L.2011, c.149 (C.34:1B-245) is amended to
12 read as follows:

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

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

20 b. The eligibility period of the tax credits, including the first year
21 for which the tax credits may be claimed.

22 c. Personnel information that will enable the authority to
23 administer the program.

24 d. A requirement that the applicant maintain the project at a
25 location in New Jersey for the commitment period, with at least the
26 minimum number of full-time employees as required by this
27 program, except as otherwise agreed to pursuant to subsection h. of
28 section 6 of P.L.2011, c.159 (C.34:1B-247) and a provision to permit
29 the authority to recapture all or part of any tax credits awarded, at its
30 discretion, if the business does not remain in compliance with this
31 provision for the required term, and in the instance of the business
32 terminating an existing incentive agreement in order to participate in
33 an incentive agreement authorized pursuant to the "New Jersey
34 Economic Opportunity Act of 2013," P.L.2013, c.161 (C.52:27D-
35 489p et al.), such permitted recapture may be calculated to recognize
36 the period of time that the business was in compliance prior to
37 termination.

38 e. A method for the business to certify that it has met the capital
39 investment and employment requirements of the program pursuant to
40 paragraph (1) of subsection a. of section 3 of P.L.2011, c.149
41 (C.34:1B-244) and to report annually to the authority the number of
42 full-time employees for which the tax credits are to be made.

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

45 g. A provision which permits the authority to amend the
46 agreement.

1 h. A provision establishing the conditions under which the
2 agreement may be terminated.
3 (cf: P.L.2013, c.161, s.9)
4

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

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

15 b. (1) A developer shall submit an application for a State incentive
16 grant prior to July 1, 2019, except: (a) a developer of a qualified
17 residential project or a mixed use parking project seeking an award
18 of credits toward the funding of its incentive grant for a project
19 restricted under category (viii) of subparagraph (b) of paragraph (3)
20 of subsection b. of section 6 of P.L.2009, c.90 (C.52:27D-489f) shall
21 submit an incentive grant application prior to December 31, 2021 and
22 (b) a developer seeking an award of credits toward the funding of its
23 incentive grant under subparagraphs (f) and (g) of paragraph (3) of
24 subsection b. of section 6 of P.L.2009, c.90 (C.52:27D-489f) shall
25 submit an incentive grant application prior to December 31, 2021. A
26 developer that submits an application for a State incentive grant shall
27 indicate on the application whether it is also applying for a local
28 incentive grant. Tax credits awarded to developers who apply after
29 the effective date of P.L. , c. (C.)(pending before the
30 Legislature as this bill) under subparagraphs (f) and (g) of paragraph
31 (3) of subsection b. of section 6 of P.L.2009, c.90 (C.52:27D-489f)
32 shall not exceed \$200,000,000 subject to the limitations of
33 subparagraphs (f) and (g) of that paragraph.

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

38 c. An application for a State incentive grant shall be reviewed and
39 approved by the authority. The authority shall not approve an
40 application for a State incentive grant unless the application was
41 submitted prior to July 1, 2019, except: (1) the authority shall not
42 approve an application for a State incentive grant by a developer of
43 a qualified residential project or a mixed use parking project seeking
44 an award of credits toward the funding of its incentive grant for a
45 project restricted under category (viii) of subparagraph (b) of
46 paragraph (3) of subsection b. of section 6 of P.L.2009, c.90
47 (C.52:27D-489f) unless the application was submitted prior to
48 December 31, 2021 and (2) the authority shall not approve an

1 application for a State incentive grant by a developer under
2 subparagraphs (f) and (g) of paragraph (3) of subsection b. of section
3 6 of P.L.2009, c.90 (C.52:27D-489f) unless the application was
4 submitted prior to December 31, 2021.

5 d. A developer shall not be required to purchase pinelands
6 development credits under the "Pinelands Protection Act," P.L.1979,
7 c.111 (C.13:18A-1 et seq.), the pinelands comprehensive
8 management plan, or any other rule or regulation adopted pursuant to
9 that act in connection with any approval or relief obtained related to
10 a redevelopment project located in an aviation district on or after the
11 effective date of P.L.2018, c.120, except if seeking to develop in
12 permanently protected open space pursuant to the Pinelands
13 Protection Act. The provisions of this subsection shall not apply to
14 a developer of a qualified residential project.

15 (cf: P.L.2018, c.120, s.6)

16

17 123. Section 6 of P.L.2009, c.90 (C.52:27D-489f) is amended to
18 read as follows:

19 6. a. Up to the limits established in subsection b. of this section
20 and in accordance with a redevelopment incentive grant agreement,
21 beginning upon the receipt of occupancy permits for any portion of
22 the redevelopment project, or upon any other event evidencing
23 project completion as set forth in the incentive grant agreement, the
24 State Treasurer shall pay to the developer incremental State revenues
25 directly realized from businesses operating at the site of the
26 redevelopment project from the following taxes: the Corporation
27 Business Tax Act (1945), P.L.1945, c.162 (C.54:10A-1 et seq.), the
28 tax imposed on marine insurance companies pursuant to R.S.54:16-1
29 et seq., the tax imposed on insurers generally, pursuant to P.L.1945,
30 c.132 (C.54:18A-1 et seq.), the public utility franchise tax, public
31 utilities gross receipts tax and public utility excise tax imposed on
32 sewerage and water corporations pursuant to P.L.1940, c.5
33 (C.54:30A-49 et seq.), those tariffs and charges imposed by electric,
34 natural gas, telecommunications, water and sewage utilities, and
35 cable television companies under the jurisdiction of the New Jersey
36 Board of Public Utilities, or comparable entity, except for those
37 tariffs, fees, or taxes related to societal benefits charges assessed
38 pursuant to section 12 of P.L.1999, c.23 (C.48:3-60), any charges
39 paid for compliance with the "Global Warming Response Act,"
40 P.L.2007, c.112 (C.26:2C-37 et seq.), transitional energy facility
41 assessment unit taxes paid pursuant to section 67 of P.L.1997, c.162
42 (C.48:2-21.34), and the sales and use taxes on public utility and cable
43 television services and commodities, the tax derived from net profits
44 from business, a distributive share of partnership income, or a pro
45 rata share of S corporation income under the "New Jersey Gross
46 Income Tax Act," N.J.S.54A:1-1 et seq., the tax derived from a
47 business at the site of a redevelopment project that is required to
48 collect the tax pursuant to the "Sales and Use Tax Act," P.L.1966,

1 c.30 (C.54:32B-1 et seq.), the tax imposed pursuant to P.L.1966, c.30
2 (C.54:32B-1 et seq.) from the purchase of furniture, fixtures and
3 equipment, or materials for the remediation, the construction of new
4 structures at the site of a redevelopment project, the hotel and motel
5 occupancy fee imposed pursuant to section 1 of P.L.2003, c.114
6 (C.54:32D-1), or the portion of the fee imposed pursuant to section 3
7 of P.L.1968, c.49 (C.46:15-7) derived from the sale of real property
8 at the site of the redevelopment project and paid to the State Treasurer
9 for use by the State, that is not credited to the "Shore Protection
10 Fund" or the "Neighborhood Preservation Nonlapsing Revolving
11 Fund" ("New Jersey Affordable Housing Trust Fund") pursuant to
12 section 4 of P.L.1968, c.49 (C.46:15-8). Any developer shall be
13 allowed to assign their ability to apply for the tax credit under this
14 subsection to a non-profit organization with a mission dedicated to
15 attracting investment and completing development and
16 redevelopment projects in a Garden State Growth Zone. The non-
17 profit organization may make an application on behalf of a developer
18 which meets the requirements for the tax credit, or a group of non-
19 qualifying developers, such that these will be considered a unified
20 project for the purposes of the incentives provided under this section.

21 b. (1) Up to an average of 75 percent of the projected annual
22 incremental revenues or 85 percent of the projected annual
23 incremental revenues in a Garden State Growth Zone may be pledged
24 towards the State portion of an incentive grant.

25 (2) In the case of a qualified residential project or a project
26 involving university infrastructure, if the authority determines that
27 the estimated amount of incremental revenues pledged towards the
28 State portion of an incentive grant is inadequate to fully fund the
29 amount of the State portion of the incentive grant, then in lieu of an
30 incentive grant based on the incremental revenues, the developer
31 shall be awarded tax credits equal to the full amount of the incentive
32 grant.

33 (3) In the case of a mixed use parking project, if the authority
34 determines that the estimated amount of incremental revenues
35 pledged towards the State portion of an incentive grant is inadequate
36 to fully fund the amount of the State portion of the incentive grant,
37 then, in lieu of an incentive grant based on the incremental revenues,
38 the developer shall be awarded tax credits equal to the full amount of
39 the incentive grant.

40 The value of all credits approved by the authority pursuant to
41 paragraphs (2) and (3) of this subsection shall not exceed
42 ~~[\$823,000,000]~~ \$1,043,000,000, of which:

43 (a) \$250,000,000 shall be restricted to qualified residential
44 projects within Atlantic, Burlington, Camden, Cape May,
45 Cumberland, Gloucester, Ocean, and Salem counties, of which
46 \$175,000,000 of the credits shall be restricted to the following
47 categories of projects: (i) qualified residential projects located in a
48 Garden State Growth Zone located within the aforementioned

1 counties; and (ii) mixed use parking projects located in a Garden
2 State Growth Zone or urban transit hub located within the
3 aforementioned counties; (iii) and \$75,000,000 of the credits shall be
4 restricted to qualified residential projects in municipalities with a
5 2007 Municipal Revitalization Index of 400 or higher as of the date
6 of enactment of the "New Jersey Economic Opportunity Act of
7 2013," P.L.2013, c.161 (C.52:27D-489p et al.) and located within the
8 aforementioned counties;

9 (b) \$395,000,000 shall be restricted to the following categories of
10 projects: (i) qualified residential projects located in urban transit hubs
11 that are commuter rail in nature that otherwise do not qualify under
12 subparagraph (a) of this paragraph; (ii) qualified residential projects
13 located in Garden State Growth Zones that do not qualify under
14 subparagraph (a) of this paragraph; (iii) mixed use parking projects
15 located in urban transit hubs or Garden State Growth Zones that do
16 not qualify under subparagraph (a) of this paragraph, provided
17 however, an urban transit hub shall be allocated no more than
18 \$25,000,000 for mixed use parking projects; (iv) qualified residential
19 projects which are disaster recovery projects that otherwise do not
20 qualify under subparagraph (a) of this paragraph; (v) qualified
21 residential projects in SDA municipalities located in Hudson County
22 that were awarded State Aid in State Fiscal Year 2013 through the
23 Transitional Aid to Localities program and otherwise do not qualify
24 under subparagraph (a) of this paragraph; (vi) \$25,000,000 of credits
25 shall be restricted to mixed use parking projects in Garden State
26 Growth Zones which have a population in excess of 125,000 and do
27 not qualify under subparagraph (a) of this paragraph; (vii)
28 \$40,000,000 of credits shall be restricted to qualified residential
29 projects that include a theater venue for the performing arts and do
30 not qualify under subparagraph (a) of this paragraph, which projects
31 are located in a municipality with a population of less than 100,000
32 according to the latest federal decennial census, and within which
33 municipality is located an urban transit hub and a campus of a public
34 research university, as defined in section 1 of P.L.2009, c.308
35 (C.18A:3B-46); and (viii) **[\$105,000,000]** \$125,000,000 of credits
36 shall be restricted to qualified residential projects and mixed use
37 parking projects in Garden State Growth Zones having a population
38 in excess of 125,000 and do not qualify under subparagraph (a) of
39 this paragraph;

40 (c) \$87,000,000 shall be restricted to the following categories of
41 projects: (i) qualified residential projects located in distressed
42 municipalities, deep poverty pockets, highlands development credit
43 receiving areas or redevelopment areas, otherwise not qualifying
44 pursuant to subparagraph (a) or (b) of this paragraph; and (ii) mixed
45 use parking projects that do not qualify under subparagraph (a) or (b)
46 of this paragraph, and which are used by an independent institution
47 of higher education, a school of medicine, a nonprofit hospital
48 system, or any combination thereof; provided, however, that

1 \$20,000,000 of the \$87,000,000 shall be allocated to mixed use
2 parking projects that do not qualify under subparagraph (a) or (b) of
3 this paragraph;

4 (d) (i) \$16,000,000 shall be restricted to qualified residential
5 projects that are located within a qualifying economic redevelopment
6 and growth grant incentive area otherwise not qualifying under
7 subparagraph (a), (b), or (c) of this paragraph; and

8 (ii) an additional \$50,000,000 shall be restricted to qualified
9 residential projects which, as of the effective date of P.L.2016, c.51,
10 are located in a city of the first class with a population in excess of
11 270,000, are subject to a Renewal Contract for a Section 8 Mark-Up-
12 To-Market Project from the United States Department of Housing
13 and Urban Development, and for which an application for the award
14 of tax credits under this subsection was submitted prior to January 1,
15 2016; **and**

16 (e) \$25,000,000 shall be restricted to projects involving university
17 infrastructure;

18 (f) \$150,000,000 shall be restricted to applications submitted after
19 the effective date of P.L. , c. (C.)(pending before the
20 Legislature as this bill) for projects which are predominantly
21 commercial and contain 100,000 or more square feet of office and
22 retail space, or industrial space for purchase or lease and may include
23 a parking component; and

24 (g) \$50,000,000 shall be restricted to applications submitted after
25 the effective date of P.L. , c. (C.)(pending before the
26 Legislature as this bill) for residential projects in any county of the
27 State.

28 **[(f)] (h)** For subparagraphs (a) through (d) of this paragraph, not
29 more than \$40,000,000 of credits shall be awarded to any qualified
30 residential project in a deep poverty pocket or distressed municipality
31 and not more than \$20,000,000 of credits shall be awarded to any
32 other qualified residential project. The developer of a qualified
33 residential project seeking an award of credits towards the funding of
34 its incentive grant shall submit an incentive grant application prior to
35 July 1, 2016 and if approved after September 18, 2013, the effective
36 date of P.L.2013, c.161 (C.52:27D-489p et al.) shall submit a
37 temporary certificate of occupancy for the project no later than **[July**
38 **28, 2021] December 31, 2023**. The developer of a mixed use parking
39 project seeking an award of credits towards the funding of its
40 incentive grant pursuant to subparagraph (c) of this paragraph and if
41 approved after the effective date of P.L.2015, c.217, shall submit a
42 temporary certificate of occupancy for the project no later than **[July**
43 **28, 2021] December 31, 2023**. The developer of a qualified
44 residential project or a mixed use parking project seeking an award
45 of credits toward the funding of its incentive grant for a project
46 restricted under categories (vi) and (viii) of subparagraph (b) of this
47 paragraph shall submit an incentive grant application prior to July 1,

1 2019 or, in the case of a project restricted under category (viii) of
2 subparagraph (b) of this paragraph, December 31, 2021, and if
3 approved after the effective date of P.L.2017, c.59, shall submit a
4 temporary certificate of occupancy for the project no later than [July
5 28, 2022] December 31, 2023 provided that the municipality in
6 which the project is located shall have submitted to the chief
7 executive officer of the authority a letter of support identifying up to
8 six projects prior to July 1, 2018. The letter of support is to contain a
9 project scope for each of the projects and may be supplemented or
10 amended from time to time until July 1, 2019 or, in the case of a
11 project restricted under category (viii) of subparagraph (b) of this
12 paragraph, December 31, 2021. Applications for tax credits pursuant
13 to this subsection relating to an ancillary infrastructure project or
14 infrastructure improvement in the public right-of-way, or both, shall
15 be accompanied with a letter of support relating to the project or
16 improvement by the governing body or agency in which the project
17 is located. Credits awarded to a developer pursuant to this subsection
18 shall be subject to the same financial and related analysis by the
19 authority, the same term of the grant, and the same mechanism for
20 administering the credits, and shall be utilized or transferred by the
21 developer as if the credits had been awarded to the developer
22 pursuant to section 35 of P.L.2009, c.90 (C.34:1B-209.3) for
23 qualified residential projects thereunder. No portion of the revenues
24 pledged pursuant to the "New Jersey Economic Opportunity Act of
25 2013," P.L.2013, c.161 (C.52:27D-489p et al.) shall be subject to
26 withholding or retainage for adjustment, in the event the developer
27 or taxpayer waives its rights to claim a refund thereof.

28 (i) The developer of a project seeking an award of credits for a
29 project restricted under subparagraphs (f) and (g) of this paragraph
30 shall submit an incentive grant application prior to December 31,
31 2021, and if approved after the effective date of P.L. , c. (C.)
32 (pending before the Legislature as this bill), shall submit a temporary
33 certificate of occupancy for the project no later than December 31,
34 2024. In addition to the requirements for an award of credits set forth
35 in P.L.2009, c.90 (C.52:27D-489a et al.), a developer shall be eligible
36 to receive an award of credits for a project restricted under
37 subparagraphs (f) and (g) of this paragraph only if the developer
38 demonstrates to the authority at that time of application that: (i) the
39 project shall comply with minimum environmental and sustainability
40 standards; (ii) the project shall comply with the authority's
41 affirmative action requirements, adopted pursuant to section 4 of
42 P.L.1979, c.303 (C.34:1B-5.4); (iii) each worker employed by the
43 developer or subcontractor of a developer working at the project shall
44 be paid not less than \$15 per hour or 120 percent of the minimum
45 wage fixed under subsection a. of section 5 of P.L.1966, c.113
46 (C.34:11-56a4), whichever is higher; and (iv) during the eligibility
47 period, each worker employed to perform construction work or
48 building services work at the project shall be paid not less than the

1 prevailing wage rate for the worker's craft or trade, as determined by
2 the Commissioner of Labor and Workforce Development pursuant to
3 P.L.1963, c.150 (C.34:11-56.25 et seq.) and P.L.2005, c.379
4 (C.34:11-56.58 et seq.).

5 Prior to the board considering an application submitted by a
6 developer for a project restricted under subparagraphs (f) and (g) of
7 this paragraph, the Department of Labor and Workforce
8 Development, the Department of Environmental Protection, and the
9 Department of the Treasury shall each report to the chief executive
10 officer of the authority whether the developer is in substantial good
11 standing with the respective department, or has entered into an
12 agreement with the respective department that includes a practical
13 corrective action plan for the developer. The developer, or an
14 authorized agent of the developer, shall certify to the authority that
15 all factual assertions made in the developer's application are true
16 under the penalty of perjury. If at any time the authority determines
17 that the developer made a material misrepresentation on the
18 developer's application, the developer shall forfeit the award of
19 credits and the authority shall recapture any tax credits awarded to
20 the developer.

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

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

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

6 e. The municipality is authorized to collect any information
7 necessary to facilitate grants under this program and remit that
8 information in order to assist in the calculation of incremental
9 revenue.

10 (cf: P.L.2018, c.44, s.2)

11
12 124. Section 8 of P.L.2009, c.90 (C.52:27D-489h) is amended to
13 read as follows:

14 8. a. (1) The authority, in consultation with the State Treasurer,
15 shall promulgate an incentive grant application form and procedure
16 for the Economic Redevelopment and Growth Grant program.

17 (2) (a) The Local Finance Board, in consultation with the
18 authority, shall develop a minimum standard incentive grant
19 application form for municipal Economic Redevelopment and
20 Growth Grant programs.

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

28 b. Within each incentive grant application, a developer shall
29 certify information concerning:

30 (1) the status of control of the entire redevelopment project site;

31 (2) all required State and federal government permits that have
32 been issued for the redevelopment project, or will be issued pending
33 resolution of financing issues;

34 (3) local planning and zoning board approvals, as required, for
35 the redevelopment project;

36 (4) estimates of the revenue increment base, the eligible revenues
37 for the project, and the assumptions upon which those estimates are
38 made.

39 c. (1) With regard to State tax revenues proposed to be pledged for
40 an incentive grant the authority and the State Treasurer shall review
41 the project costs, evaluate and validate the project financing gap
42 estimated by the developer, and conduct a State fiscal impact analysis
43 to ensure that the overall public assistance provided to the project,
44 except with regards to a qualified residential project, a mixed use
45 parking project, or a project involving university infrastructure, will
46 result in net benefits to the State including, without limitation, both
47 direct and indirect economic benefits and non-financial community
48 revitalization objectives, including but not limited to, the promotion

1 of the use of public transportation in the case of the ancillary
2 infrastructure project portion of any transit project.

3 (2) With regard to local incremental revenues proposed to be
4 pledged for an incentive grant the authority and the Local Finance
5 Board shall review the project costs, and except with respect to an
6 application by a municipal redeveloper, evaluate and validate the
7 project financing gap projected by the developer, and conduct a local
8 fiscal impact analysis to ensure that the overall public assistance
9 provided to the project, except with regards to a qualified residential
10 project, a mixed use parking project, or a project involving university
11 infrastructure, will result in net benefits to the municipality wherein
12 the redevelopment project is located including, without limitation,
13 both direct and indirect economic benefits and non-financial
14 community revitalization objectives, including but not limited to, the
15 promotion of the use of public transportation in the case of the
16 ancillary infrastructure project portion of any transit project.

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

21 (4) The costs of the aforementioned reviews shall be assessed to
22 the applicant as an application fee, except for applications submitted
23 on or after January 1, 2018, but before June 30, 2018, which are
24 amended after the effective date of P.L. , c. (C.) (pending
25 before the Legislature as this bill), the authority may waive fees.

26 (5) A developer who has already applied for an incentive grant
27 award prior to the effective date of the "New Jersey Economic
28 Opportunity Act of 2013," P.L.2013, c.161 (C.52:27D-489p et al.),
29 but who has not yet been approved for the grant, or has not executed
30 an agreement with the authority, may proceed under that application
31 or seek to amend the application or reapply for an incentive grant
32 award for the same project or any part thereof for the purpose of
33 availing himself or herself of any more favorable provisions of the
34 Economic Redevelopment and Growth Grant program established
35 pursuant to the "New Jersey Economic Opportunity Act of 2013,"
36 P.L.2013, c.161 (C.52:27D-489p et al.), except that projects with
37 costs exceeding \$200,000,000 shall not be eligible for revised
38 percentage caps under subsection d. of section 19 of P.L.2013, c.161
39 (C.52:27D-489i).

40 (cf: P.L.2015, c.242, s.3)

41

42 125. R.S.54:50-8 is amended to read as follows:

43 54:50-8. a. The records and files of the director respecting the
44 administration of the State Uniform Tax Procedure Law or of any
45 State tax law shall be considered confidential and privileged and
46 neither the director nor any employee engaged in the administration
47 thereof or charged with the custody of any such records or files, nor
48 any former officer or employee, nor any person who may have

1 secured information therefrom under subsection d., e., f., g., p., [or]
2 q., or r. of R.S.54:50-9 or any other provision of State law, shall
3 divulge, disclose, use for their own personal advantage, or examine
4 for any reason other than a reason necessitated by the performance of
5 official duties any information obtained from the said records or files
6 or from any examination or inspection of the premises or property of
7 any person. Neither the director nor any employee engaged in such
8 administration or charged with the custody of any such records or
9 files shall be required to produce any of them for the inspection of
10 any person or for use in any action or proceeding except when the
11 records or files or the facts shown thereby are directly involved in an
12 action or proceeding under the provisions of the State Uniform Tax
13 Procedure Law or of the State tax law affected, or where the
14 determination of the action or proceeding will affect the validity or
15 amount of the claim of the State under some State tax law, or in any
16 lawful proceeding for the investigation and prosecution of any
17 violation of the criminal provisions of the State Uniform Tax
18 Procedure Law or of any State tax law.

19 b. The prohibitions of this section, against unauthorized
20 disclosure, use or examination by any present or former officer or
21 employee of this State or any other individual having custody of such
22 information obtained pursuant to the explicit authority of State law,
23 shall specifically include, without limitation, violations involving the
24 divulgence or examination of any information from or any copy of a
25 federal return or federal return information required by New Jersey
26 law to be attached to or included in any New Jersey return. Any
27 person violating this section by divulging, disclosing or using
28 information shall be guilty of a crime of the fourth degree. Any
29 person violating this section by examining records or files for any
30 reason other than a reason necessitated by the performance of official
31 duties shall be guilty of a disorderly persons offense.

32 c. Whenever records and files are used in connection with the
33 prosecution of any person for violating the provisions of this section
34 by divulging, disclosing or using records or files or examining
35 records and files for any reason other than a reason necessitated by
36 the performance of official duties, the defendant shall be given access
37 to those records and files. The court shall review such records and
38 files in camera, and that portion of the court record containing the
39 records and files shall be sealed by the court.

40 (cf: P.L.2019, c.367, s.1)

41

42 126. R.S.54:50-9 is amended to read as follows:

43 54:50-9. Nothing herein contained shall be construed to prevent:

44 a. The delivery to a taxpayer or the taxpayer's duly authorized
45 representative of a copy of any report or any other paper filed by the
46 taxpayer pursuant to the provisions of this subtitle or of any such
47 State tax law;

- 1 b. The publication of statistics so classified as to prevent the
2 identification of a particular report and the items thereof;
- 3 c. The director, in the director's discretion and subject to
4 reasonable conditions imposed by the director, from disclosing the
5 name and address of any licensee under any State tax law, unless
6 expressly prohibited by such State tax law;
- 7 d. The inspection by the Attorney General or other legal
8 representative of this State of the reports or files relating to the claim
9 of any taxpayer who shall bring an action to review or set aside any
10 tax imposed under any State tax law or against whom an action or
11 proceeding has been instituted in accordance with the provisions
12 thereof;
- 13 e. The examination of said records and files by the Comptroller,
14 State Auditor or State Commissioner of Finance, or by their
15 respective duly authorized agents;
- 16 f. The furnishing, at the discretion of the director, of any
17 information contained in tax reports or returns or any audit thereof or
18 the report of any investigation made with respect thereto, filed
19 pursuant to the tax laws, to the taxing officials of any other state, the
20 District of Columbia, the United States and the territories thereof,
21 providing said jurisdictions grant like privileges to this State and
22 providing such information is to be used for tax purposes only;
- 23 g. The furnishing, at the discretion of the director, of any
24 material information disclosed by the records or files to any law
25 enforcing authority of this State who shall be charged with the
26 investigation or prosecution of any violation of the criminal
27 provisions of this subtitle or of any State tax law;
- 28 h. The furnishing by the director to the State agency responsible
29 for administering the Child Support Enforcement program pursuant
30 to Title IV-D of the federal Social Security Act, Pub.L.93-647 (42
31 U.S.C. s.651 et seq.), with the names, home addresses, social security
32 numbers and sources of income and assets of all absent parents who
33 are certified by that agency as being required to pay child support,
34 upon request by the State agency and pursuant to procedures and in
35 a form prescribed by the director;
- 36 i. The furnishing by the director to the Board of Public Utilities
37 any information contained in tax information statements, reports or
38 returns or any audit thereof or a report of any investigation made with
39 respect thereto, as may be necessary for the administration of
40 P.L.1991, c.184 (C.54:30A-18.6 et al.) and P.L.1997, c.162
41 (C.54:10A-5.25 et al.);
- 42 j. The furnishing by the director to the Director of the Division
43 of Alcoholic Beverage Control in the Department of Law and Public
44 Safety any information contained in tax information statements,
45 reports or returns or any audit thereof or a report of any investigation
46 made with respect thereto, as may be relevant, in the discretion of the
47 director, in any proceeding conducted for the issuance, suspension or

- 1 revocation of any license authorized pursuant to Title 33 of the
2 Revised Statutes;
- 3 k. The inspection by the Attorney General or other legal
4 representative of this State of the reports or files of any tobacco
5 product manufacturer, as defined in section 2 of P.L.1999, c.148
6 (C.52:4D-2), for any period in which that tobacco product
7 manufacturer was not or is not in compliance with subsection a. of
8 section 3 of P.L.1999, c.148 (C.52:4D-3), or of any licensed
9 distributor as defined in section 102 of P.L.1948, c.65 (C.54:40A-2),
10 for the purpose of facilitating the administration of the provisions of
11 P.L.1999, c.148 (C.52:4D-1 et seq.);
- 12 l. The furnishing, at the discretion of the director, of
13 information as to whether a contractor or subcontractor holds a valid
14 business registration as defined in section 1 of P.L.2001, c.134
15 (C.52:32-44);
- 16 m. The furnishing by the director to a State agency as defined in
17 section 1 of P.L.1995, c.158 (C.54:50-24) the names of licensees
18 subject to suspension for non-payment of State tax indebtedness
19 pursuant to P.L.2004, c.58 (C.54:50-26.1 et al.);
- 20 n. The release to the United States Department of the Treasury,
21 Bureau of Financial Management Service, or its successor of relevant
22 taxpayer information for purposes of implementing a reciprocal
23 collection and offset of indebtedness agreement entered into between
24 the State of New Jersey and the federal government pursuant to
25 section 1 of P.L.2006, c.32 (C.54:49-12.7);
- 26 o. The examination of said records and files by the
27 Commissioner of Health and Senior Services, the Commissioner of
28 Human Services, the Medicaid Inspector General, or their respective
29 duly authorized agents, pursuant to section 5 of P.L.2007, c.217
30 (C.26:2H-18.60e), section 3 of P.L.1968, c.413 (C.30:4D-3), or
31 section 5 of P.L.2005, c.156 (C.30:4J-12);
- 32 p. The furnishing at the discretion of the director of employer
33 provided wage and tax withholding information contained in tax
34 reports or returns filed pursuant to N.J.S.54A:7-2, 54A:7-4 and
35 54A:7-7, to the designated municipal officer of a municipality
36 authorized to impose an employer payroll tax pursuant to the
37 provisions of Article 5 (Employer Payroll Tax) of the "Local Tax
38 Authorization Act," P.L.1970, c.326 (C.40:48C-14 et seq.), for the
39 limited purpose of verifying the payroll information reported by
40 employers subject to the employer payroll tax;
- 41 q. The furnishing by the director to the Commissioner of Labor
42 and Workforce Development of any information, including, but not
43 limited to, tax information statements, reports, audit files, returns, or
44 reports of any investigation for the purpose of labor market research
45 or assisting in investigations pursuant to any State wage, benefit or
46 tax law as enumerated in section 1 of P.L.2009, c.194 (C.34:1A-
47 1.11); or pursuant to P.L.1940, c.153 (C.34:2-21.1 et seq.).

1 Sections 35-42 of the bill is the “Food Desert Relief Act” providing
2 tax credits in order to incentivize businesses to establish and retain
3 new supermarkets and grocery stores in food desert communities.
4 Sections 43-53 is the "New Jersey Community-Anchored
5 Development Act" providing tax credits to anchor institutions to
6 incentivize the expansion of targeted industries in the State and the
7 continued development of certain areas of the State.
8 Sections 54-67 is the "New Jersey Aspire Program Act" providing
9 tax credits to encourage redevelopment projects by covering certain
10 project financing gap costs.
11 Sections 68-81 is the “Emerge Program Act” providing tax credits to
12 encourage economic development, job creation, and the retention of
13 significant numbers of jobs in imminent danger of leaving the State.
14 Sections 82-88 is the "Main Street Recovery Finance Program Act"
15 providing grants, loans, and loan guarantees to small businesses.
16 Sections 92-97 is the "New Jersey Ignite Act" a public-private
17 partnership providing start-up rent grants to collaborative
18 workspaces to support the early months of an early stage innovation
19 economy business’s rent at the collaborative workspace.
20 Section 99-105 is the “Economic Development Authority Integrity
21 and Protection Act" to create an Office of the Economic
22 Development Inspector General, which will operate independent of
23 the oversight or management of the of the EDA, and to require
24 employment of Chief Compliance Officer to manage the Division of
25 Portfolio Management and Compliance in the EDA.
26 Sections 106-107 allow tax credits for new hires involved in the
27 manufacture of personal protective.
28 Sections 108-124 amend existing tax credit programs and
29 requirements.

SENATE BUDGET AND APPROPRIATIONS COMMITTEE

STATEMENT TO

SENATE, No. 3295

with committee amendments

STATE OF NEW JERSEY

DATED: DECEMBER 18, 2020

The Senate Budget and Appropriations Committee reports favorably Senate Bill No. 3295, with committee amendments.

As amended, this bill, named the “New Jersey Economic Recovery Act of 2020,” provides for the administration of programs and policies related to jobs, property development, food deserts, community partnerships, small and early stage businesses, State procurement, wind energy, and film production, and makes an appropriation.

Sections 2-8 of the bill are the Historic Property Reinvestment program providing tax credits for part of the cost of rehabilitating historic properties in this State. Tax credits under this program are capped at \$50 million annually for six years.

Sections 9-19 of the bill are the Brownfields Redevelopment Incentive program providing tax credits to compensate developers of redevelopment projects located on brownfield sites for remediation costs. Tax credits under this program are capped at \$50 million annually for six years.

Section 20-34 of the bill are the New Jersey Innovation Evergreen program auctioning tax credits for cash, which will be used to invest in innovation as a catalyst for economic growth and to advance the competitiveness of the State’s businesses in the global economy. Tax credits under this program are capped at \$60 million annually for six years.

Sections 35-42 of the bill are the Food Desert Relief program providing tax credits in order to incentivize businesses to establish and retain new supermarkets and grocery stores in food desert communities. Tax credits under this program are capped at \$40 million annually for six years.

Sections 43-53 are the New Jersey Community-Anchored Development program providing tax credits to anchor institutions to incentivize the expansion of targeted industries in the State and the continued development of certain areas of the State. Tax credits under this program are capped at \$200 million annually for six years, but the \$200 million annual cap will be split so that up to \$130 million of tax credits will be for areas in the 13 northern counties of the State and \$70 million for areas in the eight southern counties.

Sections 54-67 are the New Jersey Aspire program providing tax credits to encourage redevelopment projects by covering certain project financing gap costs.

Sections 68-81 are the Emerge program providing tax credits to encourage economic development, job creation, and the retention of significant numbers of jobs in imminent danger of leaving the State.

Tax credits under the Aspire program combined with tax credits under the Emerge program are capped at \$1.1 billion annually for six years, but the \$1.1 billion annual cap will be split so that up to \$715 million of tax credits will be for projects located in the northern counties of the State and \$385 million for projects located in the southern counties. The \$1.1 billion cap does not apply to transformative projects. For transformative projects under the Aspire program and the Emerge program the combined credits over six years is capped at \$2.5 billion.

Sections 82-88 are the Main Street Recovery Finance program providing grants, loans, and loan guarantees to small businesses. The bill appropriates \$50 million for this program.

Section 89 allows the Director of Taxation to purchase unused tax credits.

Section 90 establishes a working group for the purpose of making recommendations for the establishment of entrepreneur zones throughout the State.

Section 91 grants preferences to businesses within the State with respect to bidders for a State contract to supply personal protective equipment.

Sections 92-97 are the New Jersey Ignite program, a public-private partnership providing start-up rent grants to collaborative workspaces to support the early months of an early stage innovation economy business's rent at the collaborative workspace. The bill appropriates \$250,000 for this program.

Section 98 sets the caps on tax credits for the programs in sections 2-81 of the bill, including an overall cap of \$11.5 billion for those programs, and allows a seventh year of tax credits under those programs for uncommitted credits.

Sections 99-105 create an Office of Economic Development Inspector General, and require employment of a Chief Compliance Officer to manage the Division of Portfolio Management and Compliance. The bill appropriates \$250,000 to implement these sections.

Sections 106-107 allow tax credits for hiring employees for the manufacture of personal protective equipment. Tax credits under these sections are capped at \$10 million annually for three years.

Section 108 allows deferrals, adjustments, and termination of incentive agreements for businesses affected by COVID-19.

Section 109 amends the Offshore Wind Economic Development Act, including to change eligibility requirements, disbursement of credits, and deadlines.

Sections 110-111 amend existing film tax credit provisions to include provisions for “New Jersey film partners” and “New Jersey film-lease partners,” and to allow an additional \$200 million of tax credits annually over 13 years.

Section 112 requires the Economic Development Authority (EDA) to adopt rules requiring that not less than the prevailing wage rate be paid to workers employed in connection with certain incentive programs.

Sections 113-114 make adjustments to the New Jersey Emerging Technology and Biotechnology Financial Assistance Program, including to increase the annual amount of tax benefits that the EDA may approve for transfer between corporations.

Section 115 allows the EDA to purchase and lease real property.

Section 116 modifies and expands what the EDA’s Economic Recovery Fund’s money may be used for.

Sections 117-119 make adjustments to the New Jersey Angel Investor Tax Credit Act, including to increase the annual tax credit cap from \$25 million to \$35 million and to add provisions for venture funds.

Sections 120-121 make adjustments to the Grow New Jersey Assistance Program, including to amend the definition of “incentive effective date.”

Section 122-124 amend the Economic Redevelopment and Growth Grant Program, including to extend deadlines and allow an additional \$220 million of tax credits to be awarded.

Sections 125-126 amend existing law to allow the Division of Taxation to share relevant taxpayer data with the EDA.

Section 127 appropriates \$55.5 million, which includes the appropriations mentioned above for implementing sections 82-88, 92-97, and 99-105, as well as \$5 million to award grants for zoning and economic planning services or economic redevelopment plans.

COMMITTEE AMENDMENTS:

The committee amended the bill to:

- adjust the cap structure set forth in section 98 for the programs in sections 2-81, including to allow for a seventh year of tax credits if the overall cap has not been met through six years, and to maintain the tax credit allocation between northern and southern counties over six years, instead of three, for the Community-Anchored Development, Aspire, and Emerge programs;

- change the wage requirements under various incentive programs;

- adjust the eligibility and factors considered for tax credits under the Brownfields program;

- require a commitment to accept benefits from federal nutrition assistance programs to be eligible for tax credits under the Food Desert Relief program, and to include supermarkets and grocery stores in the Food Desert Relief program;

- include partner anchor-institutions in the Community-Anchored Development program;

- modify the affordable housing requirements for a residential project to qualify for an incentive award under the Aspire program;
- modify the tax credit application process under the Aspire program;
- limit the requirement for developers to enter into community benefits agreements under the Aspire and Emerge programs to redevelopment projects costing \$10 million or more and have not submitted a copy of the project agreement certified by the municipality in which the project is located;
- increase the maximum number of transformative projects that may be awarded under the Aspire program from seven to 10;
- for the Emerge program: allow a bonus tax credit if one-third or more of the members of the developer's governing board or other governing body self-identify as members of an underrepresented community; include provisions for "enhanced areas" and modify the structure of the base tax credit award amounts; and modify the bonus credit for businesses that enter into a labor harmony agreement;
- adjust the film tax credits, including to extend annual tax credits allowed for "New Jersey film partners" and "New Jersey film-lease partners" to June 30, 2033 from June 30, 2028; and
- make other adjustments, including to modify some definitions and make technical corrections.

FISCAL IMPACT:

The Office of Legislative Services (OLS) notes that this bill authorizes: up to \$11.5 billion of tax credits over seven years for new incentive programs in sections 2-81; up to \$2.6 billion of film tax credits over 13 years in sections 110-111; up to \$220 million of tax credits under the Economic Redevelopment and Growth Grant program for certain project applications submitted prior to December 31, 2021 in sections 122-124; up to \$30 million over three years for hiring employees for the manufacture of personal protective equipment in sections 106-107. The bill also increases the angel investor tax credit cap from \$25 to \$35 million annually in sections 117-119. Finally, the OLS notes that the bill appropriates \$55.5 million to support various programs and administrative functions established by the bill.

LEGISLATIVE FISCAL ESTIMATE

[First Reprint]

SENATE, No. 3295

STATE OF NEW JERSEY 219th LEGISLATURE

DATED: DECEMBER 24, 2020

SUMMARY

- Synopsis:** "New Jersey Economic Recovery Act of 2020"; provides for administration of programs and policies related to jobs, property development, food deserts, community partnerships, small and early stage businesses, State procurement, wind energy, and film production, and makes an appropriation.
- Type of Impact:** Indeterminate fiscal net impact on State General Fund and Property Tax Relief Fund; potential revenue increase to certain local governments.
- Agencies Affected:** Department of Agriculture.
Department of Community Affairs.
Department of Labor and Workforce Development.
Department of the Treasury.
New Jersey Economic Development Authority.
Certain Local Governments.

Office of Legislative Services Estimate

Fiscal Impact	Multi-Year Lifespan of Incentive Awards
State Expenditure Increase	\$55,500,000
Direct State Revenue Loss	Up to \$14,400,000,000
Indirect State Revenue Gain	Indeterminate
State Opportunity Cost	Indeterminate
Indirect Local Revenue Gain	Indeterminate
Local Opportunity Cost	Indeterminate

- The Office of Legislative Services (OLS) is unable to ascertain whether the bill will have a positive or negative fiscal net impact on the State because of imperfect information on the number and attributes of projects that will receive incentives as a result of the bill's enactment.

- The State fiscal net impact is calculated by adding the indeterminate direct revenue loss from awarding additional incentive amounts and their indeterminate opportunity costs (the fiscal benefits the State forgoes as spending is redirected from one economic activity to another) and subtracting from that sum the indeterminate indirect revenue gain that will accrue from additional economic activity that the additional incentive amounts will catalyze.
- The bill may produce a direct State revenue loss of as much as \$14.4 billion, over a multi-year period, from newly established incentive programs and enhancements to existing ones.
- State expenditures will increase by \$55.5 million reflecting appropriations to support certain programs and administrative operations.
- The bill might accrue an indeterminate revenue gain to certain local governments if the bill results in the New Jersey Economic Development Authority (EDA) extending financial assistance to projects that would not be undertaken absent the assistance and if the projects involve value-increasing improvements to taxable real estate.

BILL DESCRIPTION

This bill authorizes up to \$11.5 billion in new economic development incentives over a seven-year period, allocated among seven separate programs. The table below summarizes key fiscal aspects of each program.

Program	Historic Property Reinvestment	Brownfield Redevelopment Incentive Program	New Jersey Innovation Evergreen	Food Desert Relief	New Jersey Community-Anchored Development	New Jersey Aspire and Emerge Programs
Limits	\$50 million annually	\$50 million annually	\$60 million annually; \$300 million total	\$40 million annually	\$200 million annually	\$1.1 billion annually (split)
Refundability	Non-refundable	Non-refundable	Non-refundable	Non-refundable	N/A	Non-refundable
Carry Forward	9 years	None	7 years	10 years	None	Varies
Transfer Certificate	Yes	Yes	Yes	No	Yes	Yes
Net Benefit Test	No	No	N/A	No	Yes	Yes
Recapture of Credits	Yes	Yes	N/A	Yes	Yes	Yes
Reporting Requirements	Yes	Yes	Yes	Yes	Yes	Yes

The bill authorizes the Director of the Division of Taxation to purchase unused tax credits from these programs as well as certain Grow New Jersey Assistance Program and State Economic Redevelopment and Growth Grant program incentives.

The bill establishes the Main Street Recovery Finance program providing grants, loans, and loan guarantees to small businesses. The bill appropriates \$50 million for this program.

The bill establishes the New Jersey Ignite program, a public-private partnership providing start-up rent grants to collaborative workspaces to support the early months of an early-stage innovation economy business's rent at the collaborative workspace. The bill appropriates \$250,000 for this program.

The bill provides tax credits for hiring employees for the manufacture of personal protective equipment capped at \$10 million annually for three years.

The bill increase the film tax credit caps by \$2.6 billion over 13 fiscal years.

The bill extends Economic Redevelopment and Growth Grant Program deadlines and allows an additional \$220 million of tax credits to be awarded under that program.

The bill adjusts the New Jersey Emerging Technology and Biotechnology Financial Assistance Program, including to increase the annual amount of tax benefits that the EDA may approve for transfer between corporations. The bill also revises the New Jersey Angel Investor Tax Credit Act, including to increase the annual tax credit cap from \$25 million to \$35 million and to add provisions for venture funds.

The bill establishes a working group for the purpose of making recommendations for the establishment of entrepreneur zones throughout the State.

The bill creates an Office of Economic Development Inspector General, requires employment of a Chief Compliance Officer to manage the Division of Portfolio Management and Compliance, and appropriates \$250,000 for these purposes.

The bill appropriates \$5 million to the EDA to fund zoning and planning grants in government-restricted municipalities and economic development plans for distressed assets in other municipalities.

The bill makes various changes to existing incentive programs, including, but not limited to, eligibility requirements, deadline extensions, and the disbursement of credit awards.

The Senate Budget and Appropriations Committee statement to this bill from December 18, 2020 includes a more detailed discussion of the provisions of the proposed legislation.

FISCAL ANALYSIS

EXECUTIVE BRANCH

None received.

OFFICE OF LEGISLATIVE SERVICES

The OLS is unable to ascertain whether the bill will have a positive or negative fiscal net impact on the State because of imperfect information on the number and attributes of projects that will receive incentives as a result of the bill's enactment.

The bill may produce a direct State revenue loss of as much as \$14.4 billion, over a multi-year period, from newly established incentive programs and enhancements to existing ones. In addition, State expenditures will increase by \$55.5 million reflecting appropriations to support certain programs and administrative operations.

The bill is likely to produce a revenue gain for certain local governments if the bill results in the EDA extending financial assistance to projects that would not be undertaken absent the assistance and if the projects involve value-increasing improvements to taxable real estate.

Conceptually, the State fiscal net impact is calculated by adding the direct revenue loss from awarding additional incentive amounts and their opportunity costs (the fiscal benefits the State forgoes as spending is redirected from one economic activity to another) and subtracting from that sum the indirect revenue gain that will accrue from additional economic activity that the additional incentive amounts will catalyze.

Direct State Revenue Loss: The OLS cannot quantify the precise direct revenue loss the bill will impose on the State, but notes that incentive awards across all programs either newly established or modified by the bill will be largely capped at approximately \$14.4 billion and temporally limited. The revenue reduction from any financial assistance may extend past the years allotted for each program, however, as carry forward provisions and tax credit transfer certificates may be redeemable outside that timeframe. The OLS further notes that the bill allow the EDA to recapture or rescind incentive awards under certain circumstances. Those provisions may offset, at least in part, future revenue losses.

Indirect State and Local Revenue Gain: Imperfect information on the number and attributes of projects that, under the bill, might newly qualify for incentive awards precludes the OLS from quantifying the bill's indirect revenue gain to the State and local governments. For reasons laid out below, the OLS cannot project whether the bill's indirect fiscal State benefits will exceed its direct State revenue loss.

Analytical Framework: Like any government expenditure, economic development incentive awards inject new spending into the economy. Once businesses and individuals receive payments that would otherwise not be received absent the incentive awards, at least a portion of these payments will newly circulate in New Jersey's economy and produce so-called "multiplier effects." As the additional financial resources flow through the economy they generate, as a byproduct, additional State and local revenue collections—the indirect revenue gain discussed in this section. Examples are enhanced local property tax collections accruing when an incentive recipient invests the incentive amount in business facility improvements, which then appreciate the property's value; or additional State sales and use tax collections from construction workers employed in a business facility improvement spending their resultant income on taxable goods and services.

Indirect State fiscal effects offset the State's direct revenue loss from awarding incentives in part or potentially even in whole. Fiscal "multiplier effects" tend to be maximized whenever an incentive award serves as the indispensable impetus for additional spending by the incentive recipient that would not otherwise occur. In this case, the incentive recipient magnifies the positive economic and fiscal impacts of the State's outlay. Depending on project and incentive attributes, the induced project may even yield indirect fiscal State benefits exceeding the subsidy amount. The larger the proportion of the public assistance relative to the financial outlay by the subsidized party, however, the lower the probability that the subsidized activity will generate positive net returns to the State.

In contrast, the State's return on investment is negative whenever the State subsidizes a project that a taxpayer will undertake with or without the public assistance. Because the financial inducement has not caused the project's realization, none of its economic and fiscal feedback effects are attributable to the incentive, and therefore must be excluded from the tabulation of the incentive's indirect fiscal benefits.

Nevertheless, even if the State provides financial assistance to a project that would be realized anyway, some, albeit comparatively small, indirect fiscal benefits may still accrue to the State. These would occur whenever the subsidy beneficiary spends the incentive award in New Jersey on goods and services that the beneficiary would otherwise not have procured. In that event the

incentive award still represents an injection of additional cash into New Jersey's economy whose ripple effects include the accumulation of indirect fiscal State benefits.

Lastly, given the high degree of integration of New Jersey's economy with the national and global economies, an addition of spending in New Jersey will eventually leak into other jurisdictions and cease to circulate within the State. Consequently, any tabulation of a subsidy payment's New Jersey feedback effects must disregard feedback effects that other jurisdictions will absorb. For example, a Pennsylvania resident who works as a carpenter on a subsidized redevelopment project in New Jersey will pay Pennsylvania, and not New Jersey, income tax on the compensation earned in accordance with the State of New Jersey and the Commonwealth of Pennsylvania Reciprocal Personal Income Tax Agreement.

Bill's State Indirect Fiscal Effects: It is unclear whether the bill's indirect fiscal State benefits will exceed its direct State revenue loss.

The OLS expects this bill to lead to the EDA issuing additional incentive awards under both new and existing incentive programs. It is uncertain, however, whether the additional incentive awards will generate indirect fiscal benefits to the State that will exceed the direct State revenue loss resulting from those incentive awards. For two reasons, however, the OLS expects that the indirect fiscal benefits may be less than the direct State revenue loss. First, not all of the EDA's financial assistance programs addressed in this bill are subject to some form of a net benefit test calculation. The traditional calculation is intended to ensure that the EDA will award incentives only to capital projects that are estimated to generate indirect State revenue equal to at least 110 percent of an inducement's direct State revenue loss. However, some programs alter that net benefit test requirement or exclude it entirely. In addition, not all of the programs require that the financial assistance be instrumental to project execution. As a result, the bill allows for projects to receive financial assistance that will happen irrespective of the receipt of the State assistance. Whenever that happens, none of a project's indirect fiscal benefits can be causally attributed to the assistance.

But the OLS points out that it is possible that incentive-receiving projects that will not have been induced by the incentive programs may generate some indirect fiscal State benefits. This would occur whenever recipients of such incentives spend their incentive awards in New Jersey on goods and services that they would not have procured absent the incentive award.

Irrespective of the magnitude of the bill's indirect fiscal benefits, the analysis of its full impact on State finances is incomplete without considering the bill's opportunity costs.

State Opportunity Costs: Given the State's finite resources and its balanced budget requirement, the decision to pursue new incentive programs as well as enhance existing incentive programs will invariably divert resources from policy alternatives to which they would have been applied absent the inducements. These policy alternatives also produce direct State costs and indirect State revenue collections. The concept of opportunity costs captures the value of these fiscal benefits the State foregoes as it redirects cash flows. Once opportunity costs are factored into the analysis, it is therefore possible for a bill to produce a *net* fiscal loss to the State even if its indirect fiscal benefits exceed its direct cost.

For example, if, instead of this bill, the State invested in road construction the bill would produce a *net* fiscal effect equal to the difference between the total fiscal impact of the additional incentive awards—or the direct State revenue loss from awarding the additional incentives minus the additional incentives' indirect State fiscal effects—and that of the foregone road construction investment.

Section: Revenue, Finance and Appropriations

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

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

Governor Murphy Signs Historic Economic Recovery Legislation

01/7/2021

Bill Will Provide Aid to Small Businesses and Usher in New Era of Economic Development

TRENTON – Governor Phil Murphy today signed into law the landmark New Jersey Economic Recovery Act of 2020, which will provide economic support for small businesses, while propelling New Jersey's economic recovery and growth for much of the next decade.

"These programs are the product of nearly three years of hard work, during which we received input from hundreds of voices on how best to structure our state's recovery and growth," **said Governor Phil Murphy**. "I am immensely proud of the result, which will not only provide much needed relief for our small businesses, but will also fundamentally change economic development in our state while creating thousands of high-paying job for our residents."

The legislation includes a host of new initiatives including the Main Street Recovery Finance Program, which will provide a direct \$50 million appropriation for grants, loans, loan guarantees, and technical assistance to small and micro businesses.

This bill will also bolster the state's startup and entrepreneur economy through implementation of the Innovation Evergreen Fund, a first-of-its-kind program that will combine state funds with private capital to support innovative new businesses.

The new legislation also includes several cutting-edge programs designed to promote growth in New Jersey's urban centers, including the Brownfields Redevelopment Incentive designed to facilitate the redevelopment of environmentally contaminated properties; the Historic Property Tax Credit, which will incentivize the restoration of historic buildings, many of which are located in New Jersey's oldest and most distressed neighborhoods; and the Community-Anchored Development Program, which will incentivize the construction of innovative new developments by partnering with universities, hospitals, arts, and cultural organizations and give the state an equity stake in the development.

"This incentives package will not only help strengthen our economy, but it will help address some of the longstanding inequities faced by the most distressed communities in our state," **said Lt. Governor Sheila Oliver, who serves as Commissioner of the Department of Community Affairs**. "These renewed incentives are specifically directed toward reviving our local economies and helping main streets thrive throughout this crisis and beyond. I want to commend Governor Murphy and the legislature for their leadership in passing this bill which will put our state on a renewed path to prosperity."

"The New Jersey Economic Recovery Act of 2020 presents a strong recovery and reform package that will position New Jersey to build a stronger and fairer economy that invests in innovation, in our communities, and in our small businesses the right way, with the protections and oversight taxpayers deserve," **said NJEDA Chief Executive Officer Tim Sullivan**. "Tax incentives and other investment tools are critical to economic development, and when used correctly they can drive transformative change that uplifts communities and creates new opportunities for everyone."

"Renewal of New Jersey's tax incentive program was essential to ensuring our state's competitiveness in attracting and retaining jobs and businesses in our global economy," **said Senate President Steve Sweeney**. "I am pleased that the compromise we reached includes a sufficiently high cap on total incentives to enable New Jersey to compete for mega-projects, and that it ensures that all regions and sectors of our state will benefit from the various programs. I would like to thank Senators M. Teresa Ruiz and Paul Sarlo, former Senator Ray Lesniak, who served as our special counsel, and of course, Assembly Speaker Craig Coughlin and Governor Phil Murphy for working together to bring this legislation to fruition."

“This is comprehensive legislation which will grow new industries and foster innovation around the state. It will create greater investment in our communities by providing further incentives to locate in distressed municipalities, build affordable housing and redevelop brownfields,” said **Senator M. Teresa Ruiz**, the prime sponsor. “This law will help increase access to employment in high-growth industries, drive sustainable economic development and most importantly help our state to recover from the economic impact of the COVID-19 pandemic. This effort is balanced in its approach, it will ensure responsible investment, greater oversight and tangible community benefits.”

“This legislation provides the tax incentives we will need to spur business and job growth as we come out of a pandemic crisis that has devastated broad sectors of our economy,” said **Senator Paul Sarlo**. “Most importantly, it will provide tax incentives to attract the jobs we want – jobs that pay high salaries in cutting edge industries that will transform communities, partner with our higher education sector on R&D, provide valuable job training and be good corporate citizens.”

“This new law builds a new economic recovery and incentive program that will bolster businesses from Main Street small business to attracting new and larger job-creating corporations to make New Jersey home,” said **Assembly Speaker Craig Coughlin**. “This legislation also creates programs that address the problem of food deserts giving families fighting hunger greater access to healthy food options in the future as well as others similarly aimed toward historically underserved communities disproportionately impacted by the pandemic. Reauthorization of a large scale job incentive package has been a long time coming in this state. This is a plan that will lead New Jersey to a stronger economic future.”

“We worked to develop a comprehensive piece of legislation that will put New Jersey on a path to economic recovery post-COVID-19 and beyond,” said **Assembly Budget Chair Assemblywoman Eliana Pintor Marin**. “It includes a wide range of critical business and redevelopment incentives, which will spur growth in many areas that have been longstanding concerns for the state. New Jersey has been without an incentive program for over a year and a half, and this measure will make our businesses competitive with those in other states again. When combined with incentives to invest in technological innovation, developing brownfields, and eliminating food deserts, among others, we can help those struggling and drive the entire state forward.”

The legislation also includes a groundbreaking Food Desert Relief program designed to ensure that all communities have access to fresh, healthy food. Incentives would offset the cost of development of a fresh-food grocery store in an area designated as a food desert, while also strengthening existing community assets like bodegas, corner stores, and mid-sized retailers by equipping them with the necessary equipment and infrastructure to provide healthier food options.

The legislation reforms the state’s two main tax incentive programs, placing caps on the amount of incentives awarded each year, as well as over the life of the programs. The programs, which incorporate many of the recommendations of the Governor’s Task Force on EDA’s Tax Incentives, greatly enhance compliance restrictions to ensure that money is being well spent and jobs are being created, including the creation of an inspector general post to investigate claims of abuses within the programs.

The New Jersey Emerge program is a job creation tax credit focused on bringing new middle-class and well-paying jobs to our communities, with base and bonus structure for targeted industries and geographies.

The New Jersey Aspire program is a gap financing program to support commercial, industrial, mixed-use, and residential real estate development projects, with an emphasis on higher need communities.

Separate from the Emerge and Aspire program cap is a set-aside for large, transformative projects. There can be a maximum of ten such projects over the life of the incentives program.

This legislation will provide additional protections for organized labor, a longstanding promise of the governor’s, as well as community benefit agreements, which are designed to ensure an award recipient will engage and stay engaged with local government. For the first time, New Jersey’s economic development programs will include prevailing wage for building service work and labor harmony provisions, which will protect building trades and building service workers from unfair practices.

This sweeping legislation revamps several existing programs, including the successful Film and Television Tax Credit, which was expanded and enhanced to attract large studio construction to New Jersey, and the Offshore Wind Manufacturing credit, which now encompasses the entire state and will allow more businesses to qualify.

Several existing NJEDA programs have been folded into the legislation as well, including the Angel Investor Tax Credit, the Net Operating Loss Credit, and the New Jersey Ignite Program.

For a list of over 100 New Jersey leaders – spanning government, the private sector, and organized labor – who urged passage of the New Jersey Economic Recovery Act of 2020, please click [here](#).

Over 100 New Jersey Leaders Come Out in Support of Economic Recovery and Tax Incentives Reform Legislation

12/20/2020

TRENTON – Over 100 leaders in government, the private sector, and labor from across the state expressed their support for the New Jersey Economic Recovery Act of 2020, which will be voted on in the Legislature on Monday:

GOVERNOR MURPHY AND LEGISLATORS

“We are proud to announce that we have reached an agreement on a comprehensive economic recovery package that will support small businesses, drive sustainable economic growth, and reform our tax incentives system. This plan will specifically target historically underserved communities that have also been disproportionately impacted by COVID-19 with tailored programs to combat food deserts, spur brownfields redevelopment, and support historic preservation and renewal, as well as a grant and loan program designed to bolster Main Street small businesses,” **said Governor Murphy, Senate President Sweeney, and Assembly Speaker Coughlin.** “The agreement includes annual caps, strong compliance standards, groundbreaking tools to support the innovation economy, and robust labor protections. The plan will also help attract more high-growth businesses to the Garden State and provide additional support to small businesses during this unprecedented time. This is especially important as we lay the foundation for a stronger, more resilient post-COVID economy in New Jersey.”

“This is comprehensive legislation which will grow new industries and foster innovation around the state. It will create greater investment in our communities by providing further incentives to locate in distressed municipalities, build affordable housing and redevelop brownfields,” **said Senator M. Teresa Ruiz.** “This legislation will help increase access to employment in high-growth industries, drive sustainable economic development and most importantly help our state to recover from the economic impact of the COVID-19 pandemic. This effort is balanced in its approach, it will ensure responsible investment, greater oversight and tangible community benefits.”

“New Jersey has tremendous advantages for business with our location, our skilled workforce, top-rated schools, and our extensive multi-modal transportation network, but our ability to compete has been hampered for the past 18 months by our unilateral elimination of tax incentive programs that every other state offers,” **said Senator Paul Sarlo.**

“We worked to develop a comprehensive piece of legislation that will put New Jersey on a path to economic recovery post-COVID-19 and beyond,” **said Assembly Budget Chair Eliana Pintor Marin.** “It includes a wide range of critical business and redevelopment incentives, which will spur growth in many areas that have been longstanding concerns for the state. New Jersey has been without an incentive program for over a year and a half, and this measure will make our businesses competitive with those in other states again. When combined with incentives to invest in technological innovation, developing brownfields, and eliminating food deserts, among others, we can help those struggling and drive the entire state forward.”

“With the New Jersey Economic Recovery Act of 2020, we’ve created a path to economic rebound for the state’s businesses and our most pandemic-affected communities. This legislation nurtures the states’ long-standing role as the hub of innovation and tech in the Northeast. It continues to help us attract viable businesses, and grow Main Street programs, boosting job creation statewide. Getting residents back to work and creating job opportunities for those who have lost jobs as a result of this pandemic was a priority of this legislation,” **said Assembly sponsors Lou Greenwald, Gordon Johnson, Benjie Wimberly, Nicholas Chiaravalloti, Annette Chaparro, Anthony Verrelli, Vincent Mazzeo, Linda Carter, Eric Houghtaling, and Andrew Zwicker.** “COVID-19’s devastating impact on our state’s economy requires bold steps to ensure our economy rebuilds stronger and better, stabilizing families and their communities. A robust incentive package is a necessary economic stimulus. This legislation proudly focuses on many concerns of historically underserved

communities spurring remediation and redevelopment of Brownfields sites; the rehabilitation of historic properties; and improving access to nutritious food options by creating a program to help food desert communities. This long-awaited legislation is what New Jersey needs to begin to heal our economy from a national public health crisis, and an unprecedented moment in recent history.”

COUNTY AND MUNICIPAL OFFICIALS

“Communities like ours stand to reap the benefits of the economic recovery and tax incentives reform legislation proposed by Governor Murphy, Senate President Sweeney, and Assembly Speaker Coughlin,” **said Bergenfield Mayor Arvin Amatorio**. “Bergenfield will take advantage of the many programs that will be funded and put into place, including the Main Street Recovery Program. The passage of this legislation is critical to the success of Bergenfield coming out of the COVID-19 induced economic recession.”

“Governor Murphy, thank you for everything you have done, and continue to do, to provide help to the citizens and businesses of New Jersey during these trying times,” **said Berkeley Township Mayor Carmen F. Armato, Jr.** “The draft I have seen of the above referenced legislation appears to be a monumental step towards recovery for our State. In addition to providing the support so many desperately need right now, it also protects the environment and provides oversight to assure ‘good government’ at all levels. As Mayor of Berkeley Township I want to thank you and assure my wholehearted support of this legislation.”

“Anything that will help us see our way out of this difficult time is great,” **said Linden Mayor Derek Armstead**. “I think the Governor is right on track. I am in full support.”

“The road to our recovery from COVID-19 has been further enhanced by our Governor and Legislature’s advancement of vital legislation that will support, strengthen and help grow cities across the state. Cities like Newark require significant development and redevelopment projects that will return revenues to our budget, as well as help our small businesses return to their vibrancy and keep their rightful place in our cities,” **said Newark Mayor Ras Baraka**. “Notable programs such as the Brownfields Redevelopment Incentive Program, Food Desert Program and the New Jersey Community-Anchored Development Program signify a true commitment to rebuilding and revitalization. More specifically, the Main Street Recovery Finance Program and increasing funding for our small businesses are critically important for communities and specifically our Black and LatinX businesses disproportionately hit harder during the pandemic and who are in need of dire, ongoing local, state and federal economic stimulus funding. A recent study by United Way of Greater Newark states that 30% of Newark’s small businesses are at risk of closing. We have the unique opportunity to bolster our urban centers, to support our residents and to strive for our collective transition from the pandemic to be one of true urban transformation.”

“I’m very grateful to the Governor and legislature for passing this much needed economic recovery and tax incentive reform package,” **said Westfield Mayor Shelley Brindle**. “In particular, the Main Street Recovery Finance Program and the Historic Property Tax Credit will be important to luring new investment to Westfield as we focus on the post pandemic future of our historic downtown.”

“We have made great strides in revitalizing and beautifying downtown Metuchen,” **said Metuchen Mayor Jonathan Busch**. “I am glad to see that the economic recovery and tax incentives reform package proposed by the Governor and legislative leadership includes the Main Street Recovery Finance Program, the Historic Property Tax Credit, and many other provisions that will help bring more investments to Metuchen.”

“I am delighted that the Governor and Legislature have laid out such a comprehensive program that touches a multiple of economic development initiatives that is certain to make New Jersey a leader in attracting new businesses to our state as well as assisting the recovery and growth of our existing small businesses,” **said Wildwood Mayor Pete Byron**. “In light of the devastating effects of COVID 19, the relief packages provided by the administration and legislature cannot come at a more critical time for our local communities. I am especially grateful that Governor Murphy and Senate President Sweeney were so diligent in providing an effective oversight of the tax incentive programs. The built-in safeguards of the programs will uphold public confidence that tax dollars are being spent wisely and appropriately.”

“The collaboration of the Governor and the Legislature in the preparation of the economic recovery package will provide a comprehensive set of tools for municipalities to tackle the current recession head on,” **said New Brunswick Mayor Jim Cahill**. “By maintaining and expanding key elements of successful legacy programs and creating new and innovative incentive and funding programs, this ‘investment’ in our State and municipalities will provide both economic and social returns in the immediate and long-term future.”

"The pandemic has revealed an underbelly of economic disproportionality that placed many of our fellow New Jersey residents at risk for disease, joblessness and limited opportunities," **said East Brunswick Mayor Brad Cohen**. "The Economic Recovery and Tax Incentives package is a down payment on trying to provide the financial tools needed to lift up those who have fallen behind. We all need to remember that rising waters raise all ships. Ultimately, this is a toolbox for a financial recovery that provides the medicine needed for a sustainable economy here in the Garden State."

"New Jersey has some of the nicest downtowns in our country but are struggling in the pandemic fueled recession," **said Madison Mayor Robert H. Conley**. "The economic recovery package especially the new programs of Main Street Recovery Finance Program and Historic Property Tax Credit will provide valuable support as residents are rediscovering our town center for shopping and entertainment."

"Governor Murphy's package of tax credits, finance programs, and targeted investments offers a hopeful way forward for New Jersey," **said Bayonne Mayor Jimmy Davis**. "The package would provide economic benefits to the state while also attracting business to New Jersey. Governor Murphy's programs will help New Jersey to navigate the waters toward greater prosperity after the pandemic has passed. We need this package to lift us up to better days ahead."

"Building back better must begin on Main Street as we seek to recover from the staggering impact of the pandemic on our economy," **said Hudson County Executive Tom DeGise**. "Governor Murphy's package of new initiatives to restore our state's prosperity will do just that. I urge our legislators and all residents to rally in support of these wise, equitable, and what I believe will be effective economic recovery proposals."

"I would like to thank the Governor and legislators for creating this comprehensive economic recovery package for all the residents of New Jersey," **said Union Township Mayor Michele S. Delisfort**. "Collectively, these initiatives will provide much-needed relief to businesses during these difficult times, as well as create job opportunities for families in need. And more importantly, it will give them the tools and resources needed for long-term recovery."

"This broad-based plan will provide a desperately needed lifeline to Cumberland County's residents and businesses," **said Cumberland County Board of Commissioners Director Joseph Derella**. "On behalf of the Cumberland County Board of Commissioners, I fully support this comprehensive plan to rebuild our local economy devastated by the impact of the pandemic."

"I am excited by the possibilities of programs such as Main Street recovery Finance Program as Berkeley Heights businesses are still reeling from the pandemic. This is the hope we needed in our community," **said Berkeley Heights Mayor Angie Devanney**. "As a community built on the technology of Bell Labs as its headquarters in Murray Hill 1941, I am also truly thrilled about New Jersey Innovation Evergreen Fund to encourage start-ups to locate in suburban communities. These State programs should assist the Township in working with its corporate neighbor to design smart, sustainable development at the single largest site in the community while providing jobs, community, green space and direct and indirect economic benefit to the Township. I commend Governor Murphy and his staff for helping to jump start the economic engines of suburban communities."

"Essex County stands to benefit immensely from the economic recovery and tax incentives included in the New Jersey Economic Recovery Act of 2020 proposed by the Governor and legislative leadership," **said Essex County Executive Joseph N. DiVincenzo, Jr.** "This innovative and groundbreaking initiative will bring more high-growth businesses to our county and create good, high-paying jobs for our residents. I support this legislation."

"This economic incentives package will be a real boon for Flemington," **said Flemington Mayor Betsy Driver**. "I expect it will attract significant investment in Flemington Borough."

"A key to attract and retain vital businesses is a well-rounded incentive program. This current legislation will help do both," **said Brick Township Mayor John Ducey**. "Businesses need help to recover from the financial impacts of the Covid 19 pandemic. It's great to see Trenton thinking outside the box for the good of our local economies. This will help locally."

"I am pleased to see that the Economic Recovery Act of 2020 includes support for small, traditional downtowns and business districts through new programs like the Main Street Recovery Finance Program," **said Cranford Mayor Patrick Giblin**. "The oversight provided by an Independent Inspector General is equally important, to maintain accountability."

"We need a spark that is going to help our urban economies persevere through the COVID-19 pandemic and its aftermath, and there is a great deal in this legislation that can help the Capital City do just that," **said Trenton Mayor W. Reed Gusciora**. "These incentives could help restore our revolutionary and industrial historic sites, create jobs through transformative redevelopment projects in our downtown and transit zones, and help combat widespread food insecurity, which has been made all the worse by the pandemic."

"With an increased focus on access to financing for transformative projects, collaborative workspaces, real estate development projects, and expanding Community Benefit Agreements, Governor Murphy and the Legislature demonstrate a firm commitment to provide mechanisms to support building and rebuilding all communities," **said Burlington County Freeholder Director Felicia Hopson**. "This well-timed decisive legislation energizes the framework for future growth and development that Willingboro Township is creating as we update our Master Plan."

"The economic recovery and tax incentives reform package being considered by the Legislature and supported by Governor Murphy is critical to communities like ours," **said Freehold Borough Mayor Kevin Kane**. "As we look towards the end of the COVID-19 pandemic, it is important to continue to attract businesses to Freehold and with this package, we will have an entire suite of tools to do exactly that."

"I am appreciative of the innovative and thoughtful approach that Governor Murphy and his team is taking in crafting an economic recovery platform for business and industry in the Garden State," **Bridgeton City Mayor Al Kelly**. "This is no easy task as it requires balancing the immediate demands of public health resulting from the pandemic with the need to remain forward-leaning once we move past the worst of the pandemic. This recovery package strikes the right balance between these vital but competing interests."

"As a mayor in a community hit hard by COVID, I'm thrilled that the Economic Recovery Package addresses many of the issues raised by communities and businesses most impacted this year," **said Clinton Mayor Janice Kovach**. "We are in need of the resources that will be available and look forward to working with the Governor and his staff to see them implemented."

"As New Jersey's retail capital, Paramus is excited for this legislation which will bring even more jobs and businesses to our community," **said Paramus Mayor Rich LaBarbiera**. "I thank the Governor, the Senate President, and the Speaker for their efforts on this bill package. We look forward to the many benefits that this will bring to our community."

"With an increased focus on access to financing for transformative projects, collaborative workspaces, real estate development projects, and expanding Community Benefit Agreements, Governor Murphy and the Legislature demonstrate a firm commitment to provide mechanisms to support building and rebuilding all communities," **Passaic Mayor Hector Lora**. "This well-timed decisive legislation energizes the framework for future growth and development that Willingboro Township is creating as we update our Master Plan."

"The proposed EDA Incentives program will make a significant difference to the economic development landscape in cities all across New Jersey," **said Plainfield Mayor Adrian Mapp**. "I applaud the Governor and both branches of the legislature for their forward thinking and for recognizing the need to provide tax credits in order to incentivize businesses to establish and retain new supermarkets and grocery stores in food desert communities."

"Governor Murphy has thoughtfully developed an overachieving economic recovery package that will lead New Jersey forward out of this pandemic," **said Maplewood Mayor Frank McGeehee**. "Focusing on supporting our downtown districts, creating jobs and stimulating responsible development are key pillars to continuing to position New Jersey as a leader among states in our country. I want to thank Governor Murphy for his leadership and collaborative efforts with our legislators and for Providing a roadmap to ensure a bright future for our great state."

"On behalf of the Freeholder Board, I would like to thank Governor Murphy, Senate President Sweeney, and Assembly Speaker Coughlin for creating a strong recovery package," **said Union County Freeholder Chairman Alexander Mirabella**. "Swift and decisive action is needed in order to ensure that New Jersey emerges from the COVID-19 crisis stronger than ever before, with more opportunities for all residents and businesses to share in the benefits of a modern, 21st century economy. The Freeholder Board strongly supports the Aspire Program as part of the economy recovery package. It will enable Union County, and communities like it, to build a lasting, transformative infrastructure that will impact job creation and economic development throughout New Jersey for years to come."

“COVID-19 has created a harsh economic environment for every community throughout New Jersey, and Middlesex County is no exception,” **said Middlesex County Freeholder Director Ronald Rios**. “Right now we need all the help we can get, and I am encouraged to see an incentive program that is absolutely essential to support our small business community, prevent job losses, and provide aid to our economy as a whole. With no indication that Congress will pass direct assistance to counties and local governments, this incentive plan is NJ putting its best foot forward.”

“Having innovative economic development incentives that are accountable, equitable, and enticing are critical to ensuring the future economy of New Jersey. I applaud the Governor and the Legislature for moving forward on a sweeping array of incentives that will undoubtedly ensure future growth and prosperity in Paterson and in other municipalities,” **said Paterson Mayor Andre Sayegh**. “Quite frankly, it couldn’t come at a better time, as we are still fighting this pandemic. With these strong incentives to drive investment and balanced growth, we will position our state, and diverse communities across the Garden State, to rebound from one of the largest challenges of a lifetime.”

“As the Mayor and on behalf of the Borough of Roselle, please accept our community’s strong support and endorsement of the New Jersey Economic Recovery Act of 2020. This Act will drive the sustainable economic growth that is so desperately needed in historically underserved municipalities, such as the Roselle, which have also been disproportionately impacted by the COVID-19 pandemic in these challenging times,” **said Roselle Mayor Donald Shaw**. “The Borough of Roselle continually strives to enhance collaborative efforts to work with public-private partnerships and the New Jersey Economic Recovery Act of 2020 will provide the catalyst to attract more high-growth businesses to New Jersey with financing incentives and tax credits, while also providing much-needed support to small businesses that are the backbone of our local economy coupled with robust labor protections, such as prevailing wage requirements. These measures will also augment the rehabilitation of qualified properties in financially distressed municipalities such as Roselle. I strongly urge the New Jersey State Assembly and State Senate to expedite the passage of this bill so that Governor Murphy may begin to immediately implement the much-needed and innovative provisions of the New Jersey Economic Recovery Act of 2020.”

“I am in strong support of the agreement on economic recovery and tax incentive reform reached between Governor Murphy and legislative leadership,” **said Atlantic City Mayor Marty Small, Sr.** “This pandemic has revealed the urgent need for us to come together as a State to bolster our economy and put our New Jersey families first. This agreement will help Atlantic City’s recovery from the economic crisis caused by COVID-19 and attract more high-growth businesses to our city.”

“The innovation economy in Parsippany is growing. Just this week, a Parsippany student won the Congressional App Challenge with her platform for providing food to those in need,” **said Parsippany Mayor Michael Soriano**. “Imagine if all of our creative minds had access to the same resources as major private enterprises. That is my hope for this bill: to make New Jersey and communities like mine the center of global innovation.”

“The economic recovery package is a necessary and crucial step in assisting Mount Laurel small businesses as well as South Jersey in our efforts to recover from the harsh financial effects of COVID-19,” **said Mount Laurel Councilman Stephen Steglik**. “I applaud the state legislature for taking action during a time in which our communities need it the most.”

“The economic recovery and tax incentives reform package proposed by Governor Murphy and legislative leaders is much-needed for communities like Ewing,” **said Ewing Mayor Bert Steinmann**. “As being to look towards our post-pandemic economy, the many economic development tools that this legislation provides will help our town survive and even thrive. I wholeheartedly support this proposal.”

“Since the onset of the COVID-19 pandemic, Bergen County has acted swiftly and aggressively to provide financial assistance to small business, which will exceed \$50 million in relief by the end of the year,” **said Bergen County Executive Jim Tedesco**. “With COVID-19 continuing to cause financial hardship on businesses across New Jersey, I applaud the State’s effort to pass this comprehensive economic recovery package. This measure aims to restore economic vitality to our state through new innovative economic development growth programs while also providing continued support to the businesses that make up the backbone of Main Street, Bergen County.”

“The New Jersey Economic Recovery Act of 2020 offers necessary programs that will help the Township of Irvington, its residents and small businesses recover from the challenges presented by the COVID-19 global outbreak,” **said Irvington Mayor Tony Vauss**. “Amongst the many initiatives created, reformed or expanded by the Act, Irvington will undeniably benefit from the creation of new, high-paying jobs; the availability of financing

that is used to support commercial, industrial, mixed-use and residential real estate development projects; grants, loans and technical assistance being provided to our small businesses; and expanded access to fresh food. I look forward to the revitalization that Irvington will experience as a result of the Act, and I sincerely hope for the sake of my residents, that it is passed before we transition into the New Year.

"I'm very pleased that Governor Murphy, Senate President Sweeney and Speaker Coughlin have prioritized ensuring this tax incentive program is passed," **said Bloomfield Mayor Mike Venezia**. "This is crucial for our economic recovery and job creation in our towns across the state."

"Our Governor hasn't slept a wink and is working every day to see our economy grow as he brings new high paying jobs to our communities with targeted precision and needed support," **said Englewood Mayor Michael Wildes**. "Thank you Governor Murphy for your stellar leadership."

"Economic development has been a key focus of our efforts in North Brunswick for many years," **said North Brunswick Mayor Francis Womack**. "I am happy to see that the Governor and legislative leadership have prioritized this in their economic recovery and tax incentives reform legislation. Programs like the Main Street Recovery Finance Program will bring much needed investment and jobs to build on top of the progress that we have already made. A vote for this legislation is a vote for North Brunswick's success."

"With an increased focus on access to financing for transformative projects, collaborative workspaces, real estate development projects, and expanding Community Benefit Agreements, Governor Murphy and the Legislature demonstrate a firm commitment to provide mechanisms to support building and rebuilding all communities," **said Willingboro Township Mayor Dr. Tiffani A. Worthy**. "This well-timed decisive legislation energizes the framework for future growth and development that Willingboro Township is creating as we update our Master Plan."

PRIVATE SECTOR, LABOR, AND POLICY LEADERS

"This long-awaited incentive reform package will offer valuable support to the state's entrepreneurial and innovation ecosystem. It is both comprehensive and sufficiently funded to help attract and retain more companies," **said James Barrood, Advisor at Tech Council Ventures**. "The investor community is pleased to see Evergreen funding and increases in the state's popular angel credit and NOL programs. I am also encouraged by the Main Street Recovery programs and the additional funds supporting minority businesses. Our small business community, especially our minority-owned businesses, have been battered by this brutal pandemic, so this support is essential."

"When announced over a year ago, we thought the Evergreen program could be a game changer to bring back innovation to New Jersey. Now that it's become a reality, VCs like myself are excited about getting to work and helping founders realize their fullest potential in New Jersey," **said Jay Bhatti, Co-Founder of BrandProject LP**. "Having built a start-up myself in Silicon Valley and invested in over 20 companies across the country, having a strong pro-growth, pro-innovation ecosystem is vital to the decision of founders to start businesses in a city and state. New Jersey lost tech innovation in the 60s to Silicon Valley and started losing Life Sciences standings the past 2 decades. New Jersey can again be a Top 3 hub for Tech and Life Sciences innovation in the country. We have the schools, strong founders, motivated investors and now an Evergreen Innovation program, and most importantly, leadership at the top with Governor Murphy who is 100% committed to building NJ's innovation roots back up to national prominence. I'm excited about the what the next decades holds for NJ with the roots planted by Governor Murphy and EDA CEO Tim Sullivan."

"The New Jersey Economic Recovery Act of 2020 will provide a much needed stimulus for our state, and I am very encouraged to see investments that will strengthen our urban communities, which have been hit hardest by this pandemic," **said Dr. Joel Bloom, President of the New Jersey Institute of Technology (NJIT)**. "Components like the brownfields tax credit and support for anchor institutions such as hospitals and higher education will have a direct and meaningful impact on our cities and the state as a whole. I also believe the inclusion of programs that spur innovation and entrepreneurship, such as the Innovation Evergreen Fund, is essential for this to be an investment that yields long-term economic returns."

"The economic turmoil caused by COVID-19 calls for a strong response from our elected leaders in New Jersey - and we believe that's just what we got in this comprehensive recovery package," **said Dan Borok, Managing Partner, Newark Venture Partners**. "The new and expanded incentives it provides to investors will have a ripple effect on the region's larger growth economy, not only helping our business community to recover from the pandemic, but creating a foundation for job creation, economic development, and a thriving technology ecosystem for New Jersey's future."

"The New Jersey Chamber of Commerce welcomes the news that Gov. Murphy and state legislative leaders have agreed on a new economic incentive program for New Jersey," **said Tom Bracken, President of CEO of the New Jersey State Chamber of Commerce.** "Any sustained economic recovery in New Jersey must have a competitive and robust incentive program such as the one these state leaders have crafted, and this program will serve as a foundation for that recovery. We urge the state Legislature to deliberate and approve this incentive program as quickly as possible."

"We are glad to hear that Governor Murphy, Senate President Sweeney, and Assembly Speaker Coughlin have reached a deal on a new tax incentives bill," **said Kevin Brown, Vice President and New Jersey State Director of 32BJ SEIU.** "New Jersey needs a strong economy. When the state gives anything of value to businesses in order to incentivize growth, the construction and property service permanent jobs must be good jobs. We are happy to hear that strong labor protections are a key part of the legislation."

"I am excited to see that the Governor and the legislature have come to an agreement on the Economic Recovery Act of 2020," **said Amtrak Board Chair Anthony Coscia.** "This package of legislation will give the Governor and the legislature the tools necessary to reimagine New Jersey's economy for a post-pandemic world by investing in community building, nurturing growth stage companies, and increasing New Jersey's ability to attract and grow new companies."

"By investing in our cities and their tech ecosystems, this recovery package doubles down on exciting efforts like Newark Venture Partners that are attracting startups and sparking innovation and job growth in our cities," **said Aisha Glover, Vice President of Urban Innovation at Audible.** "Programs like the Evergreen Venture Fund and the expanded Angel Investor Tax Credit and Net Operating Loss programs, along with the package's strong focus on urban investment, will lead to a better future for New Jersey's cities."

"While we all are still struggling in many ways, this bill is another step in the right direction to not just rebuild but to come back stronger than we went in," **said Jessica Gonzalez, CEO of InCharged and a member of the Governor's Restart and Recovery Commission.**

"Governor Murphy's Innovation Evergreen Fund is the bold initiative needed to attract capital and entrepreneurs to New Jersey, which historically has been such a hub for innovation," **said Jim Gunton, Managing Partner of Tech Council Ventures.** "We applaud and support."

"Saving the places that help to tell New Jersey's importance to our nation's past is vitally important to our economy," **said New Jersey Historic Trust Executive Director Dorothy Guzzo.** "Incentives to breathe new life into our historic communities will deliver a big return on our investment."

"We are pleased to see that the agreement between the Governor and legislative leadership on economic recovery and tax incentives reform includes labor harmony provisions," **said Charles N. Hall, Jr., President of Local 108 of the Retail, Wholesale, and Department Store Union (RWDSU).** "Good high-paying jobs for our members are a win for our union and a win for New Jersey. We support this legislation and urge its swift passage."

"I am encouraged to learn that the Murphy Administration and New Jersey State Legislators have put forth a comprehensive, economic incentive package that has the potential to lift all boats and address economic inequalities," **said John E. Harmon, Sr, Founder and President of the African American Chamber of Commerce of New Jersey.** "The entire business community within our region has endured an unprecedented environment, during the pandemic, and there was a clear and urgent need for state government to not only hear, but to act in a big way and it appears that they have done so, with an emphasis on job creation and innovation. The African American Chamber of Commerce of New Jersey looks forward to working with Governor Murphy, the Administration, New Jersey State Legislators, our strategic partnerships and businesses, throughout the state to ensure that what has been proposed meets the needs of our constituents."

"Incentive programs can play a meaningful role in ensuring New Jersey remains the 'State of Innovation.' BioNJ has long supported reenacting incentive programs to help our state keep pace with others in the region," **said Debbie Hart, President and CEO of BioNJ.** "Thank you to Governor Murphy, Speaker Coughlin and Senate President Sweeney for your work toward making these programs a future reality. We look forward to continuing our work together in support of the Garden State's biopharmaceutical innovators and the patients we serve."

"Any effort by the Legislature and the Murphy Administration to attract new businesses and expand existing ones in New Jersey should be applauded," **said Dennis Hart, Executive Director of the Chemistry Council of New Jersey.** "The business of chemistry is on a trajectory for a major comeback in 2021 and we want to do all we can

to attract manufacturers back to our state so that we don't find ourselves in the supply chain predicament made a reality during this pandemic. We stand ready to work with Governor Murphy, Senate President Sweeney, Speaker Coughlin and the bill sponsors, Senator Ruiz and Assemblywoman Pintor Marin, to make this a win-win incentive bill for New Jersey."

"Rutgers is proud to be an economic engine in our home cities and across New Jersey," **said Dr. Jonathan Holloway, President of Rutgers University.** "The Community-Anchored Development Program included in the agreement reached between the Governor and the legislature adds a powerful new tool for institutions like Rutgers to do even more to make their home communities even better places to live, work and learn."

"We are immensely happy to see this agreement which advances manufacturing as a targeted industry, includes a PPE manufacturing credit, and includes preferences for New Jersey manufacturers in procurement," **said John W. Kennedy, PhD, CEO of the New Jersey Manufacturers Extension Program.** "It is clear that manufacturing is a priority in this package. We wholeheartedly support it and look forward to the many benefits it will bring to our state."

"No region has experienced the economic impact of the COVID-19 virus more than the greater Atlantic City area, which, at 24%, has the highest unemployment rate in the nation this year. As an Anchor Institution in Atlantic City, Stockton University promotes educational opportunity, economic diversification, and community well-being," **said Dr. Harvey Kesselman, President of Stockton University.** "Stockton has recognized the potential for offshore wind and established partnerships with participating companies that will benefit our students, area residents and the state. We welcome and support new partnerships that can help create new jobs, spur economic development and urban revitalization, and assist businesses that have struggled through the pandemic. Governor Murphy, Senate President Sweeney and Assembly Speaker Coughlin should be commended for taking these bold steps towards the region's and the state's recovery."

"When attracting new companies to the Garden State, we lead our pitch by highlighting our quality of life, prime location, excellent schools, and skilled workforce," **said Jose Lozano, President and CEO of Choose New Jersey.** "Incentives give us yet another valuable tool to help build a stronger and more advantageous economy. We're grateful to Governor Murphy, Senate President Sweeney, and Speaker Coughlin for working together to craft a targeted and responsible suite of incentives to target high-growth companies and industries."

"Thank you to Governor Murphy, Senate President Sweeney, and Speaker Coughlin for formulating a smart tax incentives plan for New Jersey," **said Rich Maroko, President of the Hotel Trades Council.** "This plan will foster responsible growth that lifts up New Jersey communities at a time when it's needed more than ever. We look forward to seeing the plan put into action to promote the state's speedy economic recovery."

"When business and government work together to revitalize old contaminated properties, we can bring renewed vitality to struggling communities while improving their environment and public health," **said New Jersey Department of Environmental Protection Commissioner Catherine R. McCabe.** "By including the Brownfields Redevelopment Incentive Program Act in this comprehensive economic recovery legislation, Governor Murphy and Legislative leaders have once again recognized that uniting economic development and environmental improvement promotes the public good. The DEP looks forward to continuing our great partnership with the Economic Development Authority in implementing these new brownfields incentives, improving the quality of life in communities throughout New Jersey."

"This bill will greatly enhance Atlantic City's recovery and growth, and we are grateful to the Governor, Senate President and Speaker for getting this deal done," **said Bob McDevitt, President of UNITE Here Local 54.** "The bill's focus on Atlantic City and the diversification of the economy can only help strengthen the gaming industry and keep my members working. We look forward to seeing this pass in the legislature."

"Passage of this incentives bill before the end of this financially devastating year could not be more welcome or timely," **said Michael G. McGuinness, CEO of NAIOP New Jersey.** "It's the culmination of 18 months of hard work and collaboration and guarantees that New Jersey sees a 200-400% rate of return on every dollar invested. Like the arrival of the COVID vaccine, this bill will be the booster shot for New Jersey's economy."

"The fact that a \$50 million direct main street appropriation is included in this program is proof that Trenton has listened and that they recognize the value of New Jersey's small and diverse businesses," **said Carlos Medina, President and CEO of the Statewide Hispanic Chamber of Commerce of New Jersey.** "New Jersey's more than 120,000 Hispanic businesses appreciate the cooperation that it took to get this done."

“Recovery from the pandemic not only takes time, but also thoughtful, comprehensive assistance targeting multiple segments of the economy as well as our underserved communities,” **said Wayne Meyer, President of New Jersey Community Capital.** “The New Jersey Economic Recovery Act of 2020 leverages the critical work of nonprofits and mission-driven organizations and provides the necessary resources to anchor community development, address food deserts, revive Main Streets, and enable entrepreneurs to build new businesses and livelihoods.”

“The New Jersey Building & Construction Trades Council, which comprises 15 international building trades unions and 13 county councils, representing approximately 150,000 members and the Associated Construction Contractors of New Jersey, which represents union general building contractors, construction managers, heavy, highway, site development and utility contractors in New Jersey support A4/S3295 the New Jersey Economic Recovery Act of 2020,” **said the New Jersey Construction Trades and Associated Contractors of New Jersey.** “This new suite of New Jersey Economic Development Authority (NJEDA) incentive programs will further encourage business investment in many communities in New Jersey. The proposed programs will foster many mixed-use, institutional, rehabilitation, facility expansion projects and other creative and innovative development projects that meet our state’s changing demographics. We commend the sponsors, the Governor, Senate President and the Speaker for the tremendous leadership role they played in making this a reality. This legislation is not only good for the state of New Jersey. It is an investment into the hard-working trades men and women. These jobs support families who are active members of their communities who in turn support local businesses throughout New Jersey. As labor leaders it is not lost on us how interconnected everyone’s economic well-being is tied together. We stand behind commitments to common-sense solutions that create a thriving business environment and a dynamic real-estate market, which translate into construction opportunities. Our organizations have worked tirelessly alongside our labor partners to advance legislative initiatives which create opportunities that will have lasting effects for generations. Our industry strongly believes A4/S3295 has the potential to create those economic development opportunities, on a statewide basis, to benefit both public and private sectors in our great state.”

“The New Jersey Chinese-American Chamber of Commerce (NJCACCC) fully supports the Economic Recovery Program and the Tax Incentives Reform Legislation as proposed by the Governor, the Senate President, and the Speaker,” **said John N. Ng, Executive Director of the New Jersey Chinese-American Chamber of Commerce.** “We appreciate the Governor’s effort in directing the urgency of the recovery in the right direction.”

“We’re expanding the toolkit of change by using responsible and innovative approaches to promote innovation, create real jobs, stimulate growth and address climate change,” **said Beth Simone Noveck, Chief Innovation Officer for the State of New Jersey.** “From targeted investments in wind power to incentives to combat food deserts and promote environmental cleanup, this suite of revamped and new programs will go a long way to building a strong, equitable and green innovation economy for New Jersey.”

“The incentive package provides the State with tools to grow the New Jersey innovation economy,” **said Chris Paladino, President of the New Brunswick Development Corporation (DEVCO).** “The most exciting aspect of the package is the ability to provide those engaged in the start-up economy with resources to move from the lab bench, to prototype, to manufacturing. There are several aspects of the package that are key to fostering an ecosystem where high growth industries can thrive.”

“The Economic Recovery programs and tax incentives reforms agreed to by the Governor and legislative leadership are great programs to get New Jersey back on track again, while I would still like to see more minority and women-focused incentive programs,” **said Priti Pandya-Patel, President of the Asian-Indian Chamber of Commerce and a South Asian community leader.** The times are rough and tough for all businesses, especially the small business owners in every industry. We, at the Asian Indian Chamber of Commerce, have sponsored many webinars throughout the past few months to bring awareness of the many new government programs and initiatives to educate our members. We look forward to continuing our efforts and work with all of the governmental agencies.”

“As the ‘medicine chest of the world’, we are excited by the opportunities that the proposed incentive package presents to grow New Jersey’s life sciences industry,” **said Dean Paranicas, President and CEO of the HealthCare Institute of New Jersey.** “And with a focus on developing our STEM workforce and innovation economy, the package reinforces the state’s historic standing as a world-renowned research hub on par with any other. We look forward to working with the Governor and Legislature in bringing this visionary program for New Jersey’s economy to fruition.”

“As COVID-19 infections continue to rise, New Jersey families need action to not only keep them safe, but to ensure that communities hit hardest by the economic downturn have the help they need. With so many job losses, more families are struggling to put food on the table, especially those in low-income communities with food deserts that lack access to fresh and healthy affordable food,” **said Marc Perrone, International President of the United Food and Commercial Workers (UFCW)**. “New Jersey leaders are stepping up to solve this with this new economic recovery plan that will support small businesses and boost local economies. This plan will also combat rising hunger by ensuring every family has access to healthy food while incentivizing the companies providing that food to also bring good-paying union jobs to these communities in need. Together with Governor Murphy, Senate President Sweeney, and Speaker Coughlin, UFCW is calling on every member of the New Jersey legislature to act swiftly to pass this economic recovery plan to combat food deserts, create more economic opportunity for workers and small businesses, and help hardworking families across the state get back on their feet. Now is the time for bold action that will provide the strong foundation essential for New Jersey’s economic recovery.”

“In the middle of a global pandemic, there has never been a more urgent time to develop new and improved standards to recruit, retain, and support businesses here in New Jersey. Garden State residents will be pleased to know that this legislation incentivizes private investment and directs resources to help our main streets, our urban centers, our struggling communities, our working families, and businesses of all sizes,” **said Raymond M. Pocino, Vice President and Eastern Regional Manager for the Laborers’ International Union of North America (LIUNA)**. “It is a fact that New Jersey is competing with other states, other countries, to retain and attract job-creating businesses. While we must compete with other states, we should not be at war with our own future by crafting policies that are too generous or lax in accountability and compliance. It may have been a long time coming, but the New Jersey Economic Recovery Act of 2020 recognizes this point and gets it right for New Jersey. I am grateful to Governor Murphy, Senate President Sweeney, and Assembly Speaker Coughlin for their roles in advancing legislation that is smart, targeted, transparent, and in the best interest of ALL New Jerseyans.”

“The pandemic has shone a spotlight on how the tech and innovation industries can thrive when under pressure. Now, more than ever, we need to solidify New Jersey’s standing as a state that presents an outsized advantage for innovators to grow their vision,” **said Aaron Price, CEO of TechUnited:NJ**. “The passage of the Evergreen Fund presents a key element of this opportunity for New Jersey and for us to attract the best innovators in the world. Combined with incredible talent, a strong commitment from large corporations to innovate, and the infrastructure to fuel growth, the Evergreen Fund would give entrepreneurs an advantage in fundraising and corporations the right incentives to continue to invest here in New Jersey.”

“This incentives program is exactly the type of boost needed to help New Jersey emerge from the economic devastation of COVID-19,” **said Kevin Quinn, Chairman of the New Jersey Economic Development Authority (NJEDA) Board of Directors**. “The bill not only provides for economic benefits across a number of programs, but also incorporates the types of safeguards needed to ensure we continue to be good stewards of public money.”

“This bill represents a huge step forward for New Jersey’s technology and start-up communities,” **said Ari Rabban, CEO of Phone.com**. “The addition of a dedicated innovation fund will be a catalyst for businesses owners and entrepreneurs to not only start their companies here in New Jersey, but remain here as they grow. This is another example of how New Jersey values the technology industry and innovation.”

“The CCSNJ applauds Governor Murphy, Senate President Sweeney, Assembly Speaker Coughlin and all involved in crafting the ‘New Jersey Economic Recovery Act of 2020.’ This Act will reestablish a tax incentive program in New Jersey, which is a vital tool to attract and retain businesses and crucial to the state’s overall economic recovery,” **said Christina M. Renna, President & CEO of the Chamber of Commerce of Southern New Jersey**. “The need for incentives in New Jersey is undeniable, and particularly so following the devastating impact the pandemic has had on the business community. We look forward to learning more details on the proposal, which we hope will encourage both larger and smaller scale incentives for businesses of all sizes, as well as geographic considerations regarding where projects can be located. These types of provisions, as well as assuring the programs are not laborious to apply for and comply with long-term, will not only ignite the State’s economic recovery, but make New Jersey more competitive.”

“We are thankful for the economic recovery & tax incentives reform plan, including the Food Desert Relief program,” **said Carlos M. Rodriguez, President and CEO of the Community Food Bank of New Jersey**. “It can reduce food deserts in areas underserved by food markets. With SNAP and WIC, it will provide food access and economic development.”

"New Jersey's tax incentive program is critically important to the business community. The intent of incentives is to keep and attract private-sector jobs to our state, which in turn strengthens our economy," **said Anthony Russo, President of the Commerce and Industry Association of New Jersey.** "Given the economic hardships faced by many of our businesses due to the pandemic, this program is needed now more than ever. The governor and legislative leadership should be applauded for their efforts in developing the program and understanding the value our businesses bring to our residents, communities and the state."

"The Economic Development program announced today by Governor Murphy provides the depth of programming and a six year term that provides landlord and business owners with the opportunity to bring new employers to New Jersey with equitable, predictable and robust incentives," **said John Saraceno, co-founder of Onyx Equities.** "We have great appreciation for how complex and impassioned the negotiations were to get agreement from a broad set of stakeholders within and outside of government, and now we look forward to New Jersey being ideally situated to attract companies from across America to our great state. Coming out of COVID, New Jersey now has all the tools to take advantage of the suburban migration."

"We are very pleased to see legislation for a new economic incentive program moving forward to help us attract and retain businesses that create jobs," **said Michele Siekerka, President and CEO of the New Jersey Business & Industry Association.** "Innovation, workforce development and manufacturing are hallmark missions for NJBIA and they are strongly prioritized in this bill. We believe growth in all three of these areas are the foundations of economic development in the state."

"This recovery package is a very encouraging sign for New Jersey's innovation economy," **said Chris Sugden, Managing Partner at Edison Partners.** "The combination of Angel Tax Credits, NOL Program and particularly the Evergreen Investment Fund, create a powerful incentive for entrepreneurs and growth investors to build their companies in the Garden State. The pandemic has accelerated digital transformation and the importance of the technology economy, this package will position New Jersey's technology ecosystem for the future."

"New Jersey needs targeted, innovative tax incentive programs to compete with peer states for quality job opportunities," **said Dr. Carl Van Horn, Director of the Heldrich Center for Workforce Development at Rutgers University.** "This recovery package will level the playing field and give New Jersey another tool to build a more robust innovation economy."

A robust, economic development plan is much needed, especially after the economic uncertainty caused by the pandemic. This past year has been devastating for many small business owners and we can surely use a boost to help repair the economy and lay a strong foundation for a modern and more sustainable New Jersey," **said Yogi Virk, President of the Sikh Chamber of Commerce.** "The Evergreen Program would help create financial stability and innovative opportunities throughout the state. The Sikh Chamber of Commerce is in full support of Governor Murphy, Senate President Sweeney, Speaker Coughlin, and the sponsors of the bill, in getting this plan to the finish line."

"Tech is the growth engine of the US economy: great jobs, spending, occupancy, tax base," **said Tom Wisniewski, Managing Partner at Newark Venture Partners.** "Let's use the Evergreen Program to build the next 10 Amazons or Teslas right here in NJ."

"This bill is exactly what New Jersey needs as our economy recovers from the COVID-19 pandemic, and we thank the governor and legislative leaders for getting this done," **said New Jersey State AFL-CIO President Charles Wowkanec.** "The addition of prevailing wage, project labor agreements and labor harmony provisions in this revamped-incentives plan is a huge boost to working men and women across New Jersey, and will provide thousands of good-paying jobs for our union brothers and sisters."